

## **Implementing Geological Disposal: Working with communities – response to consultation by the UK Government**

### **1. Introduction**

Copeland Borough Council welcomes the opportunity to comment on the draft 'Working with Communities' policy document. The Council understands that the consultation is seeking views on how communities should be engaged and represented in a siting process for a geological disposal facility for higher activity radioactive waste. The Council see this document and the final version after consultation as an essential framework for any community considering 'volunteering' as the host community. The Council expects the final Working with Communities proposal to provide a clear yet flexible framework that could be applicable to any community considering volunteering, is able to include a wide range of stakeholders at the local level and is robust enough to endure the long-term nature of the siting process.

This response has been developed through a process of Council Member engagement that included a focused all-Council Member workshop and consideration by the Council's Strategic Nuclear and Energy Board, as well as the Council's Executive. In addition, Council Members and officers attended a number of the Government-led workshops held at various locations around the country and received a presentation from BEIS officials as part of the Government's programme of engagement with Cumbrian communities on 19<sup>th</sup> March. Finally as members of NuLeAF (the Nuclear Legacy Advisory Forum), which is the Local Government Association (LGA) representative body on legacy wastes and decommissioning, the Council attended a workshop on 21<sup>st</sup> March where BEIS officials presented on the proposals for 'Working with Communities'.

The Council and the communities it represents has a long history of involvement with the nuclear industry stretching back over the last 70 years. The Borough is host to the Sellafield site, which currently hosts the vast majority of the waste identified within the inventory for a GDF. The Borough is also the host community for the National Low Level Waste Repository as well as the HQ for the Nuclear Decommissioning Authority (NDA), the central laboratory for the National Nuclear Laboratory (NNL), the National College for Nuclear northern facility, various University-led research and training facilities as well as being the home of the Centre for Nuclear Excellence (CoNE). In view of the above we believe that the Council is well qualified to provide an informed view on proposals for the disposal of higher activity radioactive waste through the provision of a GDF.

Finally, the Council will also be responding to the draft National Policy Statement for Geological Disposal Infrastructure consultation and would point out that there is a cross-over between our comments made on both consultations.

### **2. General Comments**

The Council is supportive of the Governments aspiration to seek a solution to the long-term management of higher activity radioactive waste in the UK. We accept that a GDF in the right location is the most secure means of achieving disposal in the national interest and this is the Council's priority. As noted previously the Sellafield site in our Borough currently hosts 70%

of the legacy wastes identified for inclusion within the inventory for a GDF. The current arrangements for the management and storage in facilities on the Sellafield site is both expensive for the public purse and presents a significant environmental risk for communities in our Borough. The identification of a permanent long-term solution for the disposal of these wastes is of paramount interest to local communities and has been for many decades, noting that previous attempts to identify a solution have not gained community support. The Council is supportive of the approach to identify a location based on the voluntarism principle and the involvement of all tiers of local government, including, where they exist, Parish Councils.

The Council takes the view that the level of awareness of the need for this project across the general population is poor and the attempts by Government to raise the profile of the project appear to have had little impact. Without a better understanding of the need for this project across the general population, and the opportunities that it could present, then it is the Council's view that the chances of finding a willing community, and getting the support it needs, are diminished.

The Council strongly advocates that the process going forward requires much more active and effective engagement and collaboration with all tiers of local government and local stakeholders generally through both the siting process and the development consent process. In addition, we would suggest that as the vast majority of the waste destined for the GDF is located in our Borough and would therefore need to be transported to a GDF, the Government should recognise that Copeland Borough has a role to play in the future siting process regardless of the final destination for the waste. We would also make the point that as Copeland is the current host community for the waste, and noting the fact that the development of a GDF could take up to 25 years to commence, there is a fundamental obligation on Government to commence a dialogue with the Borough Council and local communities now on a range of potential support mechanisms to be made available to the current host community, similar to those to be made available to the future host community. This point is made in the context of the continued growth in surface storage at Sellafield as wastes are moved from other locations in readiness for disposal to a GDF, wherever that might be located.

The Council notes that within the Foreword for the Working with Communities consultation, the Minister states that *'previous approaches were not able to secure and sustain the necessary level of local support'*, and that to be successful this time there is a need to develop an *'open and transparent site selection process that engages constructively with willing communities'*. We agree with this. The engineering, technological and geological challenges in delivering a GDF are undoubtedly significant. However, we believe that the greatest challenges to a successful siting process relate to local politics, socio-economics and engagement. In this consultation document there is clearly some reference to previous processes and international experiences, although we would suggest that some of the lessons learned have not been included within this proposed process.

The Council is of the opinion that any successful siting process must recognise the important and unique role and expertise that local government has. Local authorities are democratically elected bodies at the heart of every community, with responsibility for and skills in community engagement, outreach, education and the support of community networks. They

have expertise in economic development and regeneration, both directly and as key players within Local Enterprise Partnerships (LEPs). They have a long track record of managing community funds and resources and maximising the benefits of local spend. They also have responsibilities for land use planning, transportation, emergency planning and sustainable development.

To effectively deliver a GDF, the final approach to Working with Communities must therefore place all tiers of local government and communities at its heart, ensuring that they are able to enter into and remain within the siting process over the decades it will take to identify a host site.

It should be noted that Copeland was one of only two voluntary communities who participated in the previous unsuccessful process to develop a GDF, the Managing Radioactive Waste Safely (MRWS) process which came to an end in Jan 2013. However, it is important to clarify that the Council has currently no formal view on the preferred location for the siting of a GDF and will not form a view until the Council has had a full opportunity to consider the Government's approach to the siting process after it has been launched.

The following is a list of key issues that the Council expect the final document to address;

- a) The document should provide enough detail in terms of guidance but also the flexibility for local stakeholders to determine locally suitable structures and processes
- b) More detail on how initial discussions and formative engagement will be arranged
- c) Further clarity on the definition of host communities and proposed search area
- d) Further guidance on the make-up and operation of the Community Partnership
- e) The role of all tiers of local government (including Parishes) as parties within the CP and the rights of veto
- f) The recognition of the 'special place' in the siting process for Copeland as the current host community of the vast majority of the inventory destined for the GDF
- g) The availability of funds early in the siting process to offset the negative effects/blight of early-stage volunteering
- h) The role of the developer as a member of the CP
- i) Further details around the range of investment/funding streams to support the development of the project
- j) A recognition that mitigation measures and infrastructure investment should be provided *before* the project construction process commences
- k) Further details on what the scope and scale of 'additional investment' might look like
- l) Clarity on who has the right to invoke the right of withdrawal and when this right will no longer be available
- m) Clarity on who can invoke the Test of Public Support, when it happens and which part of the community is the focus of the Test
- n) Clarity on the role of local authorities within the CP and their powers to invoke/influence the RoW and ToPS

### 3. Response to consultation questions

#### 1. Do you agree with this approach of identifying communities? Do you have any other suggestions that we should consider?

The Council appreciates the difficulties in previous attempts to define host communities and believes that the attempt in this consultation is an example where the proposed approach lacks enough detail to provide real guidance but suggests flexibility in an attempt to be applicable in a wide range of localities. There is a lack of clarity as to how a Search Area might be identified especially if for example an individual land-owner comes forward in the early stages of the siting process. In this instance, it is not clear how you would define a search area around an individual site.

The Council agrees that electoral ward boundaries are used to define and identify communities, both the Search Area and Potential Host Community, although it should be pointed out that some wards are likely to change over the timescale of the GDF. Use of ward boundaries also allows the establishment of Search Areas that might straddle two or more local authority areas.

It is also worth noting that over the lengthy period of the siting process the role and function of local authorities may change but it is important that the Search Area or Potential Host Community area, once agreed, remains constant throughout the process.

In defining the **Potential Host Community (PHC)** we again agree that Ward boundaries are appropriate to use to define its edge, and support the proposal (4.19) that the Community Partnership will be responsible for agreeing the PHC. In this instance, the guidance needs to be flexible enough to allow the CP to complete this tricky task. However, in the situation where the underground facilities are some distance (kilometres?) from the surface facilities then we would suggest that any community on the surface above the underground facility should also be included as a host community.

The Council accepts the view that those directly affected by the impacts of the facility should be included with the host community. However we believe that this should be restricted to site specific and transport impacts as widening the definition to take into account socio-economic and environmental factors would create a host community that would be too large and unmanageable.

We would suggest that as the current host community of the vast majority of the waste (and we will continue to be so for many decades) Copeland's communities have a legitimate role in the siting process due to the risks associated with moving the wastes and the socio-economic impacts on our communities, regardless of the location identified at the end of the siting process. We believe that Copeland communities **MUST** therefore be engaged in future discussions relating to the GDF and be offered the same opportunities as the Community which will eventually house the GDF, irrespective of where that may be.

Finally, we note that at the launch of the siting process the results of the geological screening process will also be made available and we believe this will help communities who may be considering volunteering to gain a better understanding of local geology. Any further geological information that is available through previous investigations should also be made available to interested communities.

**2. Do you agree with the approach of formative engagement? Do you support the use of a formative engagement team to carry out information gathering activities? Are there any other approaches we should consider?**

The Council supports in principle the approach to formative engagement although as mentioned earlier we are not clear how the process from when an individual might initiate a discussion with the developer to the identification of a Search Area might unfold in a logical manner.

We agree that soon after any initial discussions local authorities should be invited to be involved if they have not been involved so far. The Council believes that there is a lack of clarity of the justification as to why local authorities may choose to not be involved with the formative engagement process. It appears to undermine some of the key principles of Community Partnership and allows them to re-engage with the process later, after much work by local stakeholders, with the power to veto. The Councils view is that to truly represent their communities local authorities should be involved in the process from the outset.

As the process moves into the formative engagement stage it is important that these discussions are made public and there is a need to engage other community stakeholders including parish councils. The final document should provide guidance as to how this is achieved.

This part of the process also includes for the first time reference to an independent chair. The final document should again provide further guidance on how Government envisages an independent chair will be appointed. The current draft is silent on this issue.

The Council agrees in principle with the establishment and make-up of the formative engagement team although we would advocate that it should be up to the local stakeholders in the team whether or not to identify an appropriate business representative or an individual with expertise on local economic development rather than stipulate that a representative of the LEP should be invited. LEPs have different structures and profiles across the country and it shouldn't be assumed that the one approach fits all circumstances.

The Council notes the remit for the formative engagement team as described in 4.29. In fig 3 on page 25 it is suggested that this stage could last up to 12 months. As this process is in the public domain there is potential for negative impacts (blight) to commence as soon as this process becomes public. The Council expects that the

informative engagement team will identify this early as a 'community concern' and believes that the team should be given resources to tackle early issues such as this.

**3. Do you agree with this approach to forming a Community Partnership? Are there other approaches we should consider?**

The Council generally support the approach to establish a Community Partnership (CP). The suggested framework in the consultation document should provide the flexibility for individual locations to be able to determine their own arrangements, recognising that the CP will need to be operating over an extensive time-period during which changes in national or local policy and governance structures are likely to occur. We agree that its membership should be around 12 in number. In the Councils view the CP should include all levels of local government (including Parish Councils where they exist) relevant to the search area and host community. The Council see that the Community Agreement will be fundamental to the function of the CP. The Community Agreement should be developed by the CP members and should include the means by which the CP will operate including the appointment of members and the voting and veto rights within the Partnership. We would expect that the Agreement would need to give consideration to who holds veto rights within the Partnership and at this stage take the view that to hold a right of veto an organisation has to be formally engaged as a member of the CP. We would also expect the CP to determine its own geographical remit. The guidance in the current document is suggesting that the CP would cover the wider Search Area. This may be appropriate until a host community is identified but may need to be reviewed once the host community is known.

The Council takes the view that the Delivery Body should **not** be a member of the Community Partnership. The Council agrees with the description of the role of the Delivery Body in relation to the CP (see page 36 of the consultation document) and concludes that the Delivery Body can carry out its functions (including invoking a right of withdrawal) without necessarily being a member of the CP. This arrangement would mirror the accepted practice of community/developer relations. Again, we have no strong views on the involvement of a LEP representative, this would be an issue for the CP to consider, but in any event would expect a representative of business to be a member of the CP.

The Council would also expect that the CP should give due consideration to inviting those groups known to oppose the development of a GDF to be members of the CP. In addition we envisage that the work of the CP would need to be supported by working groups and so the CP may wish to consider a wider membership of local stakeholders, again including representatives from groups opposed to a GDF, from which working group memberships can be drawn.

**4. Do you agree with the approach to engaging people more widely in the community through a Community Stakeholder Forum? Are there other approaches we should consider?**

The Council fully supports the need for wider community engagement and the option of utilising a Community Stakeholder Forum is one means that would need to be considered, alongside others, by the CP and delivery body. Based on experience through the MRWS process the Council takes the view that the delivery body has a primary responsibility for communicating with the public on GDF issues and this will need to be agreed with the CP in consideration of the operation of wider stakeholder engagement. The CP should not be seen to be acting directly as part of or in support of the delivery body.

We agree that throughout the process there are opportunities for local people to engage, raise concerns and have their questions answered. Again, we take the view that it is also important that those locally who oppose the plans for a GDF are given a voice and an opportunity to criticise and challenge. In addition, the CP will need to consider the opportunities for effective engagement through social media and mainstream media, and outreach work with particular groups such as the young, including through schools and colleges. Local further education colleges should also be involved, providing as they do a forum for engaging with young adults and a means of developing the skills that local people will need to access employment opportunities flowing from the GDF.

**5. Do you agree with the proposal for a Community Agreement and what it could potentially include?**

The Council takes the view that the Community Agreement is fundamental to defining the operation of the Community Partnership. It is important that the Agreement clearly spells out the collective obligations, expectations and behaviours, including voting and veto rights, roles and responsibilities, how progress will be monitored and reported, the means of engagement with wider local stakeholders and importantly a means of resolving disputes. The Agreement will need to be binding on all parties and flexible to be able to respond to changing circumstances or issues that may arise. Based on lessons learned from the MRWS process the Agreement will need to make provision for the Partnership to have access to funding for the procurement of additional research and independent expert views where necessary and the means by which that procurement is delivered. The Agreement should also cover the means of receiving, managing and distributing funding either through engagement funding or community investment funding including how a Community Investment Panel would be established and would operate.

**6. Do you agree with the proposed approach to the way community investment funding would be provided? Are there alternatives we should consider?**

The Council has some concerns with the approach to community investment funding as described in the document, which unless addressed, will not encourage Communities to engage with the process. Currently it lacks clarity. We can identify 4 levels of direct funding provided by the developer/government;

- **Engagement funding** to support the establishment and operation of the Community Partnership and cover the costs of participating local authorities, procurement of expert opinion and independent facilitation
- The **community investment funding** of £1million and then £2.5million that every community entering the process will receive;
- The investment in **mitigation measures** that will be needed to reduce or eliminate negative socio-economic or environmental impacts; and
- The **additional investment** that will flow to the successful host community or communities.

The Council takes the view, as mentioned earlier in this response, that once formative engagement becomes public and discussions about search area and host community are being held there is the real potential for negative impacts to be felt on those particular communities and for 'blight' to be experienced. We believe that there is a real need to identify potential sources of funding support to the local community through Community Partnerships to offset the impact of blight from this stage in the process. This should then continue to be available to the Community Partnership throughout the process of site selection.

In terms of community investment funding the Council believes that the level of £1m and £2.5m per annum undervalues the role that a potential host community could play in hosting this facility and the impact the early stages of the siting process might have on local economic well-being. We would ask to see evidence of comparisons with successful international experiences and to ask for Government to justify the approach taken here in the light of that international experience. The document currently uses the phrase 'up to' £1 or £2.5 million. We believe it should be clear on what the circumstances would need to be that would result in the full amount not being available within that year. We also expect to see confirmation that this funding will be available for every year of the siting process regardless of the level of activity relating to the project in any given year.

The Council believes that there is a contradiction between the detailed proposals for the use of this funding (para 4.68) and the wider principles in para 4.66) and this needs to be clarified in the final document. The consultation states that support should '*aim to ensure that best use can be made of the additional funding*' (4.68) by focussing on '*issues or themes that may increase the ability of local businesses and members of the community to benefit from a geological disposal facility development.*' (4.69). The Council takes the view that we do not agree that community investment funding should be used to support activities directly connected to the GDF development. Most of the communities entering the siting process will not be successful but should receive these benefits to spend on local projects as they see fit.

In Copeland we have direct experience of managing or overseeing local community funds and in applying proper 'public value' criteria and know that operating, audit and reporting processes have to be clear and effective. Without this stakeholders and the wider community may not be encouraged to engage and such funding runs the risk of

not being taken up, and poor operation of the community investment funding could affect the wider siting process.

In terms of **mitigation measures**, we expect *all* the negative environmental impacts to be identified within the DCO process and for them to be appropriately designed out, mitigated or local communities compensated accordingly. As potential negative impacts could also affect local property values it is essential that the comprehensive approach to mitigation is also included in this document as well as the NPS document. The Council would like to see a commitment in the document and from the developer to the appropriate sequencing of investment in mitigation measures to ensure that the investment in infrastructure is undertaken before construction of the project and not after the event.

The consultation is weak on information relating to the scale of **additional investment** that would be provided and which will be of significant interest to communities considering entering the siting process. The Council consider that the final framework should be much clearer on the scale of funding, how the community will be engaged to help shape priorities for funds and an indication of the types of projects that would be eligible.

The Council also takes the view that local stakeholders will expect to engage with the developer to explore the potential to maximise the employment opportunities to local people from the GDF construction process.

**7. Do you agree with the proposed approach to the right to withdrawal? Do you have any views on how else this could be decided? Are there alternatives we should consider?**

Whilst the Council agrees with the need for a right of withdrawal (RoW), there are some concerns with how the right of withdrawal might be invoked and the document is unclear in our view.

As referenced earlier in this response the Council believe that it is for the Community Partnership to have the ability to invoke the RoW and that the means of operating the process of RoW should be determined by the CP and articulated and documented within the Community Agreement, along with voting rights. We don't agree with the notion that a local authority can have the power of veto and invoke a RoW from outside the CP. This approach seriously undermines the role and function of the CP. Local authorities should be fully engaged within the CP to have the opportunity to influence the CP around RoW matters. In para 4.79 the proposal is for the CP to seek the views of the community about invoking the RoW through either a local referendum, consultation or statistically representative polling. What is unclear is who they will be seeking the views of, residents within the host community or a wider area. We believe that this decision should be for the CP to consider but the final document should make it clear that this is the case.

We recognise that to minimise the risk that the community exercises its right of withdrawal, the developer will need to ensure it is responsive to the issues and concerns that inevitably arise and is also able to build relationships as the Community Partnership membership evolves over time. We accept that the developer will also have the power to invoke the RoW if they determine that the process is not likely to achieve a positive outcome.

We are also concerned about when the RoW option will be removed. Currently the document suggests that this will be up until the test of public support. However the Council's view is that at the stage of the test of public support the actual design of the facility may not be progressed to an adequate state for the community to be comfortable for the development to continue. We believe that the RoW and indeed the Test of Public Support (see response to Q8 below) should remain until the final scheme design is known and ready to be submitted for DCO approval. Only then will the community have a better understanding of the full impacts of the proposals. We would like to see the RoW remain until the application for a DCO is made.

**8. Do you agree with the approach to the test of public support? Do you agree that the Community Partnership should decide how and when the test of public support should be carried out? Do you have views on how else this could be decided? Are there alternatives we should consider?**

The Council supports the need for a Test of Public Support (ToPS) but believes that the document lacks clarity in a number of areas.

In para 4.85 the document suggest that the ToPS will be 'carried out by the Potential Host Community'. We believe that the ToPS should be carried out by the Community Partnership but should be focused on the host community. This needs to be clarified within the final document. We also believe that the CP should decide if and when the ToPS should be carried out and again as with the RoW we would suggest that an organisation/local authority has to be inside the CP to influence the debate around the timing and implementation of the ToPS. We don't agree that a local authority should have the ability to influence the ToPS if they have not been engaged in the work of the CP, which at this stage in the process could have been in operation for some 20plus years and much work will have been carried out. We expect that the details around the ToPS would be written into the Community Agreement.

The current drafting in para 4.86 relating to the role of local authorities in this part of the process is vague and may well lead to confusion amongst local stakeholders and may result in conflict between local authorities and other members of the Community Partnership if there is disagreement at this stage. This wording must be changed.

Our key concern regarding the ToPS however relates to timing. The document suggests in para 4.83 that the ToPS should be carried out prior to the developer seeking regulatory approval and development consent. As referenced in the earlier section on RoW we believe that the design of the facility and therefore the impacts on the local

community will not be fully known until the developer is ready to submit for development consent. We believe therefore the ToPS should not be carried out until this stage of the siting process and the final document should reflect this.

**9. Do you feel this process provides suitably defined roles for local authorities in the siting process? Are there alternatives we should consider?**

The Council supports the statement in Chapter 5 that principal local authorities will need to play an integral role in the any Community Partnership. We would extend this definition (and expect this to be referenced in the final document) to include parish councils especially those inside the host community, but would recognise that not all local authorities in the country are parished. The means of including parishes in the CP will need to be considered by the CP when defining the Community Agreement.

We have previously and consistently expressed throughout this response that we believe that local authorities should participate in the CP to be able to influence the siting process including the RoW and ToPS. The level of influence should be included in the Community Agreement and voting rights and rights of veto defined. We do not believe that local authorities should have the right to invoke the RoW or ToPS independently from outside the CP.

We expect the above points to be addressed in the final document.

**10. Do you have any other views on the matters presented in this consultation?**