UNDERSKIDDAW PARISH COUNCIL
REPONSE TO CONSULTATION
On

Review of the Siting Process for a Geological Disposal Facility September 2013

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.

This question contains certain assumptions which the Parish Council would challenge:

* that there should not be more than one test of public support
* that the definition of Representative Authority as the District Council (as proposed in the Consultation) has been accepted
* that the Right of Withdrawal is vested only in the District Council as Representative Authority
* that "public Support" is a defined term with an agreed meaning

The Parish Council would like to state first that it does not accept the definition of the Representative Authority as the District Council. It believes the County Council should also have decision making powers in two-tier authorities, as in the previous process in West Cumbria. Secondly the Parish Council does not agree that the Right of Withdrawal should be vested only in the District Council. The Parish has some alternative proposals about the Right to Withdraw, which will be dealt with in the answer to Question 3 where the point about revised roles is raised. It is however mentioned here in brief because of the need to uncover the assumptions behind this question – it is important not to assume prematurely that terms are defined and agreed – that is a kind of trap for respondents and leads to lack of clarity.

Should public support be ascertained before the Right of Withdrawal is lost?

This is agreed. Of course the progress towards making a decision to have a GDF in a particular place must have public support. It cannot become an irreversible process until it is clear that the public, and in particular those most affected by the decision, are in support of it, given the enormous implications for the public of any decision to go ahead.

When should it take place?

The Parish Council believes there should be tests of public support on two occasions :
First – before any investigations involving physical interference with the land are allowed to take place.
Secondly – once the results of the investigations are known and an area has been identified for construction, and before construction begins.

The reason for this timing is : Physical testing will cause physical damage to the area affected. This will be considerable. There will also be property blight, & commercial damage. The public should have the right to decline to undergo this. The proposal to carry out these investigations could well have come from outside the area where they will take place. If the opposition in the area affected is strong then it would be unwise to spend large sums on boreholes etc, as this is a very unstable foundation on which to embark on a project which will meet sustained opposition.

If the investigations are agreed to go ahead, there should be a second opportunity for withdrawal if these investigations confirm that there is a sufficient possibility for a site being suitable to warrant going ahead with the full scale proposal. The reason for this is that by the time the investigations are finished the people in the area affected will have had real-life experience of what the physical works involve, and the financial and commercial side-effects, and it should be absolutely clear that there should be an opportunity to re-think. If there is no second chance then any incipient opposition is likely to have hardened before the investigations stage.

Only after the second test referred to has taken place should the Right of Withdrawal be lost.

What is the most appropriate means of testing Public Support?

The Parish Council believes this to be by way of a Referendum, with a straightforward question on the lines of :
Do you want physical investigations to start at X to see if it is a suitable place for a Repository – Yes/No?
Do you want a Repository to be constructed at X? Yes/No

However the Parish Council believes that the Referendums should be structured in such a way as to give the people who live in the areas directly affected (the Affected Areas) a veto over the proposals to investigate and to construct. The votes in the Affected Areas should be counted separately, and if the majority vote against then the answer is No. If the majority in the Affected Areas vote for it, then the result of the voting in the whole referendum area can be taken into account : the Affected Areas can veto, but not force through. The question of roles relating to the Right of Withdrawal is more fully considered in Question 3 (which logically one would have thought should have been the first question, especially at the proposals come at the beginning of Chapter 2.)

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? Please explain your reasoning.

The Parish Council does not agree with all of them and proposes the following modifications :

2.44 Any local bodies could approach the Government. This is not acceptable unless there is full disclosure to the public of such approach at the same time as DECC reveals the approach to the Representative Authority (and this reference to the Representative Authority in this paragraph or subsequent ones is not to be taken as agreement by the Parish Council to the definition of Representative Authority set out in the Consultation Document). Without such disclosure discussion could be far advanced, both with the Government and with the Representative Authority before the people in the area under discussion knew anything about it. If no defined area is under discussion this should not be an excuse for failure to disclose, but disclosure should be made within the area of the District Council which DECC was considering approaching. If local bodies make approaches to the Government which remain secret this smacks of hidden deals and faits accomplis. If such bodies are unelected DECC must stipulate that once the local authorities are to be involved considerations of commercial confidentiality cannot be allowed to prevent full disclosure. Transparency must be guaranteed.

2.46/2.49 Again whatever the Representative Authority the fact of commissioning these reports must be required to be made known to the public at large.

2.50 In the course of the Consultation Document initial reports are referred to but always with the warning that these will not add much to what is known already. The Parish Council remains sceptical that these reports will be different : however the commitment to publish should remain.

2.51 Before any "moving" anywhere is agreed the people in the area under consideration must be fully informed.

2.53 The Parish Council has no confidence that in the context of the Consultation document that there will be proper representation of the area being discussed. All these processes are flawed by the changes to the identities of the decision making bodies which the document contains.

2.63 The selection of the "appropriate point" and the test of support could only have the confidence of the Parish Council if their proposals in the answer to Question 3 were implemented.

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 roles of Local Authorities are dealt with in 2.22-2.30 and in 2.74 and 2.77

No - the Parish Council does not agree with the proposals to revise the roles of Local Authorities.

First it believes that the County Council should retain a decision-making role along with a District Councils in the siting process. In the light of what happened in the first MRWS process in West Cumbria the Government's arguments for removing the County Council from a decision-making role read like special pleading. County Councils have strategic responsibilities and are the Waste Management Authorities, and have much greater resources of expertise than the District Councils. They also have responsibilities for Highways which are relevant to the process of choosing a site. County Councils can take account of impacts of developments which may occur within a district but have repercussions outside it. To the electorate their County Councillors are no more remote than their District ones.

Secondly it believes that a decision of this sort should be required to be made by all County and district councillors. In paragraph 2.28 it states that "international experience indicates that it should be a directly elected body which acts as the democratic community representative in such a siting process". The decisions taken by all three Councils in West Cumbria in January 2013 were taken by their Cabinets/Executive. Allerdale District Council had 7 members out of 56 who were allowed to vote; Copeland had 7 out of 51. Members are directly elected but the public does not elect to the Executives.

Thirdly it believes that there should be a veto from the people directly affected by a proposal to put a GDF or investigate for one in their area.
The consultation Document is sprinkled with references to :
"community
local community
host community
specific community
affected community
community consent

potential host community"

None of these is defined, although the "specific community" is referred to as being "comparatively small". The Parish Council would suggest the use of the term "Affected Community" which would be the equivalent of the term "Host Community" as defined in the 2008 White Paper.
When the time comes for a Referendum as defined in the answer to Question 1 (first before investigations and secondly before final decision) the votes of the Affected Areas would be counted and if the majority are against the proposal to investigate or build then the proposed work will not go ahead in the Affected Areas. Even if the votes cast in the remaining areas which are being consulted support the proposed work they will not be allowed to overturn the decision of the Affected Areas. However if the Affected Areas vote in favour that will not force any party involved to go ahead with the scheme. This proposal accords with the statement in the consultation document that areas most affected should have most say. The proposal will also effectively ensure that the interests of the affected community (2.25) will be represented.

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 suggest.

The Parish Council does not agree with this approach.

It seems to the Parish Council to be reasonable that a local community, who may consider hosting a Repository, should want a considerable degree of certainty about hydro-geology to enable them to make appropriate judgments; and that the tax-payer should expect not to have to waste time and money on a wild goose chase in areas which offer no or little apparent promise of suitability; and that the government should want to conclude the search for a Repository as urgently as possible so that it can get the problem of waste disposal sorted out before a programme of new build, producing more waste, starts in this country.

The process suggested does not seem to the Parish Council to meet these reasonable requirements. The country-wide surveys and reports suggested appear not to be likely to add any information to that which already exists, being of a high-level superficial nature as acknowledged in the document itself. They are stated to be intended to lead on to more detailed surveys in areas which have volunteered but it is not reasonable to start by looking only at areas which, on the basis of no sound geological knowledge, volunteer to host a Repository. The guide as to what areas should be examined in depth should be geological knowledge, not a desire to attract development.

The starting point should be to look at the geology and hydrology first, by way of a serious and detailed survey across the country. There is plenty of research already in existence to give a guide to where the promising areas are for more detailed research. Some of this research was done specifically with nuclear disposal in mind. Existing evidence could be used to select areas which offer promise. A detailed geological investigation, short of physical intrusion, should be made in areas known to be promising. This should be country-wide, and entirely independent – consisting of experts, preferably international, who are entirely free of any self-interest in the outcome.

This must come before a call for volunteers. When promising areas are identified a search for volunteers should be directed to these areas.

There will be a cost to this survey, but the cost of exploring dead ends just because they volunteer is

a complete waste of money, and even more important leads to a waste of time as well. One of the principle considerations which led to the rejection of the proposal to explore further the pursuit of a Repository in West Cumbria was the uncertainty of geology, and this has led to 4 wasted years.

Any consideration of evaluating Protected Areas for a Repository should be ruled out from the start. This is because :
a) Development of this kind in a Protected Area requires a comparative demonstration that the area is not only suitable, but better than others. This is a heavy burden of proof and will certainly lead to great expense and may lead to failure.
b)Public opposition to such development is likely to rise, when the intentions become known, to the point when going ahead would become impossible.

The Parish Council considers that there is a dangerous element of complacency in the statement "engineered elements can be tailored to ..different sites". This can lead to the view, often heard in the later stages of the previous consultation in West Cumbria, that adverse geology can be overcome by clever engineering. The Parish Council believes this is opening up unnecessary risks.

Question 5 Do you agree with this proposed approach to planning for the geological dispsoal facility? If not, what alternative approach would you propose and why?

Regulations should be framed so that it is clear that where an Affected Area (defined in the 2008 White Paper as a Host Community) has already via a referendum rejected a GDF (see answer to Question 3) then an application for consent to investigate for or construct a GDF within that Area will be refused on those grounds – otherwise having had a referendum is pointless. Given the exceptionally hazardous and long-term nature of a GDF project public consent in Areas which have not held referendums should be forthcoming as the first step in the planning process. This is consistent with the Government's stated desire to maintain a voluntary approach. If public consent is given an independent body should be set up to consider whether development consent should be given. This body should have top-level expertise in field necessary to understand the technical aspects of the proposal and to test its soundness. Decisions would have to be taken on rational grounds, modifications could be made and a high degree of confidence in scrutiny could be possible, if it was seen to be professional and free of political or vested interests. A Government decision on something a government wants does not inspire confidence

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 be propose and why?

The Parish Council does not agree that clarity has been achieved.

The definition of types of waste is set out, and there is a promise that these will not be added to. However it seems that waste from new nuclear power stations will be disposed of in the GDF. This means there is no limit to the volume, and the proportions of different categories of waste could be varied from the original. Without seeing the pre-contract terms for building the new Hinkley Point reactor it is impossible to judge whether suitable financial arrangements have been or are likely to be made to cover waste disposal costs (as is promised with new build). Given the identity of the

contracting parties we shall probably never know this.

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

The parish council does not agree.
The approach shows how essential it is for the County Council to have a vote alongside District Councils as the work involved seems beyond the capacity and powers of a District Council.

It seems a bad idea to encourage "communities" to scope projects for their benefit as early as the Learning Phase. This is all pie in the sky until the geological information is ascertained, and encourages unrealistic "what will I do if I win the Lottery" thinking, such as has already been heard in West Cumbria.

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?

The Parish Council does not agree. The Parish Council considers that at this stage guessing about so many imponderables is a waste of time. The approach should be to spend time and money and effort in obtaining detailed, reliable and high quality information about geology and then come back with another Consultation which can be more focused. Areas which have never thought about having a GDF, are unlikely at this stage, before any geological information has come to their attention, even to consider answering this question, which would seem very remote to a local authority which has not had the recent experiences of those in West Cumbria.

Question 9 Do you have any other comments?

The Government is rightly aware that the process which finished in West Cumbria on 30 January 2013 was widely held by those taking part in the debate to lack credibility : it was frequently described as a "done deal".

Factors which contributed to this were :

- The extreme vagueness of some of the terms used in the consultation document – and their variability in different contexts
- The lack of clarity about the meaning of the Right of Withdrawal, and the time at which it could be exercised
- The discrepancy between the apparent meaning of "voluntary" and the gradually emerging realisation that some small areas could have a GDF forced upon them regardless of their wishes
- The discounting of those who replied to the Consultation as requested, with considerable care and thought who were dismissed as "self-selected", whilst the results of a quick telephone call were considered more important.
- The careless talk by local councillors, who rejoicing in the benefits they were counting on receiving gave the impression they had inside knowledge which gave them this confidence.
- The huddle of DECC officers at each meeting which appeared to be briefing the enthusiastic

potential volunteers for the next Stage.

- The suspected lack of integrity of some of those who came to give advice, but who in fact had a financial interest in the continuance of the process.
- The unimpressive performance of some of those nuclear experts whose views were put forward as authoritative.
- The seeming incompetence of the government organizations, such as NDA, subsequently confirmed by the National Audit Office, and only yesterday (4 December) revealed again at a Public Affairs Committee hearing.

The current Consultation Document also has aspects which arouse suspicion :

- The proposal removes the County Councils as a body which can take decisions : Cumbria County Council voted against going further on 30 January 2013. How can it not look that this is to weight the process in favour of a District Council (2 of whom are known to be enthusiasts) and to exclude the opposition.

- Parish Councils did not have a vote in the previous process. They did however take a close and increasingly informed interest in the debate, and the majority of them wrote a submission to the consultation. The majority of these submissions opposed going further into the process. For some reason the Consultation document goes out of its way to disparage Parish councils. The reasoning is curious : they are too under-resourced to manage a process or project on the scale required. Was there ever any question that they would be seeking to manage a process and a GDF project? Will a District Council be managing these? The paper says that not all parish councillors are directly elected – the great majority are elected although there may not be a poll (councillors can be elected without a poll). Vacancies may be filled by co-option, but such councillors invariably go on to be elected at the next election. The attempt to undermine Parish councillors has the appearance of an attempt to undermine potential opposition. Parish Councils are all in Government favour when it comes to Localism.

- The insistence on starting the process by seeking a volunteer suggests an inability on the part of the government to understand the meaning of what happened in West Cumbria, and to understand why this is a fruitless approach. If carried through it will lead to the same unsatisfactory result, or possibly even a worse one. The only sound way to proceed is by identifying suitable geology. Once this has been done the Voluntary approach can come in to its own, if the quest for a volunteer takes place only in areas where the geology has already been cleared.

- The Voluntary process must also include the right of a Host Community as defined in the 2008 White Paper to refuse to have a DGF thrust upon it by another community – otherwise it is not a voluntary process but a compulsory one.

- The Right of Withdrawal remain vague and unspecific as to its timing. There is no real proposal about this which is being consulted on. The Government is not offering a proposal here which can be consulted on – but requesting other people's proposals which presumably it will then pick and choose, without further consultation.

- The most straightforward way ahead is to have the best possible geological survey producing the highest grade of information, and then to agree a way ahead with one of the geologically suitable areas who might wish to volunteer. At this stage the process could be proposed and consulted on in the light of the particular features of the area or areas involved. There may need to be several stages of consultation as the facts come to light and circumstances change. There will no need to consult everywhere when the geology has been clarified – it will not for example to be necessary to consult the south west if there are no promising areas within or near its border.

Submitted by Underskiddaw Parish Council

Clerk M P Soulsby

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5 December 2013