

Meeting:	NuLeAF Steering Group, 6 July 2011
Agenda Item:	6
Subject:	Low Level Waste (LLW) Management
Author:	Fred Barker
Purpose:	To report on developments

Introduction

This report covers:

- the Government's review of waste policy in England;
- the Secretary of State's decision to allow the appeal by Augean and grant planning permission to dispose of LLW to the hazardous landfill site at King's Cliffe in Northamptonshire;
- LLW developments in West Cumbria;
- outcome of discussion with LLWR Ltd to develop understanding of the scale, timing and location of LLW arisings; and
- initial consideration of future approaches to community engagement about the development of facilities for LLW management.

Recommendation

That the Steering Group:

- 1 use this report to inform discussion with the Environment Agency in its afternoon session; and
- 2 consider a more detailed report on approaches to community engagement on the development of LLW facilities at a future meeting.

Contribution to Achieving Strategic Objectives

The initiatives are intended to contribute to the achievement of the following NuLeAF objectives:

- To encourage and assist the NDA, Site Licensee Companies and the supply chain to take full account of the role and needs of the local authority planning system in the implementation of LLW strategy.
- To encourage NDA to provide sufficient evidence base information and to engage in discussion about the potential for a more strategic approach to the siting of LLW management facilities.

1 Government Review of Waste Policy in England 2011

The Government has recently published the outcome of its wide-ranging review of waste management policy (available on the DEFRA website at [waste-policy-review](#)). The Ministerial Foreword states that:

This document contains actions and commitments, not only of government but of other key actors, which together set a clear direction towards a zero waste economy. These actions will form the implementation plan for waste policies in this Waste Review and for the rest of this Parliament.

Although not intended to address radioactive waste management in any detail, the review does contain some relevant statements, including:

- **Landfill:** “There will be some wastes for which landfill remains the best or least worst option. These are likely to include some hazardous wastes – such as asbestos – and low level and very low level radioactive waste.” (para 242)
- **Cooperation and behaviour change:** “The Government clearly wants an efficient planning system with the right proposals to come forward in local areas so they are approved first time. This will involve cooperation and behaviour change between the key partners in the planning process: the local authority, the waste management industry and the local communities. There is considerable good practice being demonstrated, by local authorities and the waste management industry, in engaging with each other and with local communities. However, the Government considers that more must be done to challenge and change existing behaviours.” (para 260)
- **Meeting community needs:** “The waste management industry, working with local authorities, must strive even more to understand the needs of the communities it serves across the whole waste hierarchy through direct engagement with the whole community; making the link between their waste and the solutions on offer; setting out the evidence; ensuring there are real options available; and being transparent about these options and compromises required to meet community desires, for example between cost and scale. Similarly the community must be prepared to engage in these discussions, working to find the best solutions while acknowledging the need for their waste to be managed in a way that meets their desires.” (para 261)
- **Use of across boundary facilities:** “There is the need for councils to work together and look at waste management needs across different waste streams and across administrative boundaries. The Localism Bill will introduce a duty to cooperate for local authorities which will help ensure that opportunities to explore such trans-boundary options are not missed. There is no requirement for individual authorities to be self sufficient in terms of waste infrastructure and transporting waste to existing infrastructure to deliver the best environmental solution should not be considered a barrier.” (para 263)
- **Community benefits:** “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)
- **Localism:** This “imparts greater responsibility on local politicians to make decisions, and on their community to hold them accountable, based on clear evidence. We want to reach a stage

where, as a result of effective engagement, applications which reach the formal planning process should present local politicians with the best possible evidence and a less polarised debate. With more informed debate there will also be a greater expectation that local politicians will take responsibility for these difficult decisions to ensure the waste produced by their communities is properly managed. Waste infrastructure is of national importance, to ensure we meet our commitments on waste and climate change. However, in the majority of cases, decisions on delivering that infrastructure should remain at the local level.” (para 265)

Further reference is made to the relevance of key statements in subsequent sections of this report. The issue of community benefits was addressed in the report under item 5.

2 Appeal by Augean: LLW Disposal to Landfill at King’s Cliffe

The Secretary of State’s (SoS) decision was announced on 24 May (available on the NuLeAF website at [Decision letter](#)). The SoS agreed with the Inquiry Inspector that the appeal against the refusal of planning permission for the landfill disposal of LLW should be allowed and granted planning permission subject to conditions. The SoS’s overall conclusions are set out in Annex A, along with a summary of his treatment of local petitions and referenda, the perception of harm, and a Section 106 Agreement.

A preliminary review of the Inquiry Inspector’s report suggests a number of areas where Northamptonshire CC’s (NCC) case has not been given detailed consideration. In particular:

- The Inspector does not appear to have fully addressed the implication of the second Key Planning Objective (KPO) in PPS10 which encourages communities to take more responsibility for their own waste. Instead, he observed that no other sites are coming forward so the Northamptonshire site would be the nearest appropriate, in accordance with the fourth KPO in PPS10 (“For radioactive wastes from southern and central England, the only and therefore the nearest installation would be the appeal site”, Inspector’s Report, para 7.52). This perspective is consistent with the statement on the use of across boundary facilities in the Government’s waste policy review.
- The Inspector downplayed the LLW Strategy’s overarching expectation of a high standard of public acceptability. NCC argued that the UK LLW Strategy requires the consignor BPEO process to include consideration of local community issues at the receiving site and that the importance of this is emphasised by the Strategy’s overarching expectation of a high standard of public acceptability. In response, the Inspector pointed out that the phrase “high standard of public acceptability” is not defined (IR, para 7.53) and appeared to confirm that compliance or otherwise with the overarching expectation is a matter for the Environment Agency (EA) in the permitting system (not for the SoS, IR para 7.54). Later on in his report, the Inspector noted that “it would negate National Policy and Strategy if local public support or even acceptance were required as a pre-requisite of any such permission” (IR para 7.67). This might be argued to contradict the LLW Strategy’s over-arching expectation of a high standard of public acceptability and is a matter that could be discussed with the EA during the afternoon session of the SG meeting.

Northamptonshire County Council (NCC) used the following statement to respond to press enquiries about the announcement:

“Cllr Ben Smith, who was Chairman of the Development Control Committee at the time of the application and gave evidence at the Appeal said: “Naturally I am very disappointed at the decision of the Secretary of State as it has always been my view that low level radioactive waste should be disposed of where it arises.

The council’s Development Control Committee, which was made up of experienced councillors from all three political parties, unanimously voted against the proposal. It is unfortunate, I believe, that these decisions cannot be made locally without central government intervention. It is still a priority for the county council that we achieve the minimum impact from the development on the local community and the environment.”

It is understood that NCC are unlikely to pursue any further avenues of objection concerning the decision.

The decision means that the King’s Cliffe facility provides a centralised LLW disposal facility for central and southern England, but only for a limited range of LLW (less than 200 Becquerels/g of radioactivity) and, unless further permissions are granted, for only around a two year period. However, further applications to extend the life and capacity of the site are anticipated.

Attention may now switch to potential consignors of LLW to the King’s Cliffe site. They will have to demonstrate to the EA that such consignments would be in accordance with the consigning site’s LLW Management Plan. The Inquiry Inspector was categorical that if disposal to the King’s Cliffe site was not to fit in with such a plan, for example because it was not the nearest appropriate site or that disposals to it would not meet ‘Best Available Techniques’ (BAT), then the LLW should not be sent (IR, para 7.62). This is a further matter that could be discussed with the EA in the afternoon session.

As a final observation, it is notable that the proposal and decision about disposal of LLW to landfill at King’s Cliffe appear to fall far short of the Government’s aspirations for cooperation, meeting community needs and localism as expressed in its recent review of waste policy. The key question that arises is how can things be done differently in the future? This question is returned to in the final section of this report.

2 LLW developments in West Cumbria

LLW developments in West Cumbria include:

- **LLW Repository (LLWR) near Drigg:** at the beginning of May, LLWR Ltd submitted its Environmental Safety Case (ESC) to the EA for review. This presents the evidence and technical arguments for continued disposal operations at the LLWR site. The EA anticipates that the review will take up to 2 years. In mid to late 2012, LLWR is likely to apply to the EA to vary its permit to authorise further disposals of LLW to the site. This will lead to formal consultation on the application and then on the EA’s draft decision. The ESC and a non-technical summary are available on the LLWR website at [Environmental Safety Case](#). The LLWR website also states that it needs planning permission from Cumbria County Council to dispose of LLW in Vault 9, build future vaults for disposal, and build the closure engineering, and that it is submitting a planning application to the Council in parallel with our ESC to the Environment Agency.

- **LLW disposal to landfill at Lillyhall:** as reported to the previous SG meeting, EA has granted permission for the disposal of VLLW at the site, but Cumbria CC are considering the adequacy of the assessment processes leading to that permission.
- **Application for development of an LLW disposal site at Keekle Head:** a planning application has been lodged to develop the site and the developer has been responding to requests from Cumbria CC for further information prior to determining the application.

As stated at the NuLeAF seminar in March, there is considerable concern in Cumbrian local authorities about the proposed dispersal of LLW management facilities away from the Sellafield and LLWR sites and the impact this could have on other developments and processes in the county (including participation in the siting process for a GDF).

3 Outcome of Discussion with LLWR Ltd about LLW Inventory Forecasts

At its meeting in April, the SG agreed that officers should hold further discussions with LLWR Ltd to develop understanding of the scale, timing and location of LLW arisings and to begin to assess the spatial planning implications.

Officers from NuLeAF's Radioactive Waste Planning Group (RWPG) met with representatives from LLWR Ltd on 23 May. The meeting discussed the progress that LLWR Ltd has made in providing breakdowns of county-based data on arisings of LLW and VLLW across different time periods. It also discussed the company's plans to undertake a study later in 2011 on the extent to which current and anticipated facilities are likely to be able to meet the management needs associated with future arisings. This 'capacity analysis' will provide the basis for further discussion of the need for additional facilities and will be important for informing WPA policy development and future consideration of approaches to community engagement. A note of the meeting is attached at Annex B to this report.

4 Future Approaches to Community Engagement about the Development of Facilities for LLW Management

At its meeting in April, the SG agreed that the ED should enter into further discussions with firstly, the Environment Agency, and subsequently NDA, to identify appropriate approaches to engagement with local communities and their local authorities about the development of facilities for LLW management. These discussions have not yet taken place, but the afternoon discussion at the SG with representatives from the Environment Agency provides an opportunity to explore the issues.

It is suggested that the SG bear in mind the following points as background to that initial discussion:

- key statements in the Government review of waste policy, particularly concerning cooperation and behaviour change, meeting community needs and localism (see Section 1);
- the LLW Strategy's overarching expectation of a high standard of public acceptability and its down playing by the King's Cliffe Inquiry Inspector (see Section 2); and
- the objectives of stakeholder engagement outlined in the 'Pointers to Good Practice' guide on the LLWR Ltd website at [Pointers to Good Practice](#) and outlined in Annex C to this report.

ANNEX A: SECRETARY OF STATE DECISION ON THE AUGEAN APPEAL

The SoS's overall conclusions were:

- that there is no conflict with the development plan, and there is some limited support for the proposals from the emerging Control and Management DPD. The SoS considered that the need for the proposal and the fact it would further the aims and desired outcomes of the 2007 LLW Policy, as developed by the 2010 Nuclear Industry LLW Strategy and the 2010 Non-Nuclear Industry LLW Strategy, were significant material considerations in support of the proposal. He attached substantial weight to these benefits.
- that the risk of actual harm from the development would be very low, and would meet the standard set by the Government. The SoS therefore placed only limited weight on the very small risks of actual harm. He fully recognised the widespread public perception of harm, but likewise attached only limited weight to this. He also attached limited weight to: any harmful economic effects, which he concluded would be slight; claims that this would be an ad hoc decision; fears about the transport of waste and about highway safety near the appeal site; and the need to encourage transport of LLW by rail.
- overall, the SoS concluded that the factors which weighed in favour of the proposed development outweighed the limited harm. The SoS, therefore, did not consider that there were any material considerations of sufficient weight which would justify refusing planning permission.

On local petitions and local referendum documentation, the SoS did not consider that it raised any new issues which would either affect his decision or require him to refer back to parties prior to determining the appeal.

On the perception of harm, the SoS agreed that it is a material consideration in this case and he took "full account" of the Inspector's comments that there is no dispute that the fears and perceptions of local people are genuinely held, and that they are not malicious or invented. However, the SoS shared the Inspector's view that Augean's consultation with the public was thorough and comprehensive (IR7.39), and has taken into account the Inspector's comments that there is limited evidence of any direct effects from the perception of harm at this stage (IR7.44). The Secretary of State agreed that the mainstream scientific assessment of the effects of low level radiation is far removed from the perception that many people have, using information from the media and pressure groups, as the actual risk of harm would be extremely small and it would meet Government guidelines (IR7.44). In conclusion on this issue, the Secretary of State agreed with the Inspector that only limited weight should be attached to the perception of harm in this case.

On the planning obligation (re agreement to establish a community fund, based on £5 per tonne of LLW disposed), the SoS noted that the proposal involves no changes to the existing permission for disposal of hazardous wastes other than in respect to what material is landfilled. Site restoration and other matters would not be affected. For this reason he was not persuaded that the obligation in the form of an S106 Agreement was necessary to make the proposal acceptable in planning terms, and he therefore considered that it did not meet the test in Circular 05/2005 in this respect. Therefore, whilst the SoS welcomed the benefits that the Agreement will provide, he gave no weight to it in reaching his decision.

ANNEX B: OUTCOME OF LLW INVENTORY FORECASTS MEETING

The meeting covered the following topics:

1 Examining LLW Inventory Projections

County-based data for projected LLW and VLLW arisings in the periods 2010-2020 and 2010-2120 had been presented by LLWR Ltd to the NuLeAF seminar in March. These projections are included in the recently published 2010 LLW Strategic Review, which is available on the LLWR Ltd website at www.llwrsite.com/llw-strategy/strategic-documentation. Section 4.4 of the Strategic Review sets out information about the LLW inventory, including: volume estimates over time, material contents, activity distributions and regional distributions.

A further disaggregation of the county-based data was presented to the meeting, based on a *draft* LLWR paper entitled, 'Analysis of the Near-Term Low Activity Waste Arisings within the UK Radioactivity Waste Inventory 2010'.

The draft paper provides a series of tables of disaggregated data:

- A site by site summary of material composition of waste arisings up to 2120
- A site by site summary of waste arisings grouped by activity content
- A regional split of waste materials suitable for alternative disposal options ('landfill')
- A site by site summary of waste materials suitable for alternative disposal options ('landfill')
- An adjustment to the table above to take account of application of the waste hierarchy
- Further adjustments to take out 'exempt wastes'
- The impact on waste volumes of the two adjustments above.

2 Implications for New Facilities

The planned study on LLW treatment/disposal facility availability versus need to be undertaken by LLWR later in 2011 was discussed. It was noted that the objective of the study is to fully assess the availability, capacity, constraints and demonstration of need for the facilities providing metal treatment, combustible and VLLW/LALLW disposal services. This will include an assessment of the waste streams in the 2010 UK Low Level Waste Inventory that would be suitable for diversion from LLWR to one of the routes examined, taking into account the location of the waste arising, the annual profile of the volumes of waste arising, the material, chemical and radiological properties of the waste stream, coupled with the location of available (and potential new) treatment/disposal facilities, their waste acceptance criteria, capacity and any constraints around the time length of their permits/licences. Any potential gaps in capacity/availability will be summarised.

The study will not provide a definitive decision on what type of facilities are required in a local or regional context, in which locations, and on what time scales. It will, however provide a summary of all the available information which could be used by interested stakeholders to make such decisions.

It was noted that it would be helpful to organise further meetings with WPA representatives when the capacity analysis is available. The aim would be to identify the implications for WPA policy development on LLW management. LLWR Ltd would be happy to support this process by providing information as required.

3 Information for WPAs

LLWR's intention is to publish the further draft analysis containing tables of disaggregated data. It invited RWPG to comment on the draft, from the point of view of its suitability as a data source for WPAs.

Subsequent to the meeting, the following comments were submitted to LLWR Ltd on the draft analysis by the Executive Director:

The group very much welcomed the paper, but think that the next stage of assessment – the 'capacity analysis' (and resulting discussion about implications) – is needed to really effectively inform local authority waste planning. As such, the group is keen for representatives to be involved in further discussion with LLWR Ltd at the appropriate time. I would be happy to help arrange further discussions.

Following on from that, it might be worth flagging the purpose and scope of the capacity analysis in the current paper, so readers know what further assessment is coming.

The second main comment from the group concerned issues around reconciling site based figures with information available locally from the sites. There are inevitably going to be some differences. It might help therefore to briefly summarise data uncertainties and what steps are being undertaken to improve waste characterisation and projections?

The group didn't have any suggestions for any additional ways in which the existing data should be cut.

One small additional comment is that for completeness it might be worth stating briefly how the >200Bq/g wastes in Table 3 are managed.

ANNEX C: COMMUNITY ENGAGEMENT OBJECTIVES

Extract from 'Pointers to Good Practice in Communication and Stakeholder Engagement in the Implementation of LLW Strategy', LLWR website, November 2009

The objectives of any programme of stakeholder engagement and risk communication associated with a LLW management project should be stated explicitly so they are clear to all. Objectives can be stated at different 'levels'. In particular, over-arching objectives are likely to be:

- "to build public confidence and trust" and
- "to make robust decisions".

A range of objectives might sit under the over-arching objectives, including:

- "to promote public understanding of the nature of the LLW management issue and the need for a solution"
- "to avoid development of a risk information vacuum".

Objectives are also likely to vary over time, particularly with the stage that a project has reached. In particular, objectives could include:

- To inform the assessment of options for managing LLW
- To inform development of project proposals
- To inform ways of implementing a specific project
- To inform decisions about proceeding with a project

It is important to adopt objectives that are appropriate to the stage of a project, to help clarify to stakeholders what is 'up for grabs'. Generally, the more that is 'up for grabs' the greater the potential for stakeholder influence and for building confidence and trust. This is why it is often better to start stakeholder engagement as early as possible.