This is in response to the initial Main Matter 4 of the Inspector’s Main Matters, Issues and Questions (document reference ED 50)
Note:-

Core Strategy Policy 12 is included as **Appendix 1**. The definitions of the different categories of radioactive wastes and a glossary of the terms used to describe them are included as **Appendix 2**. A copy of a 2008 Topic Paper that was prepared for the Examination of the Core Strategy is included as **Appendix 3**, relevant extracts from the Core Strategy Inspectors’ Report are in **Appendix 4** and **Appendix 5** includes the relevant Cabinet minute in connection with the Council’s response to the consultation on the National LLW Strategy.
MAIN MATTER 4

Policy 5: Proposed sites for Low Level and Very Low Level Radioactive Wastes

Whether the identified sites are justified, effective and consistent with national policy and the Core Strategy.

ISSUES and QUESTIONS

This matter was debated during the Examination of the submitted Core Strategy and extensively reported upon by the Inspectors. The relevant Core Strategy policy (12) refers only to the Low Level Repository (LLR) near Drigg and paragraph 8.28 makes it clear that there is no policy for Very Low Level Wastes arising in Cumbria. It also sets out the reasons for this and explains that in the interim, and before any review of the Core Strategy, any proposals for managing these wastes would be considered in the context of the relevant Core Strategy and Generic Development Control polices, namely 1 and 2 and 1 to 4 respectively.

The only Annual Monitoring Report to be published since the adoption of the Core Strategy (LD153) makes no material mention of this matter. The Core Document List suggests that the UK strategy for the management of low level radioactive waste from the nuclear industry remains in draft (LD157), which appears to be confirmed by the Regulation 28 representation from the Low Level Waste Repository Ltd.

The County Council has, therefore, been asked to provide a short statement setting out the evidence base for submitted DPD policy 5 explaining with reference to that evidence base the ways in which circumstances have changed since the adoption of the Core Strategy to support an approach that does not appear consistent with Core Strategy policy 12. Although it is not appropriate for that Inspectors’ Report to be a Core Document for this Examination, it may be helpful for the relevant extracts to be appended to the County Council’s statement. These would appear to be paragraphs 8.57 to 8.89 and 8.105 to 8.116.

Once the statement is available more detailed questions will be published to guide the discussion at the Examination hearing session.

This matter will also address the representations that sites AL31 (Lillyhall) and CO31 (Keekle Head) should be included in policy 5. In this context and without prejudice to anything arising from the County Council’s statement the question will be whether there are any serious constraints to the deliverability of the identified sites that would require either or both of the alternative sites suggested to be considered and, if so, have they been subject to SA?
Response

1. The main question is whether the Core Strategy provides a basis for Site Allocations Policy 5 or whether that policy is inconsistent with the Core Strategy.

Core Strategy

2. Core Strategy Policy 12 – Low Level Radioactive Waste is the relevant one (see Appendix 1). This makes it clear that the County Council’s acceptance of a national role for the Low Level Waste Repository, near Drigg, was conditional on the success of the Nuclear Decommissioning Authority’s and the site operator’s initiatives for reducing the proportions of wastes that are consigned to it.

3. The County Council’s view is that the first and penultimate sentences of Core Strategy Policy 12 can be regarded as the basis for the Site Allocations policy. The reasoning behind this is that, providing for the continuing role of the Repository, and the initiatives for reducing the proportion of wastes that are sent to it, require new sites to be identified for those wastes that do not require such a highly engineered containment facility. Whilst it is acknowledged that the wording of the Core Strategy was not drafted with this in mind, this appears to the County Council to be an appropriate response to current circumstances.

Current circumstances

4. What is happening is that the pressures for new facilities are being experienced sooner than had been anticipated when the Core Strategy was prepared (Site Allocations Policy paragraph 3.11). There is no doubt that new facilities will be needed for managing Very Low Level Wastes (VLLW) and the lower activity range of Low Level Waste (LLW), particularly from nuclear decommissioning, as part of the initiatives to divert waste away from the Repository.

5. These circumstances are considered to require an updated approach, compared to the one described in Core Strategy paragraph 8.28. That paragraph refers to Very Low Level Wastes (VLLW), which are a sub-category of Low Level Waste (LLW). It states that no policy for VLLW is included in the Core Strategy because of uncertainties about their volumes, their management and about what off-site facilities may be needed.

6. It was intended that any proposals for managing VLLW would be considered in the context of the Generic Development Control Policies. This was expected to be for an interim period before the Core Strategy is reviewed. A commitment to a timely review of the radioactive waste policies is in Core Strategy paragraph 8.5; this was one of the changes required by the Inspectors’ Report.

7. The uncertainties have not yet been resolved about the volumes of decommissioning wastes, when they will arise, the potential for driving some of them up the waste hierarchy and the types of treatment or disposal facilities that are likely to be needed. Improved information will be available.
when the updated Defra inventory of radioactive wastes is published, possibly in September/October.

8. Site Allocations Policy 5 is the County Council’s response to the pressures for new facilities. The County Council considers that a clearer statement of its policy about sites is needed, and that this cannot wait until there is a review of the Core Strategy. Accordingly, Site Allocations Policy 5 proposes CO36, land within the Sellafield complex, as a first preference and CO32, land adjacent to the complex, as the reserve.

9. The main sources of information have come from involvement with the Nuclear Decommissioning Authority’s National Low Level Waste Strategy Group. A draft Strategy (LD157) has been produced but is still (mid-July 2010) awaiting Ministerial approval. That approval is anticipated before the summer recess on 29 July.

10. The waste industry’s response, in Cumbria, has included an application to the Environment Agency, under the Environmental Permitting Regulations, to dispose of VLLW at site AL31 Lillyhall landfill and a planning application, submitted to the County Council, for a purpose built disposal facility for VLLW and the lower end of LLW at site CO31, the Keekle Head former opencast coal site near Pica.

11. The County Council’s policy (please see Appendix 5) is that such decommissioning wastes should be managed, where possible, on the nuclear site where they arise or on adjacent land. Only if rigorous assessments demonstrate that this is not possible should more distant sites be considered. This policy stance takes account of the concerns about the social and economic impacts associated with these waste facilities because of perceptions about any type of radioactive waste.

12. In contrast to such an approach, the present circumstances are that ad-hoc proposals are coming forward, at more distant sites, without the rigorous assessments of the potential for on-site or adjacent to site facilities.

Annual Monitoring Report

13. The way in which the Core Strategy approach was being overtaken by events is not a matter that was picked up in the latest Annual Monitoring Report. That AMR was for the period from 1 April 2008 to 31 March 2009. It focussed on the development plan policies that were current at that time. The Core Strategy was not adopted until 23 April 2009.

Sustainability Appraisal

14. All four of these sites, that are proposed in the policies or in representations, are included in the Sustainability Appraisal (document SAP3).

Deliverability

15. There are issues about the delivery of all four of these sites:-

- **AL31 Lillyhall landfill.** Its current planning permission requires it to have been restored by 2014, the implications of this are that landfilling would,
probably, have to cease in 2012. The proposal to landfill radioactive wastes would require this to be extended by several decades.

- **CO31 Keekle Head.** No decision has yet been made on the planning application, further information has been requested. There is a current Enforcement Notice requiring the site to be restored, as a greenfield site, in accordance with the requirements of its open cast planning permission.

  Excavations at this site have filled with water. Pumping, for well over a year, at a rate in accordance with the site’s discharge consent has been unable to make a significant impact on reducing the volume of this water.

  At the present time, it is not clear whether the substantially increased discharge rate, that would be needed to enable the voids to be dewatered, would be acceptable. This has implications for both the Enforcement Notice and the feasibility of the planning application proposals.

- **CO36, land within the Sellafield complex.** The deliverability of this site cannot be determined until there has been a rigorous assessment of its potential for managing its decommissioning wastes in-situ. This can only be carried out by the site’s owner, the Nuclear Decommissioning Authority (NDA), and its operators, Sellafield Ltd. The County Council has been suggesting for some time that this is needed.

- **CO32 land adjacent to Sellafield.** A large area has been identified, which is owned by the NDA. It is not clear how much land could be needed for managing decommissioning wastes. Environmental issues (see paragraph 1.607 of the Site Assessments Report (SAP8)), include the underlying aquifer. In the County Council’s opinion, an holistic solution to this matter will be needed for the existing Sellafield complex and proposals for managing its wastes, including the site’s post-operational strategy and end-state.
LOW LEVEL RADIOACTIVE WASTE

Provision will be made for the Low Level Repository, near Drigg to continue to fulfil a role as a component of the UK's radioactive waste management capability. Proposals for very long term storage or disposal of waste will have to demonstrate that they are feasible in relation to the long term integrity of the site with regard to sea level rise and coastal erosion. Proposals for additional storage or disposal facilities will have to demonstrate that they are within the site's radiological capacity.

The acceptance, by the County Council, of a national role for the Repository is on the basis of the NDA's and the site operator's initiatives for reducing the proportions of waste that are consigned to it. The success of those initiatives will be monitored closely, in part through the Council's membership of the national Low Level Waste Strategy Group.
The categories of radioactive wastes that are defined in the UK

**High Level Waste (HLW)**, more than 12,000 Becquerels/gram and significantly heat generating

**Intermediate Level Waste (ILW)**, more than 12,000 Becquerels/gram but not significantly heat generating

**Low Level Waste (LLW)**, having a radioactive content that does not exceed 4,000 Becquerels/gram (4 gigabecquerels per tonne) of alpha or 12,000 Becquerels/gram (12 gigabecquerels per tonne) of beta/gamma radiation

**Very Low Level Waste (VLLW)**, is waste at the lower end of the LLW scale that is contaminated with a very small amount of activity (<4Bq/g)

**Exempt waste**, Max 0.4 Bq/g (0.4 MBq/te) total manmade activity

**Glossary**

**Becquerels (Bq)** This is the standard international unit of radioactivity equal to one radioactive transformation or decay per second. The multiples of becquerels that are commonly used to define radioactive waste activity are - kilobecquerels (kBq) equal to one thousand Bq; megabecquerels (MBq) equal to one million Bq; and gigabecquerels (GBq) equal to one thousand million Bq.

**Alpha Activity (radioactivity)** This takes the form of particles (helium nuclei) ejected from a decaying atom. Alpha particles cause ionisations in biological tissue which may lead to damage; this is more significant if inhaled or swallowed. The particles have a very short range in air, typically about 5 cm.

**Beta Activity (radioactivity)** This takes the form of particles (electrons) emitted during radioactive decay from the nucleus of an atom. Beta particles cause ionisation in biological tissue which may lead to damage. Most beta particles can pass through the skin, but a few millimetres of light material such as aluminium, will generally shield against them.

**Gamma Activity (radioactivity)** An electromagnetic radiation similar in some respects to visible light, but with higher energy. Gamma rays cause ionisation in biological tissue which may lead to damage. These rays are very penetrating and are attenuated only by shields of dense metal or concrete, perhaps some metres thick. Their emission during radioactive decay is usually accompanied by beta or alpha activity.
Radioactive Waste

1 DEFINITIONS

Radioactive waste is material that is above a certain level of radioactivity and has no further use. It is divided into four categories according to how much radioactivity it contains and the heat that this radioactivity produces. Under the Radioactive Substances Act 1993, radioactive waste is strictly controlled through authorisations granted to operators so as not to harm people and the environment.

2 DISCUSSION

The Health and Safety Executive (HSE) regulates the nuclear industry through its Nuclear Directorate (ND), which is responsible for operational and decommissioning safety regulation on civil, defence and research sites throughout the UK. As part of the ND, the Nuclear Installations Inspectorate (NII) licences all nuclear sites, attaching conditions with which sites must comply. Regular inspections are undertaken by NII and, if any contravention of licence conditions is found, the site may have to suspend operational or decommissioning activity until compliance is restored.

All users of radioactive materials and all accumulations or disposals of radioactive materials or waste must be approved by the Environment Agency (EA), in England and Wales, by the Scottish Environment Protection Agency (SEPA), in Scotland, and by the Industrial Pollution and Radiochemical Inspectorate (IPRI), in Northern Ireland.

The NII is responsible for regulating the storage of radioactive wastes.

Disposal of radioactive waste, whether by incineration or transfer to an authorised disposal/storage site, and discharges of radioactive substances, whether gaseous or aqueous, must be in accordance with an authorisation under the Radioactive Substances Act 1993. These authorisations are regulated by EA, SEPA and IPRI, who specify annual radiological and volumetric limits, to ensure that human health and the environment are protected from the effects of exposure to ionising radiation resulting from these disposals and discharges, in accordance with internationally agreed standards (Euratom Treaty and EU Directives).

The main source of radioactive waste within the UK is the nuclear power industry (>99%). Other sources are defence activities and medical, research and industrial sources (<1%); of these ‘small’ users, there are over 4,000 in England and Wales alone.

The UK Radioactive Waste Inventory (DEFRA/NDA, 2007) provides comprehensive information on the sources, quantities and properties of radioactive wastes in the UK, both existing and forecast to arise in the future. It is part of an ongoing programme of research conducted by DEFRA and the Nuclear Decommissioning Authority (NDA), which is updated on a 3-yearly cycle.

The Inventory advises that the total volume of radioactive waste in the UK (existing and forecast) is 3.4 million cubic metres. About 95% (over 3.2 million cubic metres) of this waste already exists, although much will not be able to be processed until nuclear facilities are decommissioned or dismantled. Less than 5% (around 150,000 cubic metres) is from planned future operations (It assumed inter alia no new nuclear power plants and that spent nuclear fuel is not classified as waste).
Radioactive waste in the UK is classified into four categories:

**High Level Waste (HLW)**, also known as heat-generating waste, consists mainly of a nitric acid solution containing fission products separated from irradiated nuclear fuel during reprocessing. These are stored for at least 50 years to cool (as liquid in water-cooled, stainless steel tanks, or vitrified into glass blocks) in a highly engineered environment at Sellafield. Current UK policy is then for long-term disposal in a suitable deep geological repository, where the radioactivity will decay over tens of thousands of years. Although <1% of the total radioactive wastes volume, HLW contains about 95% of all radioactivity in wastes.

**Intermediate Level Waste (ILW)** consists mainly of metals, with smaller quantities of organic materials, inorganic sludges, cement, graphite, glass and ceramics. About 7% of the total radioactive wastes volume falls into this category. ILW mainly arises from the dismantling of nuclear reactors, treatment of liquid effluents and reprocessing of spent fuel. ILW is stored temporarily, cement-grouted into tanks, vaults and drums, pending permanent disposal in a deep geological repository.

**Low Level Waste (LLW)**, accounting for about 93% of the total radioactive wastes volume, includes metals (redundant equipment and building material), rubble, soil and laboratory equipment (clothing and paper towels). It contains less than 0.01% of the total radioactivity. LLW is super-compacted to decrease its volume, cement-grouted into half-height ISO-freight containers and placed in concrete lined vaults at the LLW Repository near Drigg in Cumbria. There is also controlled disposal of LLW in authorised landfills. There is currently a proposal to construct another LLW Repository at the Dounreay nuclear licensed site in Scotland.

**Very Low Level Waste (VLLW)** is not included in the Inventory. It covers waste with very low concentrations of radioactivity, and mainly arises from hospitals and non-nuclear industry. This is disposed of with other municipal, commercial and industrial waste. In the future large volumes of VLLW are anticipated to arise through nuclear decommissioning. It is also sometimes referred to as High Volume Low Activity Waste (HVLA).

The current national long-term policy for the management of higher activity wastes is set out under the Government’s ‘Managing Radioactive Waste Safely’ programme. The Committee on Radioactive Waste Management (CoRWM), an independent body, was appointed in 2003 to advise on the best technical long-term solution for higher activity wastes that is safe, environmentally sound and secures public confidence – their suite of recommendations was published in 2006.

Since then, CoRWM has been re-constituted, with modified terms of reference and membership, in order to scrutinise the implementation of the MRWS programme. Along with publication of the White Paper on MRWS in June 2008, a letter was sent to all local authorities in the UK inviting communities to express an interest in opening up ‘without commitment’ discussion on the possibility of hosting a geological disposal facility in the future.

The Nuclear Decommissioning Authority is a public, non-departmental body set up by the Government in April 2005, with responsibility for the UK's public sector civil nuclear liabilities and their subsequent management. In October 2006, the Government also gave the NDA the responsibility for developing and ensuring delivery and implementation of the programmes for interim storage and geological disposal of the UK's higher activity wastes.

From March 2007, the NDA was given responsibility for developing a UK-wide strategy for managing the UK nuclear industry’s LLW and for securing disposal capacity for LLW generated by non-nuclear industry users.
### LEGISLATIVE CONTEXT

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### FURTHER INFORMATION AND LINKS

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RADIOACTIVE WASTES

Key issue – Are the policies covering radioactive wastes soundly based and consistent with the latest national and regional policy and the policies of other relevant authorities and bodies concerned with the management, disposal and storage of radioactive wastes?

Introduction

8.57 Cumbria is unique in hosting a very large proportion of the UK’s radioactive wastes. National policies for managing these wastes have been evolving during the preparation of the CS and DCPDPD. CCC as WPA is one of several regulators with an interest in regulating development associated with the management of radioactive wastes. These DPDs need to set out planning policies that relate to and address anticipated developments for managing these wastes during the plan period to 2020. Before considering the issue of soundness, it is necessary to set out the current national and regional policy on managing radioactive wastes, since the DPDs have to be consistent with this emerging policy.

8.58 National Policy for the management of low level radioactive waste (LLW) was set out in the policy statement on behalf of the UK Government and the devolved administrations ‘Policy for the Long Term Management of Solid Low Level Radioactive Waste in the United Kingdom’ published in March 2007 [LD42]. CCC is a member of the recently formed National Low Level Waste Strategy Group established by the Nuclear Decommissioning Authority (NDA) to develop a working partnership between NDA, LLW Repository (LLWR), Regulators, and LLW consignors, for promoting innovation, value for money, and implementing the waste hierarchy by planning for effective solid LLW waste-management solutions.

8.59 As part of the Managing Radioactive Waste Safely (MRWS) programme, DEFRA, BERR and the devolved administrations for Wales and Northern Ireland published in June 2008 ‘A Framework for Implementing Geological Disposal’ [LD44]. This White Paper was previously the subject of national consultation [LD43]. It sets out the framework for managing higher activity radioactive waste in the long term through geological disposal coupled with safe and secure interim storage and ongoing research and development to support optimised implementation. Higher activity radioactive waste includes high level waste (HLW), intermediate level waste (ILW) and a small fraction of LLW with a concentration of specific radionuclides.

8.60 The framework as set out in the White Paper includes:

- the approach to compiling and updating the UK Radioactive Waste Inventory and using it as a basis for discussion with potential host communities;
- the NDA’s technical approach for developing a geological disposal facility, including the use of a staged implementation approach and ongoing research and development to support delivery;
- the arrangements to ensure sound regulation, scrutiny and control of the geological disposal facility development;
- how relevant planning processes might be addressed as the programme proceeds;
- the definition of ‘community’ for the purposes of the site selection process;
- the process for issuing invitations and providing information to communities;
- how a partnership arrangement can be used to support a voluntarism approach;
- the use of affordable and value for money Engagement and Community Benefits Packages as part of the voluntarism and partnership approach;
- the initial sub-surface screening criteria and the way in which Government will apply these criteria; and,
- a refined set of criteria for assessing and evaluating candidate sites and details of further consultation on the way in which these criteria should be applied.
8.61 The timescales associated with the longer term management of higher activity radioactive waste, and uncertainty with respect to the volume, timescale and location of facilities for the disposal of LLW arising from the nuclear decommissioning programme, along with the changes in associated emerging national policy, has caused particular difficulties for CCC in preparing policies for the CS which are both appropriate for the plan period and do not constrain emerging national policies. This difficulty is reflected in our recommendations with respect to the monitoring and, where appropriate, future timely review of this chapter of the CS.

8.62 These recent changes in national policy, together with changes within the management of the nuclear industry and representations received on the submitted DPDs, prompted CCC to undertake a review of the radioactive waste chapter post-submission. This review has resulted in some proposed alterations to Chapter 8 to ensure that the text is factually accurate and up-to-date, together with some re-wording or additional wording to assist clarity and understanding. Further post-hearing changes were suggested by CCC to take on board matters discussed at the hearing sessions. These post-submission and post-hearing changes are set out in the supporting documents [HD14-15].

8.63 The evolving nature of much of the detailed implementation of national policy towards the management and disposal of radioactive waste means that the specific policies in the CS covering this matter can only be regarded as interim policies until the situation becomes clearer. CCC confirms that the policies will be subject to timely review if they are no longer consistent with national policy. This will be identified through the AMR process and included in a future MWDS. CCC’s latest changes to the text of Chapter 8 (¶ 8.5) confirm this situation, which we fully endorse.

Basis and justification for the strategy relating to radioactive waste

8.64 As noted above, Cumbria is unique in hosting a very large proportion of the UK’s radioactive wastes. National policies for these wastes have been evolving during the preparation of the CS & DCPDPD. The MWDF needs planning policies that relate to anticipated developments for managing radioactive wastes during the plan period. The Framework for Implementing Geological Disposal [LD44] addresses the issues of both long term disposal and safe and secure interim storage of higher activity wastes and the Government has commenced the siting process for a geological disposal facility. It is, therefore, appropriate that the MWDF contains policies on how CCC would approach proposals for interim storage and how it would expect the planning application process and proposals for a geological disposal facility to proceed. CS Policies 10-11 address these matters.

8.65 CCC accepts that the LLWR has a national role, subject to the implementation of the programme of initiatives described by the NDA and the site operating company. CS Policy 12 sets out an appropriate level of detail about the role of the site. Many of the potential environmental impacts of radioactive waste developments are those to be expected with any waste development (e.g. traffic, noise, general disturbance), which are addressed in the DCPDPD policies.

Consistency with national and regional policy

8.66 In addition to the changes and developments in national policy referred to above, approved RSS policy [RD7] was published shortly before the hearings commenced. RSS Policy EM14 essentially restates former RPG Policy EQ7. The supporting text to Policy EM14 highlights both the role of the NDA and the growing volumes of LLW and ILW in the region over the period of the RSS as a result of decommissioning. It also recognises the current uncertainties with respect to the disposal of HLW, notes the need for interim storage and the subsequent vitrification and storage of cooled liquid HLW.

8.67 No representations of concern in terms of consistency with national and regional policy were received from either GONW or the NWRPB when the DPDs were formally submitted. GONW also confirmed that any further changes or further developments in national and
regional policy that were not reflected in the CS would be addressed through the MWDS AMR process.

8.68 While there were extensive representations with regard to CS Policies 10 & 11, the principal issues relate to concerns about national policy for the management, storage and disposal of higher activity radioactive waste, rather than criticisms based on the conflict of the CS with that national policy. In response to these representations, CCC published suggested post-submission changes [ED38]. However, these changes aimed to either update the chapter, add wording to clarify the text, or add explanation or comment raised in some representations. They did not change the effect of the policies. CCC published further revisions to the wording of Chapter 8 [HD14-15] as a result of the discussions at the hearings, including more extensive changes to the supporting text, aimed at further updating and clarification. Definitions of the various categories of radioactive waste were also added to the Glossary, with a cross reference in Chapter 8. These amendments were circulated to all representors for information and comment. They largely amount to minor factual changes which do not have any material impact on the application of the policies, but do aid understanding, and we conclude that these changes should be made.

8.69 In the post-hearing suggested changes (¶ 8.5), the text of a new paragraph emphasising the interim nature of the policies in this chapter refers to the publication of ‘White Papers on managing both higher activity and low level radioactive waste’. This is not strictly accurate as the document addressing LLW is a government statement rather than a White Paper. However, that can be addressed as a factual correction and we recommend accordingly.

8.70 In the supporting text to CS Policy 10, CCC suggests a cross reference to CS Policy 3 concerning community benefits. This is entirely appropriate. In the supporting text to CS Policy 11, the recognised need for considerable amounts of further research on issues relating to a geological disposal facility is acknowledged. While some representors saw this as a justification for omitting CS Policy 11 and all reference to geological disposal, CCC points out that the White Paper – Managing Radioactive Waste Safely - has been published and that the CS needs to make reference to it. We agree that while there remains considerable uncertainty within this policy area, this is not a justification for not including reference to the national policy as set out in the White Paper and how CCC would expect to address any matters flowing from it that required the determination of planning applications. We are satisfied that CS Policies 10 & 11 do not conflict with national or regional policy and are, to that extent, sound.

8.71 In pointing out that the CS is unclear with respect to VLLW, some representors seek an explicit policy to address that waste stream. CCC accepts that the CS needs to state clearly that CS Policy 12 addresses only the LLWR near Drigg, and does not address either VLLW or LLW elsewhere in Cumbria. However, this approach is justified on the basis of the uncertainty which currently surrounds forecasts of arisings of LLW and VLLW in Cumbria as a result of future decommissioning. CCC also accepts that the CS needs to make clear that other CS and DCPDPD policies would be expected to address issues raised by VLLW during this period of uncertainty.

8.72 On the understanding that through the application of other CS & DCPDPD policies there would not be a policy void for VLLW, and that the MWDS AMR is the appropriate means of triggering a review of this part of the CS, we conclude that the absence of a specific policy for VLLW does not make the CS unsound.

Other changes in circumstances since the preparation and submission of the DPDs

8.73 In addition to the publication of the White Paper in June 2008, the CS contained no reference to the January 2008 BERR White Paper on future nuclear power - ‘Meeting the Energy Challenge’. Some representors felt that the failure of the CS to address the potential impact for radioactive waste disposal from new nuclear power stations was a major shortcoming and omission. We consider this to be a classic example of the difficulty currently faced by CCC as WPA in preparing its DPDs during a period of emerging national policy. While the BERR White Paper sets out the general policy and approach to future nuclear power, it is at a much too early stage to draw any specific conclusions as to the number and location of such power
plants, the quantities of waste that might be produced, the extent to which that waste would require interim storage, the timescales for that storage and where that storage might be located. There are also uncertainties as to disposal of spent fuel rods and any higher activity wastes produced.

8.74 We conclude that these are matters that can only be addressed by CCC (or any other WPA affected by the location and operation of new nuclear power facilities), when the detailed implications of this emerging national policy for spatial planning have been clarified. At that stage, it will be appropriate to review and, if necessary, amend the policies of the CS and, as noted above, there are clear procedures that will ensure that such a review can take place. In these circumstances, the failure to refer to 'Meeting the Energy Challenge' and the emerging energy policy at this time does not make the current CS unsound.

8.75 The Government’s published consultation on the new nuclear power stations strategic siting assessment process and siting criteria commenced in July 2008. We note that while that consultation closed shortly before the hearings started, consideration of the responses is at a very early stage. In any event, that consultation forms part of the process that will inform the Nuclear National Policy Statement to be prepared under the terms of the Planning Act 2008, and this CS would not be able to take into account, in the short term, any relevant conclusions that had implications for the CS. These would have to await a subsequent review.

8.76 On a detailed point, CCC had not acknowledged, at the time of preparing the submission CS, that the Waste Isolation Pilot Plant in New Mexico, USA, which was being used for the disposal of ILW, was a geological disposal facility. While no purpose-built geological disposal facility for HLW or spent fuel has yet been built, CCC’s recommended post-submission change (¶ 8.4) to the submission CS was not entirely correct. The suggested further change (now ¶ 8.7) following discussion at the hearings is a more accurate statement and we recommend its inclusion. CCC’s membership of the National LLW Strategy Group was anticipated and is now a fact and the CS is proposed to be appropriately updated.

8.77 Consequently, subject to the suggested changes, we conclude that the strategy adequately reflects other changes in circumstances since the CS was prepared and submitted.

Nature, scope and level of detail of radioactive waste policies

8.78 The policies aim to address 3 distinct circumstances and needs; interim storage of higher activity wastes (CS Policy 10); anticipated planning application stages in the event of a volunteered suitable geological disposal facility (CS Policy 11); and the continued use of the LLWR near Drigg (CS Policy 12). The MWDF needs to contain policies that relate to anticipated developments for managing these wastes during the plan period, but only in so far as those developments would be subject to control by CCC as WPA.

8.79 It will be many years before there is a geological disposal facility for the higher activity wastes in the UK, but further interim storage developments at Sellafield are likely to be proposed in the meantime. While the EA and NII will be responsible for licenses and authorisations, CCC will be responsible for planning permissions and assessing the impacts of such development on the wider community and wider environment.

8.80 CS Policy 10 sets out criteria for considering proposals associated with the interim storage of higher activity wastes. In the absence of detailed information as to the likely volumes of this waste that will need to be stored in Cumbria, it is not possible to put forward policies at this time in any more detail than these broad assessment criteria. The supporting text (¶ 8.4, as changed) draws attention to the Integrated Waste Strategies (IWS) that organisations with responsibility for managing radioactive waste have to produce for the regulators. The CS notes that these IWS have implications for LDFs, and in Cumbria’s case, any need to review the CS as a result would be identified in the MWDS. We note that the Sellafield IWS, whose production is an evolving process, was the subject of consultation in 2007 and was further updated in 2008.

8.81 We also note that the supporting text (¶ 8.13) now indicates a potential lifetime for these storage facilities, both for HLW and ILW, of some 100 years. That is based on current
knowledge and expectation and may be subject to variation. While this supporting text helps to inform the public it would not be appropriate at this time to attempt to transpose this into formal policy.

8.82 Concerns relating to the wider policy and technical approach to storage activities would be addressed by processes which would be subject to control by licence or authorisation issued by the EA & NII. These are not matters over which CCC has any responsibilities and are, therefore, not matters appropriate for inclusion in these DPDs. We conclude that the scope and level of detail of the policies, subject to the suggested post-hearing changes, are at this time sound.

Roles and responsibilities of other bodies/agencies in delivering the management of radioactive wastes

8.83 In order to understand the scope of the MWDF in terms of radioactive wastes policy, it is helpful to set out the roles and responsibilities of other bodies in delivering the management of radioactive wastes. These other regulators include the Environment Agency (EA) for disposals of radioactive wastes and the Nuclear Installations Inspectorate (NII) for storage of radioactive wastes. The Health and Safety Executive (HSE) regulates the nuclear industry through its Nuclear Directorate (ND), which is responsible for operational and decommissioning safety regulation on civil, defence and research sites throughout the UK. The NII, a part of ND, licences all nuclear sites, attaching conditions with which sites must comply. Regular inspections are undertaken by NII and, if any contravention of licence conditions is found, the site may have to suspend operational or decommissioning activity until compliance is restored.

8.84 The NDA is a public, non-departmental body set up by the Government in April 2005 with responsibility for the UK’s public sector civil nuclear liabilities. The NDA owns most of the country’s nuclear sites and most radioactive wastes and has responsibilities for managing these wastes. In October 2006, the Government also gave the NDA the responsibility for developing and ensuring delivery and implementation of the programmes for interim storage and geological disposal of the UK’s higher activity wastes. From March 2007, the NDA has responsibility for developing a UK-wide strategy for managing the UK nuclear industry’s LLW and for securing disposal capacity for LLW generated by non nuclear industry users. Under the Energy Act 2004, the NDA has a responsibility to compete the Site Licence contracts at each of its 19 sites in the UK.

8.85 In England, all users of radioactive materials and all accumulations or disposals of radioactive materials or waste must be approved by the EA. Disposal of radioactive waste, whether by incineration or transfer to an authorised disposal/storage site, and discharges of radioactive substances, whether gaseous or aqueous, must be in accordance with an authorisation under the Radioactive Substances Act 1993. These authorisations are regulated by EA, who specifies annual radiological and volumetric limits, to ensure that human health and the environment are protected from the effects of exposure to ionising radiation resulting from these disposals and discharges, in accordance with internationally agreed standards (Euratom Treaty and EU Directives).

8.86 The Committee on Radioactive Waste Management (CoRWM), was appointed in 2003 to advise on the best technical long-term solution for higher activity wastes that is safe, environmentally sound and secures public confidence. Its recommendations were published in 2006. CoRWM has subsequently been reconstituted, with modified terms of reference and membership, to scrutinise the implementation of the MRWS programme. Along with publication of the White Paper on MRWS in June 2008, a letter was sent to all local authorities in the UK inviting communities to express an interest in opening up ‘without commitment’ discussion on the possibility of hosting a geological disposal facility in the future.

8.87 The current national policy for the long-term management of solid low level radioactive waste was set out by DEFRA in March 2007[LD42], and covers all aspects of its generation, management and regulation. Such matters will also be considered by the NDA’s National LLW Strategy Group, of which all three regulators, including CCC, are members.
8.88 CCC notes that there are potential tensions between the planning and other regulatory processes, but these are not considered to be relevant to the MWDF. For example, unlike other waste management authorisations, those under the Radioactive Substances Act do not depend on a relevant planning permission being in place in advance of the granting of those authorisations.

8.89 Consequently, having reviewed the current position and subject to the post-hearing changes, we are satisfied that the CS generally reflects the activities and responsibilities of the various regulators and agencies.

Management, storage and disposal of low-level radioactive wastes

8.105 The long term spatial vision of the CS is, inter alia, ‘that facilities will have been provided to manage the Low Level radioactive wastes that arise from the Sellafield/Windscale complex’. Objective 2 of the CS indicates ‘that effective waste minimisation measures will be adopted and, following these, that waste, including radioactive waste, will be managed at the highest achievable level within the waste hierarchy’ In order to secure this, the right type of waste management facilities that Cumbria needs to increase the amounts of its wastes that are re-used, recycled, or composted will be provided in the right places and at the right time in order to minimise the disposal of waste to landfill’.

8.106 CCC accepts the national role for the LLWR, but does not accept that it should be the only LLW repository in the UK or that Cumbria would be an appropriate location for another one. Temporary planning permission has been granted for additional storage facilities at the LLWR until the end of 2018. While these facilities should last until near to the end of the plan period, more efficient use of the capacity at the LLWR, as intended by NDA and the site operator in the light of the national policy expectation, could provide capacity well beyond the plan period. While this outcome is anticipated, it would require extensions to the existing temporary planning permission(s). CCC confirms that the CS does not rule out additional provision for Cumbria’s wastes, for example on or near the Sellafield complex for the decommissioning wastes that are likely to arise there.

8.107 CCC accepts that while CS Policy 12 relates to LLW, it does not address the sub-category of VLLW. It also only applies to the LLWR near Drigg. With respect to a CS with an end date of 2020 – a period during which there will be continuing decommissioning of nuclear facilities generating LLW - this appears to be a significant omission and is clearly of concern to some representors. CCC justifies this approach on the basis that future levels of LLW, and the approach to dealing with them, are currently uncertain, and that proposals for VLLW disposal can be dealt with under other DPD policies.

8.108 We have considerable sympathy with this pragmatic approach at this time. National policy seeks to ensure that there are disposal routes available for the long-term management of LLW arisings from both nuclear and non-nuclear industries. Under the Energy Act 2004, the NDA has direct responsibility for civil public-sector nuclear liabilities. The NDA’s Strategy and Annual Plans will provide guidance for national, regional and local planning authorities as necessary in the preparation of planning strategies. In line with its Strategy and Annual Plans, Government expects NDA to: develop and publish a plan for the optimal use of the LLWR; in conjunction with the decommissioning and clean-up of sites, assess the extent to which other LLW disposal options might be employed to manage the waste arising; and assess if, and at what point in the future, a replacement or replacements, for the LLWR near Drigg might be required and planned for.

8.109 As part of this exercise, the NDA has established the National Low-Level Waste Strategy Group of which CCC is a member. NDA aim to publish the draft UK nuclear industry LLW strategy for consultation in March 2009, with the formal LLW Strategy expected to be published in December 2009. Against this background of uncertainty and emerging national strategy, CS Policy 12 appears to address this issue sufficiently at this time.

8.110 With respect to VLLW, which is a sub-category of LLW, we note that the two defined volume types of VLLW can be disposed of either as Low Volume VLLW to unspecified
destinations along with municipal, commercial or industrial waste, or as High Volume VLLW to specified landfill sites. From the hearing sessions, it was clear that CCC would expect to assess and determine any applications for the disposal of VLLW, submitted in the interim period before the UK LLW Strategy has been formally published, against relevant CS and DCPDPD policies.

8.111 We accept that this is an appropriate approach. Regulators other than CCC are responsible for ensuring that the radioactivity of these materials is appropriately managed. The remaining issues relating to its disposal are not matters which differentiate it from other municipal, commercial or industrial wastes, and policies appropriate to those wastes would equally apply to VLLW.

8.112 However, this is not apparent from the supporting paragraphs of the CS which is otherwise silent on this issue. CCC accepts that there is a lack of clarity and suggest additional text (¶ 8.29) setting out why there is no specific policy for VLLW and indicating a non-exhaustive list of CS & DCPDPD policies that would apply if such an application was submitted. We are satisfied that this does not amount to a new policy, but clarifies how the plan would, and how CCC intends that it should, operate. As such, we recommend its inclusion.

8.113 Some representors would like the CS to have included a specific policy for VLLW. However, in the current uncertainty as to sources and volumes of such waste being generated in, or coming to, Cumbria for disposal as a result of nuclear decommissioning, a meaningful policy cannot yet be devised. Until the CS is reviewed to take on board regional or national changes in policy which have yet to occur, the amendments suggested by CCC (¶ 8.25, 8.28-8.29) would provide the necessary clarification and address representors’ immediate concerns.

8.114 To some representors, the various references to a ‘new’ operator at the LLWR might be confusing, as there was no change to the licensed operator, only a change in the constituent members of the management company. Deleting the reference to ‘new’ would address this uncertainty. Additional wording to clarify the position as regards the uncertainty about the nature and quantities of LLW, and to note that the matter would be kept under review in the MWDS AMR, as CCC suggests, would assist clarity and comprehension.

8.115 While we note the suggestion that the design of any LLW storage system should provide for the retrieval of the waste in the longer term, national policy presumes management solutions which can be implemented early rather than late [LD42; ¶ 22]. While that policy notes that early solutions do not necessarily equate with early disposal, it is clear from the guidance that arrangements and provisions for the disposal of LLW generated should be given at the earliest possible stage. The open-ended nature of the suggested change would not accord with this national policy aim.

8.116 Following the publication of the UK nuclear industry LLW strategy, waste managers will produce LLW management plans. National policy indicates that these plans must take into account all current and anticipated future arisings of LLW. Such plans must be developed with appropriate regulatory and stakeholder involvement [LD42; ¶ 7-12]. The extent to which the policies of the MWDF can accommodate the needs of these emerging radioactive waste management plans will, in part, determine the need for the review of these DPDs. We consider the CS’s treatment of LLW through CS Policy 12 and its supporting text, as proposed by CCC to be changed, is currently sound but will require timely review as the national strategy and site specific management plan requirements emerge.
35. CONSULTATION ON UK STRATEGY FOR MANAGEMENT OF LOW LEVEL RADIOACTIVE WASTE

In the absence of the Cabinet Member for Environment and Transport, the Cabinet Member for Economy and Highways presented to Members the terms of the Council’s response to the consultation on the National Low Level Waste (LLW) strategy, which was due to close on 11 September 2009. He confirmed that the County Council should support the strategy’s emphasis on waste avoidance, segregation of waste, minimising and reusing waste, to reduce the amount needing disposal. The proposed strategy identified a need for new sites, particularly to dispose of very low level waste. The strategic environmental assessment which partnered the strategy did not accept that there were wider social and economic impacts of disposing of these wastes away from nuclear sites. The Cabinet Member advised that the proposed response from the County Council confirmed that this was not the experience in Cumbria. The response suggested that opportunities to treat and dispose of the waste at or adjacent to Sellafield should be seriously examined and used in preference to sites away from Sellafield, which were likely to generate greater concern from communities and deter investment.

Members were in receipt of a letter from Radiation Free Lakeland addressed to the Cabinet Member for Environment and Transport, which had been circulated at the meeting.

RESOLVED, that Cabinet agree the County Council response as set out at Appendix 1 to the report for submission to the Nuclear Decommissioning Authority.