

CABINET - 10TH APRIL 2018**CONSULTATION ON THE DRAFT NATIONAL POLICY STATEMENT
FOR GEOLOGICAL DISPOSAL INFRASTRUCTURE AND WORKING
WITH COMMUNITIES****REPORT OF THE CHIEF EXECUTIVE****PART A****Purpose of the Report**

1. The purpose of this report is to seek the Cabinet's approval for the County Council's response to two consultation documents issued by the Department for Business, Energy and Industrial Strategy (BEIS) relating to the geological disposal of higher activity radioactive waste.

Recommendation

2. It is recommended that the proposed responses set out in Appendices A and B to this report be approved for submission to the Department for Business, Energy and Industrial Strategy.

Reasons for Recommendation

3. The long term disposal of higher activity radioactive waste is an important national issue and these two consultations offer an opportunity for the Council to comment on the Government's proposals for managing the process of selecting where the disposal will take place and the subsequent approval of the selected site or sites.

Timetable for Decisions

4. Following approval by the Cabinet, the Councils response will be submitted to the Department for BEIS before the deadline of 19th April 2018.

Policy Framework and Previous Decisions

5. The responsibility for managing the disposal of higher activity radioactive waste lies with the Government and arrangements for its disposal must be approved through the national infrastructure planning process under the Planning Act 2008 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. This process is administered by the Planning Inspectorate with the County Council having a statutory consultation role if facilities are within or adjoining its administrative area.

Resource Implications

6. There are no direct resource implications arising from this report.

Circulation under the Local Issues Alert Procedure

7. A copy of this report will be circulated to all members under the Members News in Brief Service.

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PART B

Background

8. In 2001, the UK Government and its devolved administrations began looking for solution for managing radioactive waste in the long term. In July 2006, the independent Committee on Radioactive Waste Management recommended geological disposal as the best solution, which the Government accepted. The Local Government Association's (LGA) representative body on legacy wastes and decommissioning from the nuclear industry has previously set out its support for the development of a geological disposal facility (GDF) for the UK's higher activity radioactive wastes.
9. In 2014 the Government published a white paper 'Implementing Geological Disposal' which established a policy framework for implementing geological disposal. In that paper the Government acknowledges that previous attempts to find a GDF have not been successful and it had not been able to secure the necessary local community support. The White Paper emphasised the important role that communities will play in the future process and the Government's commitment to working in partnership with interested communities. The draft National Policy Statement (NPS) sets out how applications for GDFs which are categorised as nationally significant infrastructure projects (NSIPs) will be assessed. NSIPs are administered by the Planning Inspectorate with the final decisions being made by the Secretary of State based on the recommendation of an Inspector. If the GDF application was in Leicestershire or an adjoining area the Council would be a consultee.

Consultation on the National Policy Statement For Geological Disposal Infrastructure

10. The draft NPS identifies a technical, ethical and legal need for GDFs for radioactive waste in England. It provides planning guidance for developers preparing applications for such projects and for the Planning Inspectorate and Secretary of State when considering them. It also provides guidance for councils affected by such proposals on the preparation of Local Impact reports, which they are entitled to submit under the NSIP regime.
11. GDFs are defined as any deep geological facility for the final disposal of radioactive waste, where waste is to be stored at least 200 metres underground, as well as the deep borehole investigations required to identify suitable sites for these facilities.
12. The NPS would be used by the Secretary of State to make decisions on development consent order (DCO) applications for nationally significant GDFs. The Secretary of State would also have to have regard to the Local Impact report submitted by a local council. The draft NPS does not identify locations where GDFs should be.

13. The draft NPS sets out what DCO applications should include in their assessments of the impact of GDF's and how these should be mitigated. Applications would be assessed against a series of principles including good design, climate change, pollution control, nuisance, safety, health and security.
14. Impacts to be considered include air quality, noise, biodiversity and nature conservation, climatic factors, historic environment, socio-economics population and demographics, flood risk and coastal change, human health, landscape and visual, land use, traffic and transport, waste management and water quality. The draft NPS states that these impacts may be a helpful basis for local planning authorities in preparing their Local Impact reports. The draft NPS is clear that applications for a DCO will be assessed on the basis that need has been demonstrated.
15. The draft NPS states that DCO applications for GDFs are distinct from assessments of nuclear safety, security and environmental protection by relevant independent statutory regulators. Environmental permits must be granted by the Environment Agency before developers can start borehole drilling, construction operations or emplacement of radioactive waste.
16. The draft NPS makes it clear that the process of identifying a site for a GDF is separate from the process of considering DCO applications. Any application for a DCO is expected to be made after a separate process to identify a site for GDF. These processes are distinct and both would require extensive public engagement. The siting process is expected to be led by the developer. Similarly, the process by which the relevant independent statutory regulators assess the nuclear safety, security and environmental protection of the GDF is also distinct from the application for a DCO.

Proposed Response of the County Council

17. The proposed response is attached as Appendix A to this report. It is considered that generally the draft NPS includes the necessary matters to ensure that the environmental and socio-economic impacts of the development are assessed appropriately. However, one area that requires addressing more specifically is the sourcing of material (particularly aggregate) that will be required in the construction of GDFs and the management of spoil material arising from the construction.

Consultation on Working With Communities

18. This consultation seeks views on how communities should be engaged in a siting process for a GDF for higher activity radioactive waste. The proposals build on commitments set out in the 2014 White Paper 'Implementing Geological Disposal' in which the UK Government and Northern Ireland Executive jointly set out an approach based on working with communities in England and Northern Ireland that are willing to participate in the process. They relate to how communities should be engaged, how early community investment could be provided to communities that participate in the siting

process, how a right of withdrawal could operate, and how a test of public support could be carried out before construction and operation.

19. The Government is committed to helping interested communities understand about hosting a GDF to enable them to engage with confidence in the processes for deciding on a location. The Ministerial Forward to the consultation states that the Government and the body chosen to deliver the GDF, Radioactive Waste Management ('the delivery body'), now intend to start working to build this wider public understanding among communities by progressively making information on key issues widely available and easily accessible. This includes:
 - how the Government propose to engage with potential host; communities including local authorities at all levels;
 - the geology of each part of England, Wales and Northern Ireland;
 - the potential environmental impacts and potential economic benefits of hosting a facility; and
 - clarity on how land-use planning decisions will be made, for deep investigative boreholes, and for the construction of a facility following acceptance of a project by a willing community to host it.
20. Building and operating a geological disposal facility is a multi-billion pound, intergenerational, national infrastructure project, which is likely to bring substantial benefits to its host community, with skilled jobs for hundreds of people over many decades. The process to identify a suitable location for such a facility will require detailed discussions on the opportunities that it would offer the host community and the wider region.
21. The process to identify and select a site requires detailed technical work that is estimated to take around 15 to 20 years; the eventual construction and operation of the facility will then run for 100+ years.
22. The final decision to site a GDF in a community will not be taken until there has been a test of public support that demonstrates clear community support for development at a specific site.
23. The consultation document sets out proposals on how the delivery body will work in partnership with communities, including their relevant principal local authorities (county councils, unitary authorities and district councils). The proposed approach is intended to ensure progress is made towards finding potential sites for a GDF, whilst recognising the need to build confidence and support among interested communities.
24. The key aspects of the proposed Working with Communities Policy are as follows:
 - **Identifying communities** – evidence from other infrastructure projects has shown that there is no single agreed approach to identifying the boundaries of a local community. The proposals here use a combination of the impacts of the development and administrative

boundaries. It is proposed that a wide search area is identified initially, working towards the identification of a smaller area – which will be deemed as a ‘Potential Host Community’ – as the siting process progresses and the surface and underground sites are identified.

- A community needs to be identified at the right point to enable the appropriate representation, which may also include the relevant principal local authorities, to be agreed. This will provide the basis for fair and transparent community representation for the distribution of community investment funding, enable the right of withdrawal from the siting process, and, if the community remains supportive after the engagement and information gathering process, to undertake the final testing of public support.
- **Initial discussions and formative engagement** – discussions can be initiated by anyone with an interest in the GDF siting process. To ensure an open, transparent and broad conversation as the siting process progresses, these discussions should be opened up to include people more widely in the community. To move into formative engagement, all principal local authorities should be informed and involved, unless they are content for formative engagement to proceed without their involvement.
- To support this aim, a formative engagement team will be established to help build confidence in the community engagement process and to start to understand and answer any questions the community may have. The formative engagement team may include representatives from local government including the relevant principal local authorities. It will also need to include the delivery body, an independent chair and facilitators to ensure transparent, appropriate and constructive discussions. To help communities shape their role in these early discussions, the delivery body will cover the costs of community engagement activities and provide access to independent support.
- **Community Partnership** – for the process to be successful, the delivery body will need to work in partnership with representatives of the relevant principal local authorities and other representative members of the local community if they wish to be involved (e.g. parish, town or community councils, residents, businesses and voluntary and community organisations). It is proposed that a Community Partnership would be formed from organisations identified during formative engagement as important to the local area. The Community Partnership should also involve members from the delivery body. Members of the Partnership will be responsible for sharing information between the community and the delivery body and entering into dialogue with people more widely in the community about a GDF.
- **Community Agreement** – an agreement will be signed by the Community Partnership to establish a suitable level of engagement and agreement on ways of working between the delivery body and the

community throughout the siting process. The agreement will be used to track progress and will enable community members to hold the delivery body to account in the provision of information.

- **Constructive Engagement** – a community is constructively engaged when a Community Partnership has been formed and there is a Community Agreement to engage in the siting process. At this point community investment funding of up to £1 million per community, per year, is made available.
- **Community investment funding** – the Government will make community investment funding available via the delivery body of up to £1 million per community, per year, in the early part of the geological disposal facility siting process, rising to up to £2.5 million per community, per year, for communities that progress to deep investigative boreholes that are needed to assess the potential suitability of sites. Community investment funding can only be used to fund projects, schemes or initiatives that provide economic development opportunities, enhance the natural and built environment, and/or improve community well-being. A community investment panel, made up of members of the community and the delivery body could review and decide on applications for funding against agreed criteria. Applications for community investment funding can be made by anyone within the Search Area.
- **Right of withdrawal** – communities can enact their right of withdrawal at any time in the siting process up until the test of public support, which identifies whether there is community support to proceed. The delivery body can also withdraw at any time if it determines that the siting process is unlikely to be successful in a particular community, for example, due to adverse geological survey results. The Community Partnership will be able to decide if they wish to use the right of withdrawal and will specify how it takes place.
- **Test of public support** – before a final decision is made by the delivery body to seek regulatory approval and development consent to proceed with the construction of a GDF at a particular site, there must be a test to ensure that there is public support to proceed. The test is designed to elicit a final view from the community as to whether they are content for the delivery body to proceed to apply for development consent, and other permissions to proceed from the environmental and nuclear safety and security regulators. The test could be carried out using a range of methods, including a local referendum, a formal consultation or statistically representative polling.
- The test will be undertaken by the people within the Potential Host Community, as they will be directly affected by the proposed GDF. The Community Partnership will decide when the test of public support should take place and the method by which it is delivered. If at this stage, the principal local authority representatives no longer wish to

support the process proceeding, then it is unlikely that the Community Partnership will be able to launch any test of public support at that time, and without a positive test of public support, a final decision by the delivery body to proceed with the subsequent stages will not be possible.

Proposed Response of the County Council

25. The Council's proposed response to this consultation is attached to the report as Appendix B and highlights the importance of how a potential site is determined and where exactly the host community boundary is drawn, which will determine which areas will benefit from the community investment funding. Experience of the previous process in Cumbria was that the immediate community was accepting, but the wider community was not, suggesting that more tightly drawn boundaries are more likely to result in communities agreeing to host a GDF. More prescription from the Government on drawing the boundaries of both Search Areas and the Potential Host Community is therefore required as the size of these areas will have a bearing on how focused or spread finite amounts of community funding will be.
26. The response also raises concerns regarding the lack of clarity of what community investment funding will be available after the early stages of the siting process. The consultation refers to the Government providing additional investment funding to the community that hosts a GDF and whilst saying it will be significant, does not provide any further information. More clarity on this is therefore required.

Equality and Human Rights Implications

27. There are no equality and human rights implications arising from this report.

Background Papers

Draft National Policy Statement for Geological Disposal Infrastructure

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/676403/NPS_Geological_Disposal_Infrastructure_WEB_ACCESSIBLE.pdf

Consultation: National Policy Statement for Geological Disposal Infrastructure

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/676402/Final_NPS_Consultation_Document.pdf

Consultation: Working With Communities Implementing Geological Disposal

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/676391/WWC_consultation.pdf

Appendices

Appendix A – NPS Consultation Questions and Proposed Responses.

Appendix B – Working With Communities Questions and Proposed Responses