

Meeting:	NuLeAF Steering Group, 6 July 2011
Agenda Item:	5
Subject:	Community Benefits and Radioactive Waste Management
Author:	Fred Barker
Purpose:	To propose next steps in developing a Radioactive Waste Community Benefits Protocol

Introduction

This report provides:

- a discussion paper about the nature of a potential Radioactive Waste Community Benefits Protocol; and
- proposed next steps in developing such a protocol.

Recommendations

That the Steering Group agrees:

- 1 to support, in principle, the development of a Radioactive Waste Community Benefits Protocol for 'beyond S106' community funds, along the lines outlined in this report;
- 2 that the Executive Director should liaise with NNLAG officers to seek to ensure that a consistent approach is developed between a Radioactive Waste Community Benefits Protocol and the radioactive waste management aspects of a potential New Nuclear Community Benefits Protocol; and
- 3 that authority be delegated to the Chair, Vice Chair and Executive Director to agree the timing and form of further NuLeAF approaches to Government to discuss a Radioactive Waste Community Benefits Protocol.

Contribution to Achieving Strategic Objectives

This report is intended to contribute to the achievement of the following NuLeAF objective:

- to seek to ensure that a consistent, proportionate and transparent approach can be taken to the establishment of Community Funds associated with key radioactive waste management facilities.

1 A Potential Radioactive Waste Community Benefit Protocol

At its meeting on 13 April the NuLeAF Steering Group (SG) agreed that a discussion paper should be prepared that explores the case for a Community Benefits Protocol for radioactive waste management developments¹.

The paper attached in the Annex is intended to fulfil that action. The paper in the Annex covers:

- the case for developers of radioactive waste management facilities to provide funding for community benefits that go beyond those that would arise solely from a Section 106 Agreement or a Community Infrastructure Levy Scheme;
- an outline of the precedent provided by the Community Benefits Protocol for Wind Farm Developments;
- the recent history of community benefit/mitigation funds associated with radioactive waste management developments; and
- points for discussion about a potential Radioactive Waste Community Benefits Protocol.

The SG will wish to note the statement on community benefits in the recent report of its waste management policy review (see item 6). This states that:

“The principle that those most impacted should benefit most should operate across all scales from street to neighbourhood to local authority. How to achieve this should be part of an ongoing dialogue between communities, local authorities, waste management companies and developers. Other industries, for example wind generation, have addressed this issue through the development of industry protocols for providing community benefits in relation to infrastructure development, and we will explore with the waste management industry whether such approaches could be suitable for waste infrastructure.” (para 264)

It is proposed that the SG consider the points for discussion identified in the Annex. It may then consider it appropriate to agree that in principle:

- it supports the development of a Radioactive Waste Community Benefits Protocol for ‘beyond S106’ community funds;
- aspects of such a protocol could be based on key points in the ‘wind farm’ protocol (as outlined in the Annex);
- a Radioactive Waste Community Benefits Protocol could adopt the principle that the size of benefit should take account of the overall scale, nature and national significance of a development;
- the Protocol could promote an approach to deriving the size of benefit using (a) a relatively simple formula to generate a rough estimate of the fund (for example, based on volume or mass of radioactive waste and radioactivity content), and (b) an adjustment of the estimate based on further discussion to take into account the wider range of relevant factors.

¹ Note that it is not intended that a Radioactive Waste Community Benefits Protocol would apply to the unique case of a Geological Disposal Facility. The West Cumbria MRWS Partnership is developing a set of principles for the Community Benefits that may be associated with a GDF. The Partnership’s principles may nonetheless be relevant to the development of such a Protocol.

2 Proposed Way Forward for Developing a Radioactive Waste Community Benefits Protocol

In considering what would constitute appropriate next steps in developing a Protocol, the SG should bear in mind that similar discussions are taking place amongst those authorities in areas where new nuclear power stations are proposed.

In particular, the possibility of developing a ‘New Nuclear Community Benefit Protocol’ is being discussed at the New Nuclear Local Authorities Group (NNLAG) meeting on 29 June. In addition to seeking to address construction and operational phases of new nuclear build, any such protocol may encompass radioactive waste management at new build sites, particularly the storage of spent fuel.

It will be important that the radioactive waste component of any new nuclear protocol is consistent with any wider radioactive waste protocol that NuLeAF may promote. It is recommended therefore that the SG agree that the Executive Director should liaise with NNLAG officers to seek to ensure that a consistent approach is developed to radioactive waste management aspects.

At some point following initial discussions with NNLAG officers, it is likely to be appropriate for NuLeAF to enter into further discussions with Government about a potential Radioactive Waste Community Benefit Protocol. It is recommended that the SG delegate authority to the Chair, Vice Chair and Executive Director to agree the timing and form of further approaches to Government.

ANNEX: A ‘RADIOACTIVE WASTE COMMUNITY BENEFITS PROTOCOL’

At its meeting on 13 April the NuLeAF Steering Group (SG) agreed that a discussion paper should be prepared that explores the case for a Community Benefits Protocol for radioactive waste management developments.

This paper is intended to fulfil that action. A draft version was discussed by the NuLeAF Radioactive Waste Planning Group (RWPG) on 14 June. The paper covers:

- the case for developers of radioactive waste management facilities to provide funding for community benefits that go beyond those that would arise solely from a Section 106 Agreement or a Community Infrastructure Levy Scheme;
- an outline of the precedent provided by the Community Benefits Protocol for Wind Farm Developments;
- the recent history of community benefit/mitigation funds associated with radioactive waste management developments; and
- points for discussion about a potential Radioactive Waste Community Benefits Protocol.

The Case for ‘Beyond S106’ Benefit Funds

As pointed out in a letter from the NuLeAF Chair and Vice Chair to DECC officials in February of this year, a series of developments mean that it would be timely to look again at this case, including:

- the Government’s strong adherence to a **‘localism agenda’**, including policy commitments to ensure that local communities benefit from local development;
- the strongly expressed view from local authorities faced with **proposals for new nuclear power stations** that hosting communities should be compensated for actual and perceived impacts, and that reliance cannot simply be placed on the use of Section 106 Agreements to adequately address the scale and scope of a commensurate community benefits package;
- the potential future adoption of a centralised approach to the extended interim **storage and encapsulation of spent fuel** from new nuclear power stations and, potentially, from existing stations where the spent fuel is not ultimately reprocessed;
- aspects of **NDA Strategy** that demonstrate the NDA’s desire to move forward with the consolidation of treatment and storage of Intermediate Level Wastes (ILW) at a smaller number of sites, or that indicate the potential future development of new disposal facilities that could fulfil a multi-site role, including the near-surface disposal of short-lived ILW/graphite wastes;
- the **more restrictive, less flexible, use of Section 106 Agreements**, resulting from the placing of statutory restrictions on the use of planning obligations, and the scaling back of their use in areas where Community Infrastructure Levy (CIL) schemes are introduced; and
- the **limited applicability of the CIL** to radioactive waste management developments, where the size of the levy charge (based on the floor space formula) is highly unlikely to be proportionate to the scale of the impacts of a radioactive waste management development.

The letter from the Chair and Vice Chair then stated that: “Under these circumstances, we think it entirely appropriate that the Government should make it clear to those responsible for developing, or seeking agreement to wider use of, certain radioactive waste management facilities, that they are expected, as developers, to contribute fair and proportionate funding for benefits that go beyond those that would arise solely from a Section 106 Agreement or a CIL scheme.”

The letter concluded that: “It is our belief that this type of approach will be necessary if key aspects of national policies and strategies for managing legacy and new build radioactive wastes are to be successfully implemented in practice, including the avoidance of the imposition of facilities on unwilling host communities.”

The letter was followed up by a meeting between DECC officials and the Executive Director, which took place on 28th February. As reported to the SG in April, DECC stated that they remain to be convinced about the case for an approach that goes ‘beyond S106’, but there is a willingness to discuss the issues further.

The Community Benefits Protocol for Wind Farm Developments

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

RenewableUK explains that the Protocol refers specifically to benefits that are focused directly upon, and are clearly tangible to, the local community living near a wind farm. It claims to bring together the greatest strengths of existing best practice into a formalised and coherent approach. The aim is to provide a flexible framework within which local communities can be more closely engaged in discussion of the opportunities available, including community funds, community facilities or environmental improvements, and profit-sharing arrangements.

The community benefits arising from the Protocol are considered to be separate and different from those actions and contributions from a developer which are necessary to make a proposed development acceptable in planning terms. As these benefits go ‘beyond S106’, the Protocol suggests that local authorities involved in discussions about potential benefits should ensure that the officers or councillors directly involved are not also in a position to influence the planning decision about a proposed wind farm.

In the introduction to the Community Benefit Protocol, the Energy Minister, Charles Hendry MP, “warmly welcomes” the initiative. It appears therefore that the Government has endorsed this example of a ‘beyond S106’ approach to community benefits.

The Protocol contains the following criteria:

- a community benefit scheme will receive support equivalent to a minimum value of £1000 per megawatt of installed capacity per annum and will be index-linked with the RPI for the lifetime of the project;

- the community/ies with an interest will be identified through engagement involving the applicant, the Local Planning Authority and relevant stakeholders as defined in any Statement of Community Involvement or similar requirement;
- the applicant commits to undertaking early and transparent community consultation in line with, as a minimum, the relevant LPAs or Major Infrastructure Planning Unit's requirements;
- payments or benefits will commence not later than 12 months from the date of commissioning of the wind farm and will be provided on or before each anniversary date of the first payment; and
- payments shall be provided for the duration of the commercial operation of the wind farm.

The Protocol also establishes a Community Benefits Certificate for developers in order to ensure a transparent and consistent approach. Non-compliance with the Protocol would lead to public revocation of a developer's Certificate.

In addition, the Protocol sets out arrangements for auditing, which include:

- The applicant submitting a 'Statement of Community Benefit' to the LPA at the time of submission of a planning application or in advance. The aim is to ensure an open and transparent understanding of the minimum level of benefits that will accompany the project.
- Within 6 months of receipt of planning permission, the applicant submitting a 'Registration Form' to Renewable UK identifying the proposed future community benefit.
- After commissioning, the applicant submitting annual Audit Forms to Renewable UK setting out the level of benefits provided to date and the proposed level in the future.
- A commitment for Renewable UK to establish an 'audit body'.

Renewable UK also intends to publish an Annual Report on community benefits, which will commend those developers that have been awarded a Community Benefits Certificate.

Community Benefit/Mitigation Funds associated with Radioactive Waste Management Developments

To date, these funds have all been based on Section 106 Agreements (of their equivalent in Scotland):

- *Vault 9 at the Low Level Waste Repository (LLWR) near Drigg in Cumbria*². Government and NDA agreed to the establishment of a fund, recognising the contribution that the local community will provide to the nation by hosting the LLWR. The NDA has committed to contributing £10 million to the fund to be paid in two stages, and to paying £1.5 million per year, for the period of operation of Vault 9 (around 10 years). The income or capital from the fund will be available to be spent on initiatives that are consistent with the NDA's socio-economic policy, including employment, education and skills, economic and social infrastructure and economic diversification³.

² [Copeland Community Fund Case Study, Nov 08.](#)

³ [NDA Socio-Economic Policy](#) (2008). The NDA's powers under Sections 7 and 10 of the Energy Act 2004 enable it to give encouragement and support to activities that benefit the social or economic life of

- *Development of an LLW disposal facility adjacent to the Dounreay site in north Scotland.* In this case, the total value of the fund is £4 million over the lifetime of the facility. £1 million is to be made available in 2011, when construction begins, with payments of £300,000 per year as soon as the facility becomes operational (expected in 2014).
- *On-site storage facility for spent fuel from Sizewell B.* It is anticipated that the total value of the mitigation fund is likely to be £1.32 million over the lifetime of the store, with £120,000 made available in the first year of operation and £20,000 per year for 60 years (or until the store is decommissioned).

A comparison of the size of these funds, and the role, capacity and costs of the associated facilities are:

Facility	Role	Capacity	Costs	Community Fund – Total Value
Vault 9, LLWR	National – multi-site and multi-customer service	100,000 cubic metres	Thought to be approx £20 million for construction	£25 million
LLW Disposal, Dounreay	Local – Vulcan and Dounreay only	Up to 175,000 cubic metres	Total costs (excluding operation) £90 million	£4 million
SF Storage, Sizewell B	Interim storage of spent fuel from Sizewell B pending geological disposal	99,000 cubic metres (storage building volume)	Not publicly available	£1.32 million

Points for Discussion about a Potential Radioactive Waste Community Benefits Protocol

The RWPG considers that in principle there would be advantages to the development and adoption of a Radioactive Waste Community Benefits Protocol.

It also considered the following points that might be covered in such a protocol:

Read across from the ‘wind farm’ protocol

The following points could be read across from the ‘wind farm’ protocol:

- the community/ies with an interest will be identified through engagement involving the applicant, the Local Planning Authority and relevant stakeholders as defined in any Statement of Community Involvement or similar requirement;

communities living near designated sites, or that produce other environmental benefits for such communities, including the power to make grants and loans.

- the applicant commits to undertaking early and transparent community consultation in line with, as a minimum, the relevant LPAs; payments shall be provided for the duration of the operation of the facility;
- the Protocol will establish a Community Benefits Certificate for developers in order to ensure a transparent and consistent approach; and
- the protocol will set out arrangements for audit akin to those in the wind farm protocol.

Criteria for defining the minimum value of benefit

A range of factors could be relevant to defining the minimum value of community benefits that should be associated with a radioactive waste management facility. Relevant factors could include:

- the volume of wastes to be managed in the facility
- the maximum total radioactivity content of the wastes to be managed
- the capital costs of the facility
- the actual or perceived impacts of the facility and its proposed use on public health, well-being, the environment and the local economy
- the number of generations across which the facility and associated institutional controls would be present within a community
- the role that the facility is planned to have in taking wastes from other sites, customers or sectors
- the extent to which the facility contributes to the optimisation of the use of national facilities and the achievement of national costs savings.

Contrary to wind farm development, it is likely that no single factor alone could provide a sufficient basis for defining an appropriate level of benefit. However, a protocol could:

- adopt the principle that the size of benefit should take account of the overall scale, nature and national significance of the development; and
- promote an approach to deriving the size of benefit be based on using a relatively simple formula (for example, based on volume or mass of radioactive waste) to generate a rough estimate of the fund, which could then be adjusted through discussion to take into account the wider range of relevant factors.

It should be noted that various international precedents exist which would provide benchmarks for such an approach. In particular, a simple formula approach to funds associated with spent fuel storage has been, or is being, developed in Belgium, France and Spain.

Start Time for Payments of Benefits

The wind protocol provides for payments or benefits to commence not later than 12 months from the date of commissioning of the development and for annual payments to be provided on or before each anniversary date of the first payment. RWPG noted that for radioactive waste management developments it is likely to be appropriate for payments to start soon after grant of permission to proceed.

Who should adopt the Protocol and associated arrangements?

There is also the question of which organisation should adopt a radioactive waste management related Community Benefits Protocol. The broadly equivalent trade organisation to RenewableUK is the Nuclear Industry Association. Another option might be for the NDA to adopt a protocol, with a corresponding Community Benefits Certificate for developers, whether Site Licensee Companies, or in the wider supply chain.