

## **Cumbria Minerals & Waste Development Framework: Repeated Site Allocations Policies and Proposals Map, Development Plan Document (DPD)**

EnergySolutions welcomes the opportunity, further to a previous submission (Ref. 1) made under Regulation 28 to the consultation carried out by the County Council between October and December 2011, to make a written representation on the County Council's proposed Site Allocations Policies prior to the Public Examination scheduled for the week commencing 23<sup>rd</sup> April 2012. This submission expands on the Regulation 28 representations but also takes account of the Inspector's Issues and Questions Paper and specifically Issue 3 dealing with proposed sites for Low Level Radioactive Wastes.

### **Executive Summary**

- It is submitted that the DPD is not justified, effective and consistent with national policy and neither is it consistent with NDA Strategy which plays a major role in the management of LLW in the UK.
- It is submitted that the County Council has failed to take account of the strategic need for viable VLLW disposal sites on a reasonable timescale as well as developments in current NDA Strategy and plans which add further support to the use of Permitted commercial landfill sites for the disposal of VLLW and lower activity LLW.
- The DPD also fails to recognise the current status of the Lillyhall Landfill Facility near Workington and fails to name it as an Allocated Site for the disposal of VLLW despite it being licensed and permitted and, with the support of DECC, NDA, and LLWR, ready to receive waste as from 1 April 2012. Accordingly, a specific change to the DPD is sought to include the Lillyhall Landfill Site as an Allocated Site for the disposal of VLLW.

### **Response to Q.3.1-a change in circumstances requiring a different approach for the DPD to be sound:**

It is submitted that the DPD is not sound in terms of being justified, effective and consistent with aspects of:

- The national policy framework for the management of LLW, set out in the Policy for the Long Term Management of Solid Low Level Radioactive Waste in the UK, March 2007 ("the UK LLW Policy") (Ref. 2)
- NDA Strategy & Plans for the management of LLW, which describe how the national policy for LLW will be implemented, specifically
  - the UK LLW Management Plan, December 2009 (Ref. 3)
  - the UK Strategy for the Management of Solid Low Level Radioactive Waste from the Nuclear Industry, August 2010 ("the UK Nuclear Industry LLW Strategy") (Ref. 4)



- the UK Low Level Waste Strategic Review, March 2011 ("the UK LLW Strategic Review") (Ref. 5)
  - NDA Strategy, April 2011 (Ref. 6)
- The preference for use of existing waste sites, set out in the North West of England Plan Regional Spatial Strategy to 2021, September 2008 (Ref. 7)
- The presumption in favour of sustainable development, set out in the National Planning Policy Framework, March 2012 (Ref. 8)

Several of these documents were published following the submission of the previous DPD in June 2010 and contain material considerations relevant to the question of whether or not the re-submitted DPD is sound.

The UK LLW Policy was published in 2007. This acknowledged that future demand for disposal routes for LLW will greatly exceed the available capacity. It encourages use of a wide range of routes to divert waste away from the LLWR and ensure a more cost effective approach. One such route is the disposal of VLLW and lower activity LLW to appropriately Permitted commercial landfill sites. The Government has stated that it sees no reason to preclude use of commercial landfill from the list of options that can be considered, provided the necessary safety assessments can be carried out to the satisfaction of the environmental regulators. The UK LLW Policy states that the NDA's Strategy and Plans will provide guidance for planning authorities in the preparation of planning strategies and their appraisal. Ministers' assessment and agreement of these should be taken into account in the preparation of national, regional and local plans. Those preparing plans should take into account the waste management needs of their area and a common expectation for local level plans to identify suitable sites for waste management. This is particularly pressing and time sensitive in Cumbria, with a recent study (Ref. 9) estimating that circa 3.8 million m<sup>3</sup> of VLLW and lower activity LLW will arise across the UK up to 2120, of which 3.1 million m<sup>3</sup> is expected to arise at the Sellafield site. Of this volume some 92,000m<sup>3</sup> arising at Sellafield will need disposal over the next 15 years and latest estimates from Joint Waste Management Plans (Ref. 10) indicate a potential disposal capacity shortage from around 2015.

The UK LLW Management Plan published in 2009 identified the need for alternative disposal routes for VLLW and provided a commitment to explore the use of commercial landfill for such waste. The 2010 UK Nuclear Industry LLW Strategy identifies the disposal of VLLW to landfill as an option that can be considered amongst other options by waste managers. The UK LLW Strategic Review (March 2011) identifies the Lillyhall Landfill Site as a potential facility for the disposal of VLLW. NDA Strategy published in April 2011 reinforces the need for fit-for-purpose management routes for VLLW.

The recently published National Policy Framework (Ref. 8) includes a presumption in favour of sustainable development. Local planning authorities should prepare Local Plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes; approve



development proposals that accord with statutory plans without delay; and grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date.

There is an immediate need to divert VLLW to alternative disposal routes to reserve capacity at the LLWR. Potential new routes at the LLWR and Sellafield sites would take a number of years to develop and their viability is uncertain. The only available new disposal route for VLLW in West Cumbria is the Lillyhall Landfill Site. In the absence of any demonstrable adverse impacts, a failure to include the Lillyhall Landfill Site as an Allocated Site for VLLW disposal appears contrary to the presumption in favour of sustainable development.

Whilst it is accepted that the County Council needs to ensure that its Core Strategy is reviewed and that the DPD is then consistent with the revised Core Strategy, for the above reasons the County Council will also need to recognise the change in circumstances requiring a different approach for the current DPD to be justified, effective and consistent.

**Response to Q.3.2-a change in circumstances in relation to the Lillyhall Landfill Site:**

The Lillyhall Landfill Site has been subject to a site-specific safety assessment for the disposal of VLLW. The proposal to develop the landfill to accept VLLW from the nuclear industry was subject to a programme of public and stakeholder engagement. In April 2011 the EA issued a Permit under the Environmental Permitting Regime (EPR) for the disposal of VLLW to the Lillyhall Landfill Site. (Ref.11). In coming to this decision the EA considered a range of consultation responses. It confirmed that the results of the site-specific safety assessment meet the appropriate environmental standards, the requirements for public and stakeholder engagement have been satisfied and that disposal of VLLW to the landfill is consistent with UK LLW Policy.

EPR Permits for consigning sites have been varied and commercial arrangements have been put in place to enable consignment of VLLW and lower activity LLW to Permitted landfill sites.

The UK LLW Policy requires planning authorities to take into account NDA Strategy and Plans in the development of local planning documents. These NDA documents state that the disposal of VLLW to landfill is one of the options to be considered in options assessments. Waste managers have carried out options assessments which have identified the disposal of VLLW and lower activity LLW to appropriate Permitted landfill as a preferred option. The proposed DPD could preclude consideration of the option of disposal of VLLW to Permitted landfill for waste to be produced in the future. The UK LLW Policy states that Government see no reason to preclude the disposal of VLLW to landfill from the list of options to be considered. The UK LLW Policy and the environmental regulators' BPEO guidance state that options assessments should consider all practicable options. The DPD is not sound as it could potentially preclude consideration of the option of VLLW disposal to Permitted landfill sites.

The UK LLW Policy explains that the principles of proximity and the minimisation of transport should be balanced with all other relevant factors on a case by case basis when carrying out options assessments i.e. transport minimisation and proximity should not be given any



exceptional consideration. The proposed DPD places undue weight on the consideration of proximity and the minimisation of transport.

The UK LLW Policy states a preference when carrying out options assessments for management solutions that can be implemented sooner rather than later. It states that solutions should be put in place prior to the implementation of programmes and plans wherever possible. As detailed earlier, large volumes of VLLW are forecast to arise across the UK, with the greatest contribution arising at the Sellafield site. VLLW is already being produced which could be diverted to available fit-for-purpose routes such as the Lillyhall Landfill Site. Developing new waste routes is a lengthy and onerous process and the delays could potentially slow decommissioning progress and increase its overall cost. It is arguable that the DPD is not sound as it is inconsistent with the stated preference in UK LLW Policy for the implementation of early solutions.

The reasons stated for the rejection of the Lillyhall Landfill Site for the disposal of VLLW are potential social and economic impacts. No evidence is provided substantiating such impacts. During the development of the UK LLW Policy, Government prepared a regulatory impact assessment (see [Ref. 12](#)). This did not identify significant adverse social or economic impacts associated with the use of commercial landfill for the disposal of VLLW and LLW. A range of benefits were identified including significant reductions in cost and reserving capacity at the LLWR. LLWR Ltd. has conducted a strategic BPEO assessment for the management and disposal of VLLW ([Ref. 13](#)), which included consideration of social and economic factors. The use of existing Permitted landfill was identified as a preferred disposal option in this study. Whilst it is recognised that a number of the local Councils are opposed to the disposal of VLLW to the Lillyhall Landfill Site, engagement with stakeholders suggests a high level of support for the proposal within the local community. The local community engagement programme carried out to support the Permitting of the Lillyhall Landfill Site is described in a case study in a paper on pointers to good practise in stakeholder engagement ([Ref. 14](#)).

The Regional Spatial Strategy Policy EM 13 ([Ref. 7](#)) states that in considering any proposals for new facilities, preference should be given to using established waste sites. The Lillyhall Landfill Site is the only established waste route for VLLW disposal in West Cumbria to which such waste could be diverted in the immediate term. The Lillyhall Landfill Site which has a Permit from the EA for the disposal of VLLW should on this basis have been included as an Allocated Site for the disposal of VLLW, in order to relieve pressure on the LLWR in accordance with national policy objectives. The Regional Spatial Strategy Policy EM 13 ([Ref.7](#)) also states that the provision of nationally significant waste management facilities may be appropriate where the region offers a particular waste management advantage on a national scale. Given its proximity to the Sellafield site, the Lillyhall Landfill site offers a significant advantage in the implementation of this policy.

## References

1. The Town and Country Planning (Local Development) (England) Regulations 2004 (as amended), Regulation 27, Cumbria Minerals and Waste Development Framework, Site Allocation Policies, Reconsultation, Autumn 2001, EnergySolutions, 5<sup>th</sup> December 2011 [ref: RSAP7](#)
2. Policy for the Long Term Management of Solid Low Level Radioactive Waste in the United Kingdom, Defra, DTI and the Devolved Administrations, March 2007 [ref: LD42](#)
3. UK Management of Solid Low Level Radioactive Waste from the Nuclear Industry: LLW Management Plan, NDA, December 2009 (<http://www.llwrsite.com/UserFiles/UK%20Nuclear%20Industry%20LLW%20Management%20Plan%20-%20Rev1%20SIGNED.pdf>)
4. UK Strategy for the Management of Solid Low Level Radioactive Waste from the Nuclear Industry, NDA, August 2010 [ref: LD191](#)
5. UK Management of Solid Low Level Radioactive Waste from the Nuclear Industry: Low Level Waste Strategic Review, Issue 3, LLWR Ltd./NDA, March 2011 (<http://www.llwrsite.com/UserFiles/File/LowLevelWasteStrategyGroup/LLW%20Strategic%20Review%202010%20NLWS-LLWR-16%20-%20Issue%203.pdf>)
6. NDA Strategy, NDA, April 2011 [ref: LD180](#)
7. The North West of England Plan Regional Spatial Strategy to 2021, Government Office for the North West, September 2008 [ref: RD7](#)
8. Department for Communities and Local Government, March 2012 (<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>)
9. UK Management of Solid Low Level Radioactive Waste from the Nuclear Industry: the Analysis of Near-term Low Activity Low Level Waste Arisings within the UK Radioactive Waste Inventory 2010, LLWR Ltd./NDA, May 2011 ([http://www.llwrsite.com/UserFiles/File/LowLevelWasteStrategyGroup/Near%20term%20LALLW%20Issue%202\\_Final.pdf](http://www.llwrsite.com/UserFiles/File/LowLevelWasteStrategyGroup/Near%20term%20LALLW%20Issue%202_Final.pdf))
10. Joint Waste Management Plans (<http://www.llwrsite.com/national-programme/joint-llw-management-plans>)
11. Environmental Permitting (England and Wales) Regulations 2010, Decision Document, Disposal of High Volume Very Low Level Radioactive Waste at the Lillyhall Landfill Site, operated by Waste Recycling Limited at Joseph Noble Road, Lillyhall, Workington, Permit Number CD7914 (Effective Date 06/04/2011), Environment Agency, April 2011 [ref: LD197](#)
12. A Public Consultation on Policy for the Long Term Management of Solid Low Level Radioactive Waste in the United Kingdom, Defra, DTI and the Devolved Administrations, 28 February 2006 [ref: LD43](#)
13. Strategic BPEO Study for Very Low Level Waste, LLWR Ltd., August 2009 (<http://www.llwrsite.com/UserFiles/File/customer-docs/StrategicBPEO/StrategicBPEO-VeryLowLevelWaste-Volume2-August2009.pdf>)
14. Pointers to Good Practice in Communication and Stakeholder engagement in the implementation of Low Level Waste Strategy, 17 November 2009 ([http://www.llwrsite.com/UserFiles/File/LowLevelWasteStrategyGroup/Pointers%20to%20good%20practice,%20LLW%20Strategy%20Group,%2017%20November%202009%20\\_Final.pdf](http://www.llwrsite.com/UserFiles/File/LowLevelWasteStrategyGroup/Pointers%20to%20good%20practice,%20LLW%20Strategy%20Group,%2017%20November%202009%20_Final.pdf))

**From:** Simon Stuttford [redacted]@energysolutions.com]  
**Sent:** 16 April 2012 12:02  
**To:** MWDF Office  
**Cc:** Andrew E. Drom  
**Subject:** RE: Statements for Hearing Sessions

Dear Nicola,

Please find attached as promised a revised References page with web links for the documents where relevant. Copies of the most relevant documents referred to in our statement will be provided separately.

Your colleague, Richard Evans, has also correctly pointed out an error at paragraph 2 on page 2 of our statement dated 3 April 2012. The date currently reads 2021 and should be **2120**. I would be grateful if you could bring this to the Inspector's attention.

Please acknowledge safe receipt.

Regards,  
Simon