GDF Siting Process Consultation
Department of Energy and Climate Change
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Dear Sir or Madam

CONSULTATION: REVIEW OF THE SITING PROCESS FOR A GEOLOGICAL DISPOSAL FACILITY

Please find attached Cumbria County Council's response to the above consultation (Appendix 1). This response reflects the comments and views raised during a debate of our full Council (84 elected Members) on 7 November and was approved at a meeting of our Cabinet on 21 November. A copy of the relevant Cabinet minute is also attached (Appendix 2).

The response stands alone, but I would like to emphasise the following points:

- Cumbria County Council policy supports deep geological disposal of higher activity radioactive wastes, but not necessarily or exclusively in Cumbria, subject to it being safe and to the ongoing monitoring and retrievability of wastes should circumstances require it;

- A significant proportion of the waste that would be emplaced in a GDF is already here in Cumbria, at the Sellafield site. We therefore believe that we are an essential participant in any discussion around the future management of this waste. Unfortunately, we do not believe that your proposals, as set out in the consultation document, are going to take that debate forward. Furthermore, we do not believe that they adequately address the issues we discussed, at length, during the so-called deferral period that led to our decision in January of this year; and

- Your consultation document says that "When considering responses to this consultation, the Government will give greater weight to responses that are based on argument and evidence, rather than simple expressions of support or opposition." We agree this is the correct approach, but would argue that given our long history as the host community for the Sellafield and LLWR sites, the views of the people of Cumbria should be given the most weight.

The County Council is grateful for the opportunity to comment on the proposals.

Stewart Young
Leader, Cumbria County Council

Appendix 1

DECC CONSULTATION: REVIEW OF THE SITING PROCESS FOR A GEOLOGICAL DISPOSAL FACILITY

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? (Page 27)

1.1 Yes, the County Council agrees that a test of public support should be taken before the representative authority loses the Right of Withdrawal. However, we believe that this question is over-simplifying the importance of public and stakeholder engagement which is an ongoing exercise and should play a major part in the process before any community representatives start discussions with Government and continue during any learning phase and beyond.

1.2 Such public and stakeholder engagement should include periodic tests of public support. We support the MRWS Partnership's opinion on this which states that a Community Siting Partnership (CSP) should: "Use public and stakeholder engagement to gather evidence about concerns, learn about reasons for opposition and support, and help inform the CSP's views. In particular, it is of paramount importance that any CSP continues to try to understand public and stakeholder concerns and address them clearly and transparently".

1.3 We would remind DECC that, over its lifetime, the MRWS Partnership carried out three rounds of public and stakeholder engagement, supported by telephone opinion surveys, and involving a number of different methods and approaches and yet the County Council still received several hundred letters and e-mails disagreeing with the Partnership's final Report and claiming ignorance of the overall process. This just goes to prove the importance of and difficulties associated with taking any community through such a challenging process.

1.4 In terms of the most appropriate means of testing public support, we would strongly recommend that any such test takes account of both qualitative and quantitative data and that it is not exclusively confined to the representative authority's district. To only carry out such a test at the point at which the Right of Withdrawal is given up is, as we have set out above, a mistake and we would argue that any siting process should make it clear that there is a need for ongoing engagement and regular tests of community support.

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. (Page 28)

2.1 No, the County Council does not agree with the proposed changes to the siting process. While a phased approach could potentially be helpful, we are concerned that this is simply a re-branding exercise and are keen to understand how the revised approach will deal with the very real concerns raised in Cumbria in relation to geology, community benefits, and the strength of the right of withdrawal and so on.

2.2 The County Council believes that Government should be making clear commitments to potential host communities along the lines of those given in Baroness Verma's 19 December letter to the Cumbrian local authorities.

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? (Page 32)

3.1 No, the County Council does not agree with the revised roles as proposed in the consultation document. We do not believe that the current process failed in West Cumbria simply because the decision making power was shared at both the district and county level. All three local authorities had concerns that resulted in the so-called deferral period and we do not believe that delegating the decision making power to the district level will address the key issues of trust and uncertainty.

3.2 Both tiers of local government have democratic mandates from their communities, but the mandates are to provide different services and discharge different (though complimentary) statutory functions. In short, for projects of this nature, you need both tiers. To restrict County Councils to an advisory and influencing role through a proposed consultative partnership is divisive and we do not believe such a process can deliver the necessary local confidence and trust. Indeed, in the current financial climate, removing upper tier authorities across England from decision making may discourage their willingness to consider any engagement with a future GDF siting process.

3.3 Both tiers of local government have skills and expertise that would be relevant to a GDF siting process. For County Councils, this includes areas such as minerals and waste, economic development, planning, co-ordination and delivery of strategic projects, highways and transportation, emergency planning, fire and rescue services, adult social care and education.

3.4 Clearly, any community involved in the development of a GDF will require all of these skills, so the County Council believes that the only way the siting process can work is for both tiers of local government to

work as equal partners, involving neighbouring community representatives, parishes and others as appropriate.

3.5 The proposed approach assumes that the siting of a GDF would fit neatly into the geography of one district authority and that only the community of that district is relevant to the siting decision. This may not be the case and risks excluding communities outside the district who may genuinely be affected by the proposal and have a legitimate interest in it. County Councils have a role in representing the interests of the wider community.

3.6 Our experience of the current MRWS process highlighted the importance of clarity around roles, responsibilities and decision making and we believe it is vital that these issues are resolved before any community decides to participate in the revised process.

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? (Page 36)

4.1 Yes, the County Council agrees that any and all geological information that can be provided would be useful for communities. However, we are concerned that there is little in the proposed changes to what is now called the learning phase of the process that differentiates it from the current process (Stage 4 – desk-based studies) and we believe that communities need to understand that geological uncertainty remains part of the process for a very long time.

4.2 As currently worded, Government is suggesting that there is some straightforward piece of analysis that can deal with the geological uncertainty and we do not believe that is accurate. The County Council would wish to see geological certainty, as confirmed by peer review, before a siting decision is taken and Right of Withdrawal relinquished.

5. Do you agree with this proposed approach to planning for a GDF? If not, what alternative approach would you propose and why? (Page 42)

5.1 Yes, the County Council agrees with the proposed approach to planning for a GDF. The proposal to apply the Nationally Significant Infrastructure Project (NSIP) regime to the GDF is logical. The project is similar in scale (or larger) than the type of projects currently assessed under this regime. It is also clearly an issue of national significance.

5.2 The NSIP process under the Planning Act 2008 fully recognises the legitimacy of both tiers of local government to influence and participate in the decision making process. Both are required to be fully consulted at the pre-application stage, both are invited to submit Local Impact Reports and both can participate in the Examination process. Given that both tiers will have an equal input to a Development Consent

Order application for a GDF it seems inconsistent that County Councils are to have a reduced role at the siting stage.

5.3 The County Council's recent experience of engaging with other NSIP projects is that positive working relationships can be established between the developer and both tiers of local authorities whose areas are potentially impacted by a proposal.

5.4 However, the effectiveness of local authority engagement in NSIP projects is highly dependent upon the level of resources available. The local authorities receive no fee for consideration of NSIP projects, and the engagement process only works well if support is provided, for example through a Planning Performance Agreement. The County Council has taken a lead role in setting up such partnership arrangements for NSIPs in Cumbria.

5.5 Government should give an assurance that the host authorities and neighbouring authorities would be fully resourced to enable their participation throughout the NSIP process. This should include helping to shape the consultation process, contributing local information, commenting on pre-application documents (e.g. Preliminary Environmental Information), preparing Local Impact Reports, participating in the Examination and discharging Requirements.

5.6 The County Council is keen to participate actively in any NSIP proposal to ensure sustainable well planned development and the co-ordinated strategic provision of necessary infrastructure, such as highways and drainage, housing, education and other services. The Council would also seek to identify impacts arising from a development including opportunities for any enhancement or mitigation.

5.7 The proposal to apply the NSIP regime to intrusive investigations contrasts with the current regime applying to other NSIP projects. Such investigations are subject to the normal planning consent regime. Although for the purposes of informing NSIPs, the investigations do not in themselves constitute nationally significant development and are not of a scale or impact which requires them to be assessed in this way. In the County Council's view, it would be disproportionate and inconsistent to apply the NSIP process to intrusive investigations. As with other NSIPs, the normal planning regime should apply.

5.8 The County Council welcomes the clarity that could be provided through the proposed new National Policy Statement. It is suggested that extensive consultation takes place to afford local authorities and any other interested parties the opportunity to make comment and shape the outcome. Cumbria County Council has a key strategic planning role and would wish to contribute to the development of the NPS.

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? (Page 45)

6.1 No, the County Council does not agree that this clarification is helpful. We are concerned that the Government is now using what was the 'upper inventory' as the 'baseline inventory' and there is no mention in the document of the MRWS Partnership's Inventory Principles.

6.2 While there was some difference of opinion between the Government and the Partnership on the precise interpretation of the principles, they were welcomed as a solid basis for moving forward and we would expect any community considering becoming involved in this process to take account of the Partnership's work. As Government recognises, definition of the inventory is an ongoing task and we would therefore expect to see it as a major discussion item throughout this process.

6.3 The County Council also believes that a commitment from Government to minimise the size of any GDF development will help encourage communities to positively consider participating in this process.

7. Do you endorse the proposed approach on community benefits associated with a GDF? If not, what alternative approach would you propose and why? (Page 51)

7.1 Yes, the County Council endorses the proposed approach on community benefits. We believe that a substantial community benefits package should be provided to any host community in recognition of the service it is providing to the nation and that a proportion of community benefits should be released before operations commence.

7.2 However more detail is required than is currently provided. In terms of scale and timing, the language is as vague as in the White Paper and it takes no account of the discussions that Government had with the three Cumbrian local authorities where DECC committed to establishing a community fund and agreed to make specific funding proposals covering the nature, scope, scale, timing and governance of a fund within 18 months of any decision to participate. We suggest that this section is expanded to include a stronger commitment from Government to community benefits with clearer proposals covering scope, scale, timing etc, as well as the mechanisms for securing and managing any benefits.

7.3 The County Council also considers that the package of community benefits should not be limited to the host district, but should accrue to a wider host community area, which should include adjoining districts. Any community benefits package should also reflect the policies of the host local authorities.

7.4 The County Council agrees that a community benefits package sits outside the planning process and should be additional to any payments to meet the cost of engagement or developer payments resulting from the planning process

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? (Page 53)

8.1 Yes, the County Council agrees with the proposed approach and welcomes the increased certainty concerning the potential effects of a GDF.

9. Do you have any other comments?

Trust

9.1 We were surprised that the issue of trust did not feature more in the consultation document. The MRWS Partnership noted that "A sense of a lack of trust in and between the various parties involved in the current MRWS process has emerged at various points within our work and is particularly apparent across the full set of submissions to our formal consultation".

9.2 This lack of trust ranged from the parishes up to central government and included the NDA, the regulators and even the Partnership itself and was at the root of many of the concerns raised by the public and stakeholders. Clearly, trust cannot be built through written words alone; it needs to be demonstrated through reciprocal action and mutual respect over a significant period of time. However, it is essential if this process is to continue and we therefore believe that the need to build and maintain trust between all parties is something that should be explicitly mentioned.

Other Communities

9.3 One of the challenges Government has faced throughout this process is encouraging communities, beyond West Cumbria, to engage. Clearly, this will be a key task for any period of public information sharing and discussion that you are proposing for the re-launch of the process in 2014. However, the challenge of communicating the massive uncertainties surrounding this process to representatives of communities with different levels of understanding and experience of nuclear issues cannot be underestimated and it is not clear from the document how Government and the NDA are planning to tackle this.

87 MANAGING RADIOACTIVE WASTE SAFELY: THE SITING PROCESS FOR A GEOLOGICAL DISPOSAL FACILITY CONSULTATION RESPONSE

The Corporate Director – Environment reported that the Department of Energy and Climate Change (DECC), Welsh Government and the Northern Ireland Department of the Environment were reviewing the Managing Radioactive Waste Safely (MRWS) siting process for a geological disposal facility (GDF). The review had been prompted by the County Council's decision not to participate in Stage 4 of the MRWS process taken by the Cabinet in January 2013, and the immediate termination by Government of proposed GDF site identification and assessment work in West Cumbria.

To assist its review, the UK Government had launched a consultation on a revised proposed process for working with communities in order to agree a site for a GDF. The consultation ran from 12 September to 5 December and followed a 'call for evidence' earlier this year. It would be supported by a series of events that would be run across the country involving the public and interested parties. The consultation document had nine questions, and the same questions would be used as the basis for discussion at the events.

The consultation document outlined a number of ways in which government believed the MRWS siting process could be improved. Key proposals included:

- In two tier areas, giving decision making powers to district level authorities, with county level authorities playing a prominent role in a newly proposed Consultative Partnership. Unitary authorities in other parts of England, and in Wales and Northern Ireland, would have decision making powers for their areas;

- Preparing a geological report and a socio-economic assessment for any area potentially interested to learn more about the costs and benefits of GDF development. These studies would be provided free of any obligation to continue local enquiries;

- Providing greater clarity on the scope of a community benefits package and releasing some funds early, subject to conditions being met, and before GDF construction; and

- Bringing the development consent process for a GDF, and ancillary planning permissions required to facilitate GDF

preparatory work, within the regime for 'Nationally Significant Infrastructure Projects' (NSIP) under the Planning Act 2008. Government intends to publish for public consultation in 2014 a draft National Policy Statement specifically for a GDF, if its consultation proposals are supported.

A number of aspects within the consultation had not changed since its conception within the original MRWS white paper, these were:

- Government is still committed to underground disposal;
- Government still favours an approach based on voluntarism, and working in partnership with communities that may ultimately host a facility;
- The NDA (through the Radioactive Waste Management Directorate) remains the developer and CoRWM retains its oversight/scrutiny role;
- The NDA still needs to factor into its design process the ability to retrieve waste from the GDF.

The purpose of the report was to seek Cabinet approval to submit the suggested response to the Government's MRWS consultation, as set out in Appendix 2 to the report (and amended as necessary) as the County Council's submission to Government.

The Leader set out the context to the Cabinet decision in January 2013 not to proceed to the next stage of the earlier siting process at which point Government had advised that the process was ended. Government had chosen to develop a new process though final clarification was needed as to whether it was indeed a new process or a continuation of the earlier one. The Leader confirmed that the County Council's existing policy was to support a GDF only if it were safe and the waste in it was retrievable and capable of being monitored, and that means not necessarily in Cumbria. He confirmed that he and other Cabinet members had received many representations from the public both in support and against such a facility and he remained of the opinion that government had failed to adequately address the concerns expressed around the right of withdrawal, community benefits and the need for additional investment in the Sellafield site. In turning to the question of jobs he pointed out that Baroness Verma had recently stated in the Whitehaven News that no extra jobs would be delivered by a GDF once constructed compared to a storage facility. This was true, because the construction of a GDF would ultimately lead to less jobs. No right of withdrawal had yet been enshrined in legislation despite the opportunity to do so in the Energy Bill going through Parliament. In respect of community benefits it had never been possible to obtain a detailed

undertaking from successive governments, and the current proposal meant that any money would not be made available to communities until they had passed the point of no return in the process. He advised that he was fundamentally opposed to County Councils being excluded from the decision making process and it was a brazen attempt by the government to achieve its desired outcome. He described the current process as flawed and called on the government to think again.

The Cabinet Member for Economic Development confirmed that whilst he acknowledged the report as drafted was of good quality he could not propose the recommendations as set out. He had agreed that the Leader open the discussion and move the recommendations as despite being the responsible Cabinet Member he was unable to support it personally. He agreed that it was perverse to exclude County Councils from the decision making process but contended that as this was a matter of such national importance it was illogical that a decision should be taken at local level. The government would spend the next year seeking to convince a local authority to agree to proceeding with the process. He acknowledged the position of the County Council and the leader himself was to support GDF but not necessarily in Cumbria. In his view, of the Cabinet members who had voted against proceeding with the process in January 2013 only the current Leader had expressed a coherent argument as to why he had voted in the way he did. He suggested that of critical importance was getting the waste currently at Sellafield into a safe condition. Despite the variety of statistics often quoted about support or not a majority of the public in Copeland had favoured proceeding with the process. He believed it important to continue working towards the best and safest solution available and that a proper referendum to measure public support was the way forward; that it was a nonsense to delegate such a decision to a small district council; that geological certainty was unachievable; and that counties should be the predominant partner in any process.

The Deputy Leader confirmed that he would support the recommendation to submit the response as drafted and that he too viewed the decision to exclude the County Council form the process as irrational. To test public support he believed that a county wide referendum should be held.

The Cabinet Member for Environment confirmed she too had received many emails about the matter but noted that this paper was about the process not West Cumbria. She would support the recommendations and where she disagreed with the Cabinet Member for Economic Development was on the question of geology ie she believed that a GDF should be sited in the most appropriate place not made to fit particular ground conditions.

The Cabinet Member for Children's Services confirmed that talks needed to continue with government to seek a resolution despite their actions to

date proving disgraceful. It was vital that the County Council's views were heard.

The Leader thanked members for their contributions and also members of the public and communities who had submitted their views. The waste was already here, the challenge was to find a suitable way of dealing with it. In view of some of the differing views expressed, unusually for Cabinet he asked for the recommendation to be put to the vote and the voting was as follows:

For (the recommendation) - 9
Against (the recommendation) - 0
Abstentions - 1

Whereupon it was

RESOLVED, that the consultation response as set out in Appendix 2 to the report be endorsed.