

Meeting:	NuLeAF Steering Group, 21 October 2011
Agenda Item:	4
Subject:	Spatial Planning and Radioactive Waste Management
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Purpose:	To report on developments

Introduction

This report covers:

- developments in the Government's approach to spatial planning
- NDA Strategy for managing radioactive wastes
- approaches to radioactive waste management in Minerals and Waste Development Framework (MWDF) policies
- proposed interim advice on MWDF policies.

Recommendation

That the Steering Group endorses the interim advice on MWDF policies on radioactive waste management and agrees that a Briefing Paper based on this report be published on the NuLeAF website.

Contribution to Achieving Strategic Objectives

These initiatives are intended to contribute to the achievement of the following NuLeAF objective: to encourage Waste Planning Authorities to develop policies in MWDFs on the management of Low Level Waste (LLW) and Very LLW.

1 Introduction

NuLeAF's advice to member authorities about local planning policies on radioactive waste management needs to be reviewed in the light of:

- developments in the Government's approach to spatial planning;
- NDA Strategy for managing radioactive wastes; and
- the range of local planning policies that have been adopted or proposed by Waste Planning Authorities (WPAs).

Each of these is reviewed briefly in turn. The report then proposes some interim advice that NuLeAF could provide to member authorities.

2 Developments in the Government's Approach to Spatial Planning

The Government is consulting on its draft National Planning Policy Framework (NPPF), with a closing date of 17 October. As reported to the July meeting of the SG, it has also published the outcome of its wide-ranging review of waste management policy. This section outlines those aspects of the draft NPPF and waste management review that may be relevant to radioactive waste management and provides preliminary comments (in italicised text).

Draft NPPF

The emphasis in the draft framework is on a "presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking". The draft stresses that "local planning authorities should plan positively for new development, and approve all individual proposals wherever possible"¹.

Although highlighting the importance of the plan-led approach, the consultation document explains that where plans are not up-to-date, or do not provide a clear basis for decisions, the policy establishes the clear presumption that permission should be granted (para 17). The draft framework re-iterates the point, stating that local authorities should grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date (para 14). That is, of course, unless the adverse impacts of allowing development would "significantly and demonstrably outweigh the benefits".

The presumption in favour of granting permission where plans do not provide a clear basis for decisions is relevant where WPAs have not developed explicit policy on aspects of radioactive waste management.

The consultation document also explains that PPS10 (Planning for Sustainable Waste Management) is to be revised and annexed to a National Waste Management Plan (para 37). The anticipated timetable for this includes consultation in Spring 2012. Nonetheless, the

¹ This emphasis has led to concerns that economic growth is generally set to trump the aspirations of local communities expressed in local and neighbourhood plans. Commentators have expressed the view that the NPPF could direct local policies to be set aside to deliver the government's growth agenda in response to market-led demands rather than to promote truly sustainable development for neighbourhoods and for local and wider areas.

draft framework states that local authorities preparing waste plans should have regard to policies in the draft NPPF.

On the management of development, the draft framework states that the primary objective “is to foster delivery of sustainable development” and that development management decisions should be approached positively, “looking for solutions rather than problems” (para 54). To this end, the draft places an emphasis on pre-application engagement to “improve efficiency and effectiveness of the planning application system” (para 56), and to allow consideration of all the “fundamental issues relating to whether a particular facility is acceptable in principle” (para 58).

This emphasis on the purpose of pre-application engagement should be read alongside the outcome of the waste management review and its emphasis on early engagement to identify community needs and real options prior to applications reaching the formal planning process (see point below under ‘meeting community needs’).

The draft framework also summarises the role of planning conditions and obligations, highlighting that LAs “should avoid unnecessary conditions or obligations particularly when this would undermine the viability of development proposals” (para 70).

Review of Waste Policy

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:

- **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)

It is assumed that the “right proposals” are more likely to come forward where developers pay full and proper regard to MWDFs that provide a clear basis for decisions. This adds further weight to the need for WPAs to develop explicit policy on all key aspects of radioactive waste management. It could also be argued that the “right proposals” are more likely to come forward where there is early engagement between developers and local authorities at the stage when “real options” are being developed (see point below under ‘meeting community needs’).

- **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)

It is important to reflect on what would constitute reasonable expectations for the nature of early and effective engagement with the radwaste industry to identify “real options” prior to applications reaching the formal planning process. These expectations may be different for engagement with a nuclear licensed site (planned consignments for disposal will have to be consistent with a consigning site’s waste plan), compared to engagement with a developer seeking to develop an off-site facility. The issue of ways of improving engagement is a potential topic at the proposed seminar on LLW Management and Spatial Planning (see separate agenda item).

- **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)

It may be reading too much into the statement about no requirement for self-sufficiency, but this could perhaps signal an intention to downgrade Key Planning Objective 2 in revisions to PPS10 (re communities taking more responsibility for their own wastes). It should be noted that the implications of KPO2 for radioactive waste management were not addressed by the King’s Cliffe Inquiry Inspector, presumably on the grounds that this objective was not originally intended to apply to radioactive waste management.

- **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)

3 NDA Strategy for Managing Radioactive Wastes

Although there is no national planning policy or guidance specifically on radioactive waste management, the Government has clarified that NDA Strategy should be taken into account in the preparation of local plans. More specifically, in its 2007 policy statement on LLW Management, the Government stated that:

Government considers that a clear statement of Government policy is needed to support the planning process. This would be taken into account in both the preparation of national, regional and local plans and the determination of planning applications. In practice, this will be provided by Ministers' assessment and agreement of the NDA's Strategy and Annual Plans ...(para 31)

The Kings Cliffe Inquiry Inspector also concluded that there is no merit in a claimed distinction between national 'planning' policies and other national policies and that the latter apply to planning authorities (paras 7.14-7.17). This conclusion was endorsed by the Secretary of State in his decision letter (paras 17-18).

NDA's over-arching Strategy states that strategic decisions about radioactive waste management should be informed by the following key principles:

- risk reduction is a priority
- centralised and multi-site approaches should be considered where it may be advantageous
- waste should be minimised
- the Waste Hierarchy should be used as a framework for decision making and enables an effective balance of priorities including value for money, affordability, technical maturity and the protection of health, safety, security and the environment (p40).

The Strategy adds that: "Diverse radioactive waste management and disposal solutions will be pursued where these offer benefits over previous arrangements. We will also investigate opportunities to share waste management infrastructure across the estate and with other waste producers where we can see benefit. New waste management approaches will often require different transport arrangements and will be a matter of great interest to planning authorities and people living close to the sites involved. We will engage with interested parties from an early stage, irrespective of whether such developments represent new investments proposed by us or by other organisations on our behalf."

NDA is in the process of developing a more detailed strategy on centralised and multi-site approaches, which will be discussed at the engagement meeting with NDA, Magnox and RSRL on 11 November.

The SG will be well aware that the NDA has published a detailed strategy on LLW management and that issues in its implementation have been discussed with WPAs under NuLeAF's auspices. A detailed 'capacity gap' analysis is anticipated from LLWR Ltd in late 2011/early 2012, which should contribute substantially to improving the evidence base for addressing LLW management in local planning policies.

4 Approaches to Radioactive Waste Management in MWDF Policies

NuLeAF's advice to member authorities about local planning policies on radwaste management needs to be reviewed in the light of the developments above and the range of policies that have been adopted or proposed by WPAs.

That advice is set out in the Annex to this report. An overview of the policies that have been adopted or proposed by WPAs is provided in Table 1. The overview indicates that a range

of approaches are being taken. The key differences are highlighted in Tables 2 (VLLW/LLW disposal) and 3 (ILW storage).

Observations on those policies are:

- ***Some WPA plans and policies are silent on key aspects of radioactive waste management (see Tables 2 and 3).*** As far as practicable (in the context of the current absence of detailed assessments of national need) such silence should be avoided. Note in particular the emphasis in the draft NPPF on a presumption in favour of sustainable development where plans do not provide a clear basis for decisions. The new ‘duty to cooperate’ is also likely to be relevant.
- ***Some policies categorically state that no LLW/VLLW disposal on a licensed nuclear site should take place.*** It is arguable that this is too definitive, given that national LLW strategy allows for on-site disposal where appropriate (and when specific cases for on-site disposal are being reviewed by Magnox). For those authorities which do not favour on-site disposal it might be more appropriate to adopt a policy that includes flexibility to allow for on-site disposal but only as a ‘last resort’ (see for example Oxfordshire’s proposed policy).
- ***Some policies categorically state that no ILW imports will be allowed for treatment/storage.*** It is arguable that this is also too definitive, given that NDA strategy includes an intention to consolidate or co-locate relevant facilities where appropriate. For those authorities concerned about ‘imports’ from other sites, it might be more appropriate to adopt a policy that contemplates imports only where a clear need can be demonstrated and where there would be clear benefits to the area.

5 Proposed Interim Advice on MWDF Policies

In the light of these observations, it would be appropriate for NuLeAF to revise its advice. It is suggested that this be done on an *interim* basis, pending review of LLWR Ltd’s ‘capacity gap’ analysis, development of the NDA’s ‘waste consolidation plan’ and DCLG consultation on a revised version of PPS10 in Spring 2012.

In addition, in the main, current or proposed WPA policies do not explicitly address the wastes or spent fuel that would arise from any new nuclear power stations that might be constructed. Although aspects of the proposed interim advice below will also be relevant to such wastes, it is suggested that appropriate policies be considered in more detail when the interim advice is reviewed.

Note also that NuLeAF’s earlier advice focused just on policies for LLW management, as appropriate to WPAs with licensed nuclear sites. In contrast, it is proposed that the revised interim advice should also address ILW management, and clarify which aspects may also be appropriate for WPAs without licensed nuclear sites².

The interim advice could consist of:

² In addition, as all areas generate VLLW/LLW from the non-nuclear industry, it can be argued that all plans which include policies for waste management should explain what measures are proposed for managing these wastes. An example could be a textual explanation that such wastes are being disposed of by controlled burial in conventional landfill.

On-site disposal of LLW/VLLW (applicable to WPAs with licensed nuclear sites)

In order to reflect the different aspirations at different nuclear licensed sites (ie constraining radioactive waste management activities to an existing site versus early site clearance and de-licensing), policy could *either* state that:

- The preferred location for VLLW/LLW disposal is within the nuclear site where it arises. If a rigorous assessment demonstrates that this is not practicable then land adjacent to the nuclear site should be assessed. Only if that is also demonstrated to be impracticable should more distant suitable sites be considered. *or*
- The preferred location for VLLW/LLW disposal is at suitable existing or planned facilities outside the WPA's area³. If such capacity is not available, consideration should first be given to use of existing landfill within the WPA's area. If this is also not available, disposal at new facilities within or next to the nuclear site should be considered.

Cross-boundary 'imports' of radioactive wastes from other WPA areas (disposal aspects applicable to all WPAs)

Policy could state that:

- Any proposals to treat, store or dispose of significant volumes of VLLW, LLW or ILW from outside the WPA's area in an existing facility would need to be in accordance with existing permissions or require a new permission. Where a new permission for use of an existing facility is required, the proposals must (a) be strongly justified⁴, (b) demonstrate that the planning impacts are acceptable and (c) demonstrate that local social and economic benefits outweigh negative impacts.
- Any proposals for a new facility that would include the treatment, storage or disposal of significant volumes of VLLW, LLW or ILW from outside the WPA's area would need to (a) be strongly justified, (b) demonstrate that the planning impacts are acceptable and (c) demonstrate that local social and economic benefits outweigh negative impacts.

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

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

Dependent on national adoption of a Radioactive Waste Management Community Benefits Protocol applicable to regional or national VLLW, LLW or ILW management facilities, it might also be appropriate to explain the possibility of Community Benefits as a voluntary contribution from a developer that helps to ensure that national needs are met in a way that is fair and reasonable at the local level, and which is entirely separate from the planning process. [The development of a potential Community Benefits Protocol is considered in a separate report to the SG (item 6)].

³ It has been suggested that WPAs which adopt this policy should also specify which existing or planned facilities are likely to be used and liaise with the host authority to clarify that use of the facility is deliverable.

⁴ This justification should be based on assessments of national need and whether there are acceptable alternative options (existing or planned) closer to the source of the waste.

TABLE 1: OVERVIEW OF DEVELOPMENT OF PLANNING POLICIES ON RADIOACTIVE WASTE (27 September 2011)

Authority	Stage	VLLW/LLW	ILW
Cumbria CC	WCS Adopted (but High Court has quashed Site Allocation Policies)	WCS12 provides for a conditional continued role of LLW repository WCS no specific policy on VLLW (would be premature due to uncertainties). SAP referred to preference for disposal of VLLW at site where it arises. If not practicable then adjacent.	WCS10 sets out criteria for treatment and storage plant at Sellafield. WC11 sets out expectations of GDF planning application process.
Essex CC	Issues and options consultation late 2010	Issue 17 suggested that no permissions should be granted for disposal and a continued preference for use of national facilities. It also suggested assessment of potential for use of landfill sites within Essex.	No specific policies suggested
Kent CC	M&WCS consultation finishes end July 2011	Proposed CSW15 states that facilities for storage or management would be acceptable within the licensed nuclear site under certain conditions. Only wastes generated at Dungeness shall be treated or stored in such facilities. Proposed no landfill of any waste type at the site. No specific policies suggested on the disposal of LLW/VLLW away from the Dungeness site.	No specific policies suggested. Acknowledges need for storage on site for Dungeness ILW.
Lancs CC	WCS adopted SAP submitted and examination in public expected September 2011	No specific policies in WCS. Submitted SAP policy LF4 is development for the disposal of VLLW arising from Springfields will be supported on operational land within the complex. This is to avoid the perpetuation of the use of off-site landfill at Clifton Marsh and to avoid the movement of VLLW over long distances.	No specific policies
Oxfordshire CC	Consultation on draft WCS September – October 2011	Preferred approach is disposal at suitable facilities outside Oxfordshire. If capacity is not available consideration should first be given to use of landfill in the county and then disposal at new landfill at Harwell. Proposed	Preferred approach is storage of legacy ILW from sites in Oxfordshire at Harwell, pending removal to a national disposal facility. Any proposal for storage of

		<p>policy W10 includes that permission will only be granted for the management and disposal of LLW at existing landfill sites or at a new bespoke facility at Harwell if it can be demonstrated that no other suitable disposal facility is available and there is an overriding need to dispose of the waste in Oxfordshire.</p>	<p>waste from outside Oxfordshire would need to be strongly justified as an exception. Proposed policy W10 reflects this and includes that permission will only be granted for the storage of waste from outside Oxfordshire at Harwell if there is an overriding need and there would be clear benefits within Oxfordshire.</p>
Somerset CC	<p>Issues and options consultation finished May 2011. Pre-submission WCS to be published mid-October.</p>	<p>Proposed approach is that facilities for the treatment and storage of radioactive wastes generated at Hinkley Point will be acceptable within the licensed site under certain conditions. Only radioactive wastes generated at Hinkley Point shall be treated or stored there. No specific approach suggested for the disposal of LLW/VLLW (either on or off-site)</p>	<p>Proposed approach is that facilities for the treatment and storage of radioactive wastes generated at Hinkley Point will be acceptable within the licensed site under certain conditions. Only radioactive wastes generated at Hinkley Point shall be treated or stored there.</p>
Suffolk CC	<p>WCS adopted</p>	<p>Policy WD14 is that facilities for the treatment, storage and disposal of wastes generated at Sizewell will be acceptable with the licensed site subject to certain conditions. Only wastes generated at the site will be treated, stored or disposed of there. No specific policy on disposal to off-site landfill.</p>	<p>Policy WD15 is that facilities for the treatment and storage of wastes generated at Sizewell will be acceptable within the licensed site subject to certain conditions. Only wastes generated at the site will be treated or stored there. There shall be no disposal of ILW at the site.</p>

TABLE 2: VLLW/LLW DISPOSAL – ADOPTED OR PROPOSED POLICIES			
On licensed nuclear site	Not on licensed nuclear site	Off-site Landfill	Silent
Cumbria		Cumbria (last resort)	
	Essex	Essex (possibly to off-site)	
	Kent		Kent (on off-site landfill)
Lancs (for VLLW arising from the site)			
Oxfordshire (last resort)		Oxfordshire – preference for facilities outside County	
			Somerset (silent on disposal on or off site)
Suffolk (no imports)			Suffolk (on off-site landfill)

TABLE 3: ILW STORAGE – ADOPTED OR PROPOSED POLICIES			
On licensed nuclear site	On licensed nuclear site (no imports)	On licensed nuclear site (no imports from outside county)	Silent
Cumbria			
			Essex
			Kent (acknowledge on site storage, but silent on imports)
			Lancs
		Oxfordshire	
	Somerset		
	Suffolk		

ANNEX: EXTRACT FROM NULEAF BRIEFING PAPER 19 (October 2010)

Waste Planning Authorities should consider whether they wish to adopt policies that address the following issues that arise from UK strategy for managing nuclear industry LLW:

On-site management and disposal: Policy could state that the preferred location for LLW and VLLW management and disposal facilities is within the nuclear site where they arise. If a rigorous assessment demonstrates that this is not practicable then land adjacent to the nuclear site should be assessed. Only if that is also demonstrated to be impracticable should more distant sites be considered, with priority being given to other nuclear sites.

Cross-boundary movements: Policy could, for example, state that as far as practicable provision should be made for the management of all of the LLW and VLLW that arises within an authority's area, with the acceptance of limited cross-boundary movements. Any proposals to manage significant volumes of LLW or VLLW from outside the authority's area would have to demonstrate that the local social and economic benefits outweigh other sustainability criteria and that their environmental impacts are acceptable. Other criteria could relate to the objectives of managing waste in the nearest appropriate facility, and communities taking more responsibility for the wastes arising in their areas.

Community benefits: Policy could state that where national or regional LLW and VLLW management facilities (or significant cross-boundary movements) are proposed, the Council will expect that packages of community benefits will be provided to help offset the impacts of hosting such facilities.

Planning permissions and geographic sources of waste: Policy could state that for specific applications for facilities to manage or dispose of LLW and/or VLLW it may be appropriate for any planning permission to include a condition restricting the geographical sources of the wastes, giving effect to the objective of communities taking more responsibility for the wastes generated in their areas.