

DECC Consultation: Review of the Siting Process for a Geological Disposal Facility, Friends of the Lake District's Response – November 2013

Summary:

The Friends of the Lake District feels that the decision-making process contained within the consultation represents a step backwards. Unless fundamental changes are made, once again public and political mistrust will build and undermine the intentions and principles recommended for the Geological Disposal Facility (GDF) process. In particular, we call for:

- A broad membership National Commission to oversee the whole process, determining which areas go forward based on suitable geology and other safety and environmental conditions.
- The local decision making body to be truly representative of all the community interests, including County Councils, Parish and Town Councils and other affected organisations.
- A legally binding, continuous Right of Withdrawal at any stage.
- It is absolutely essential that the identification of safe and suitable geology conditions comes before the call for volunteer communities.
- More up front information on all aspects of developing a GDF as part of the public awareness campaign before communities volunteer to participate.
- A local public referendum before any area enters the detailed siting stage.
- Community benefits should play no part in the process for identifying a safe and suitable GDF site until geological suitability has been verified.
- The siting and management strategies for medium and longer-term interim storage of existing legacy and future wastes must also be covered, not least in the event of a repository being delayed or no suitable site being ultimately being found.
- An environmental bottom-line must be established that intrusive borehole investigations, any potential surface infrastructure or GDF, should not be permitted within, or adversely affect, national and international protected areas, such as National Parks, Areas of Outstanding Natural Beauty, World Heritage Sites or Natura 2000 sites.

Responses to individual questions:

(Paragraph references refer to the consultation document)

Question 1 - Do you agree that a test of public support should be taken before the representative authority loses the Right of Withdrawal? If so, what do you think would be the most appropriate means of testing public support, and when should it take place? If you do not agree with the need for such a test, please explain why.

Public support is not a tap you switch on and off, but must be a continuous process of engagement and participation. The decision making structure we recommend, namely the Local Community Partnership (see questions 2 & 3, below), must embed

all relevant community interests within the decision making body. That local body, advised by the National Commission, would determine progress throughout any revised learning and focusing phases.

It is perverse to recommend any form of public referendum to finally determine to proceed to build a GDF before the regulatory processes have been worked through. This must be changed.

The consultation is confused in referring to a *continuous* Right of Withdrawal (RoW) (paras. 2.12 and 2.20), but then proposing the local authorities lose it at a certain stage. The previous MRWS was correct to apply a RoW throughout, except that it must be enshrined in legislation to give confidence that it is legally binding.

Community interests will be represented on any Local Community Partnership(s), however, we would recommend that a referendum is carried out before moving from the learning to a focusing phase. Public support would be subsequently expressed in the consent process, but given the willingness to participate, voluntarism and partnership principles, another referendum would also be required at that stage to inform the consenting decision making bodies (local and national in partnership).

Question 2 - Do you agree with the proposed amendments to decision making within the MRWS siting process? If not, how would you modify the proposed phased approach, or, alternatively, what different approach would you propose?

Question 3 - Do you agree with this approach to revising roles in the siting process set out in the White Paper? If not, what alternative approach would you propose and why?

The proposed decision making body is a step backwards in terms of building trust, engaging potential host and affected communities, and excludes key bodies/interests. The proposed framework does not reflect the representations made in the Call for Evidence consultation earlier this year.

The proposed Steering Group of the DECC, the RWMD (NDA) and Borough/District local authorities will be in complete control of the process, which significantly reduces the voluntarism element and concentrates power into a too limited group.

We recommend the following alternative approach based upon international best practice:

1. The process should be overseen at the *national level* by a Commission independently chaired, accountable to Parliament not solely to DECC, NDA (RWMD) and the 'representative authority', ie. a reviewed Geological Disposal Implementation Board, which includes external stakeholders and peer review expertise (para.2.83) This would be: "... consistent with developing and maintaining public confidence" (CoRWM, para. 1.21). This body would make an assessment whether there were 'reasonable prospects of suitable geology' in different locations. This body would oversee the public information provision for the process and ensure that CoRWM's core recommendation that a high level of public engagement is always met.

2. The role of the proposed Consultative Partnership must be strengthened. We recommend that a 'Local Community Partnership(s)' should be the *local decision making body*, liaising with the Commission in 1. above. All local authorities (potential host and affected ones) would be equally represented, not least because County Councils are the strategic waste and highway authorities, who should play a: "... prominent role in a body that will guide the siting process." (para. 2.34). In areas with two-tier local government, County Councils' have elected Councillors covering the same territory as Borough/District Councils, so it would be inconsistent to exclude them from the decision making body. Equally, County Councils' service delivery is inherently linked to any associated community benefits, which would be looked at later in the process. Importantly, communities at Town/Parish level would be represented on the Local Community Partnership, to ensure that the community's: "... interests must be represented effectively." (para.2.24), and in line with the Localism Act, subsidiarity and partnership.

1.and 2. above provides a framework of inclusivity for joint learning, trust and real partnership, with 'constructive challenge' (2.82) built into the governance structures. Without this fundamental change to the proposed decision making framework we believe that progress will fail once again at considerable cost to the tax payer.

3. A Local Community Partnership would be served by a Secretariat and Technical Advisory Group, which would include officer representatives from RWMG, local authorities, DECC, EA and others statutory/professional bodies relevant to local circumstances, and funded by DECC and the NDA.

Question 4 - Do you agree with this proposed approach to assessing geological suitability as part of the MRWS siting process? If not, what alternative approach would you propose and why?

We are pleased that the consultation recognises the need for a national awareness and engagement programme (para.2.16) prior to voluntarism, which includes and "... open and transparent assessment of what the implementation of a GDF might mean" (para. 2.17). This would be overseen by the Independently Chaired National Commission that we are recommending (see questions 2 & 3, above).

It is absolutely vital that potential volunteer and host communities have as much information up front about the life-cycle of the GDF siting process to inform their decision as to whether or not to enter a more focused siting stage. In terms of openness and trust building it is illogical to not include other sets of essential national and regional information within the national information. Examining the information

listed in Paragraph 2.18 with that included in paragraphs 3.9 and 3.21, we would recommend that the best available information is provided also for the following:

- Hydrogeology – water movement (para. 3.9)
- Groundwater chemicals (para. 3.9)
- Safety criteria (para. 3.18)
- Wider significant policy considerations (eg. protected areas, SEA, EIA, etc.) and potential impacts from surface and underground explorations, including environmental, health and transport (para. 4.31), ie. not just socio-economic which is covered in 2.18.

Without providing available public information associated with the planning and regulatory processes at this initial stage on critical issues and information, and withholding it until the latter stages of a ‘focusing phase’, is not being open, objective and again mistrust is embedded into the decision making process from the very outset.

We recommend that information associated with ‘safety criteria’ include critical issues of risk and health impacts. The controversial nature and conflicting understandings of health risks must be covered as this is the basis of most people’s concerns about radioactive wastes.

Specifically in relation to geology, we support the aim: “... to provide a greater level of geological understanding much earlier in the siting process.” (para.3.6). We cannot, however, support the Government’s preliminary view that explicit criteria are not openly adopted (and approved by our recommended Commission, see questions 2 & 3 above) to screen out areas with unsuitable geology. Not to do so contrasts with international site selection best practice for GDFs. We therefore disagree with the proposed scope of the suitability screening in paragraph 3.9. By screening out unsuitable areas, then existing regional geological information for potential areas can be provided before the call for volunteer communities and the focusing phase. This accords with the Call for Evidence responses and the repeated aim in this section of the consultation that as much geological information be provided at the earliest possible stage.

Suitable geology is the critical factor in achieving the Government’s core aims of protecting people and the environment in the longer-term. So if the ‘learning phase’ period has to be varied to allow all publically available regional geological data to be published, that must be allowed to take place. The Nuclear Legacy Advisory Forum (NuLeaf) in its response to the Call for Evidence consultation said that: “...*there may be a case for reviewing the approach to successful programmes overseas where identification of geology preceded identification of volunteer communities...*” This is absolutely essential.

The argument that such research into geological conditions would be too expensive and take too long is unacceptable, given the risks associated with radioactive waste

disposal and the time actually available. The data already exists and could be examined and compiled into a national report within a reasonably short-time frame.

We have concerns with the inference in Paragraph 3.9 that unsuitable geological conditions can be compensated for through an engineered solution. This misrepresents the relative importance of the geological barriers' critical role with that of the engineered infrastructure containment in planning the design of a GDF. It implies that with the current level of knowledge, all sites are equal. In other words, one site with an extensive flat-lying and un-faulted deep clay volume with low reducing groundwater flow, is equally prospective to a hard rock site with extensive known conductive faults and fast oxidising groundwater flow, driven by high adjacent topographical contours. It underestimates the risk assessment for the safety of future generations and future scenarios of the ability of the engineering barrier to withstand 100s and 1000s years ahead. Evidence indicates that man-made structures are far more temporal than these timeframes.

Question 5 - Do you agree with this proposed approach to planning for a GDF? If not, what alternative approach would you propose and why?

A GDF facility would certainly represent a national facility, however, the application of the standard approach to nationally significant infrastructure via the Planning Inspectorate is not adequate. Importantly, the consultation processes are far more limited than the continuous participative engagement required for any GDF. Similarly, the national infrastructure planning process is too accelerated and persists with the traditional focus on developer and local authority (and Government) rather than encouraging public and stakeholder engagement in the decision making process.

Siting a GDF requires a separate process agreed by Parliament within the proposed National Policy Statement that embeds the voluntarism, partnership and independent scrutiny principles (and backed up by primary legislation where applicable).

In respect of any intrusive local borehole investigations, the relevant planning and waste authorities should not be side-lined as decision maker, as they represent the affected and communities of interest. The local planning process will consult key statutory consultees, such as the Environment Agency and Natural England, and other stakeholders, who will provide information based on their detailed local knowledge. They will also have to take account of the National Policy Statement ensuing national considerations are taken fully on board.

We recommend that the National Policy Statement is approved *before* the siting process is launched in the interests of openness, clarity and at the same time the GDF process information is put into the public domain. Equally important is that DECC is not sole proposer and decision-maker for the whole GDF siting process. DCLG and DEFRA should have equal input.

Finally, the NPS should not focus solely on a GDF, but also the needs for medium and longer term interim storage (see question 9 – consultation coverage, below).

Question 6 - Do you agree with this clarification of the inventory for geological disposal and how this will be communicated with the volunteer host community? If not, what alternative approach would you propose and why?

The inclusion of new build wastes goes beyond the legacy waste that was subject to the CoRWM recommendations. The full implications for any GDF from spent fuel stores arising from new build must be included in the national awareness campaign and siting information. The type of wastes included impacts on: "... the GDF design and safety case development" (para.3.60) and, therefore, must be determined prior to a call for community participation (see question 4 answer above).

Question 7 - Do you endorse the proposed approach on community benefits associated with a GDF? If not, what alternative approach would you propose and why?

Community benefits should play no part in the process for identifying a suitable GDF site until geological suitability has been verified by the National Commission (see questions 2 & 3, above).

Question 8 - Do you agree with the proposed approach to addressing potential socio-economic and environmental effects that might come from hosting a GDF? If not, what alternative approach would you propose and why?

It is welcomed that the scope of the SEA is wider than the current statutory minimum (para.4.19). Equally, any SEA must be undertaken early in the siting process (para. 4.26). This section of the consultation should recognise that SEA and EIA are not carried out at the same time. The latter takes place when site specific information is known and is informed by an earlier SEA. The SEA for GDF should be commenced at the launch of the process when the NPS is published, and be completed at the beginning of the focusing phase when all potential locations are known.

Question 9 – Do you have any other comments?

Legislative Framework: The policy of voluntarism leading GDF decision making conflicts lawfully with the implementation of the Environment Act 1995 (National Parks), CROW Act 2000 (AONBs) and the Habitats Regulations 1994 (SACs, SPAs, Ramsar Sites), through reducing the scope of *alternative sites* being adequately investigated in the context of achieving the purposes of designation.

Within the SEA for the forthcoming National Policy Statement for a GDF (para. 3.42), an environmental bottom-line must be established that intrusive borehole investigations, any potential surface infrastructure or GDF, should not be permitted within, or adversely affect, national and international protected areas (NPs, AONBs, WHSs, SACs, Ramsar Sites, SPAs). It would be in the national interest to avoid

these areas in determining potential suitable GDF sites in line with other countries' approaches.

Given that: "A GDF is a repository for the UK's higher activity radioactive waste" (para.2.24) and that waste will come from countries other than England (para. 3.59), clarification is sought whether any subsequent alternative site selection would be UK wide?

Consultation coverage: The scope of the consultation is narrowly drawn, focusing only on finding a site for a geological repository. Treatment and the management of existing and future legacy wastes at Sellafield and other scattered sites is of greater concern and that geological disposal, while possibly a desirable long term goal, is a less pressing problem. The consultation, therefore, ought to have included the siting and management strategies for medium and longer-term interim storage. Storage is not an alternative method of management but a complementary and integral part of the whole nuclear waste management strategy. This would also provide wider contextual understanding and cover the potential risk issue of secure alternatives to GDF to manage the wastes in the event of a repository being delayed or no suitable site being found. Note that new build waste will raise new challenges for long term storage, not least of which is finding appropriate and secure locations for spent fuel stores into the future.