

NDA & ‘Credibility of Evidence Base’ Re: Waste Planning Hearing

(Cumbria County Council – November 2008)

Note prepared by Rachel Western
20th August 2010

Introduction

For the Autumn 2008 Waste Planning Hearing into the Waste Framework to be adopted by Cumbria County Council, the Inspector had requested evidence concerning whether the proposed approach to radioactive wastes was based on a ‘robust and credible evidence base’.

The response provided by the Nuclear Decommissioning Authority (NDA) did not make any sense. Phil Davies of Nuclear Waste Advisory Associates (NWAA) pursued the matter in order to obtain a more robust response from the NDA. Despite a number of requests to NDA to forward their evidence, the NDA were unable to supply the documentation requested.

Subsequently in August 2010, following a request from Rachel Western (also of NWAA) the NDA stated that it was the responsibility of Cumbria County Council to supply the Evidence Base on radioactive waste.¹

Background

In the autumn of 2008 the Planning Inspector for the Cumbria County Council’s Hearing concerning their draft ‘*Minerals and Waste Core Strategy and Development Control Policies*’² – (abbreviated here to the ‘Waste Planning Framework’) identified the following ‘key issue’ as central to the ‘Test of Soundness’ of Cumbria County Council’s draft waste framework.

Key Issue:

- (i) “What is the **basis and justification** for the approach to radioactive wastes, including the specific policies for storage/disposal of high/intermediate and low-level wastes, and **is the strategy based on a robust and credible evidence basis?**”

¹ NB – The NDA E-mail of 18 Aug 2010 refers to the NDA Strategy website. This link refers to a Strategy document dated (March 2006). NDA Strategy has been extensively critiqued by members of (Nuclear Waste Advisory Associates - ‘NWAA’) since this date.

The NDA are currently in the process of drafting a revised Strategy which will be published for Consultation on 1st September 2010.

² See http://www.cumbria.gov.uk/planning-environment/planning/policy/minerals_waste/mwdf/mwds.asp

(Emphasis added)

In response the NDA generated the following text:

NDA Comment

*“The repository has a new Parent Body organisation with seconded management team, not a new operator, and the proposals do not **demonstrate** that wastes will be managed elsewhere, just that strategically, every effort will be taken to apply fit-for-purpose management to wastes that are currently expected to be disposal [sic] at the Repository to make optimum use of the national asset, as per Government Policy.”*³

(Emphasis in original)

It can be seen that this text makes no sense in terms of the request for information concerning whether or not the Policy rests on a ‘*robust and credible evidence basis*’ referring instead to fit-for-purpose management.

‘Evidence-base’ and ‘management’ are not the same thing.

Phil Davies of ‘*Nuclear Waste Advisory Associates*’ (NWAA) has pursued the matter through correspondence with the NDA following a meeting that was held in September 2009.⁴

At this meeting Bill Hamilton of the NDA stated the note was submitted in error. Phil Davies followed this statement up with a letter (also on September 22nd) – in which he requested that Bill Hamilton:

- confirm in writing, his statement that the document was submitted by mistake, and also
- inform Phil Davies of any steps that he would take to rectify the situation – ie to provide the documentation that would indicate that the NDA’s radioactive waste policies are founded on ‘*a robust and credible evidence base*’

In October the NDA responded to a further E-mail from Phil Davies – to indicate that: Bill Hamilton could be quoted as saying that an error had indeed been made in the (Nov ’08) NDA document – and that Bill Hamilton was following this matter up with the originators of the document.

On December 30th 2009 Phil Davies contacted the NDA again as he had not heard further from Bill Hamilton. The NDA responded (4th Jan 2010) that the October response was **the** response. However the October E-mail contained no information at

³ CCC – Waste Planning Framework – (Nov 2008)
NDA Response to ‘Schedule of Matters and Issues Arising’
[ED 19 Ref: WMN/NDA/G/009]

⁴ The meeting was for NGO stakeholders and was held at the NDA Offices in Buckingham Gate. It was held on Tuesday 22nd September 2009.

all on the NDA's view of what comprised the '*robust and credible evidence base*' for their policies on Radioactive Waste. This was the information that the Planning Inspector had originally requested.

Phil Davies replied (4th January 2010) to Judith Holland of the NDA:

"I would suggest to you that a response is called for since the NDA's "Comment" in no way answers the question, and appears to be virtually devoid of meaning"

Phil then went on to enquire:

- whether a corrected version of the document would be issued; and
- whether such a corrected version would be made available to Cumbria County Council

The NDA response (5th January) was as follows:

"you have had a response to your original question. That is the end of the matter as far as I am concerned."

(E-mail from NDA Information Access Manager)

It is clear from this response that the NDA do not possess a '*robust and credible evidence basis*' for their policies on radioactive waste management – or at least one that they are prepared to share with the Public in order to enable critical scrutiny.

Phil Davies / NDA - E-mail Exchange

----- Forwarded Message -----

From: phil davies <phil_davies_2000@yahoo.co.uk>

To: Enquiries @nda.gov.uk

Sent: Tuesday, 22 September, 2009 22:14:58

Subject: Error in NDA document at Cumbria MWDF Hearings

Dear Judith,

I attended a meeting for NGO stakeholders today at the NDA Offices in Buckingham Gate, hosted by Bill Hamilton. Towards the end of the meeting I requested clarification of an NDA document submitted to the Cumbria Waste and Minerals Framework Hearings, the document ED 19, reference NDA/WNM/G/009, since the answer to the first question appeared incoherent. Mr. Hamilton agreed that the NDA had made a mistake, and that their answer referred solely to LLW, whereas the question required answers about the policies and evidence basis for HLW/ILW storage and disposal.

I attach a letter to Bill Hamilton, quoting the relevant paragraphs in full, and asking him to confirm in writing that this mistake was made, as he agreed he could be quoted, plus any steps he will be taking to rectify the position. Would you therefore

please forward the letter to him for his reply.

Thanks,

Yours sincerely,

Phil Davies

ATTACHED LETTER:

22 September 2009

Dear Bill Hamilton,

I am writing to confirm in writing your answer to the question I put to you at the meeting for NGO stakeholders held at NDA Offices in Buckingham Gate today, about the NDA Document ED19, Reference NDA/WNM/G/009 submitted to the Cumbria Waste and Minerals Development Framework Hearings, which is a public document.

The first part of the document reads as follows:

Section 5 – Radioactive Wastes of the Examination of Minerals & Waste Core Strategy & Generic Development Control Policies DPD's [sic]

Schedule of Matters & Issues to Examination [sic]

NDA submission of further statements.

Key Issue:

1. *“What is the basis and justification for the approach to radioactive wastes, including the specific policies for storage/disposal of high/intermediate and low-level wastes, and is the strategy based on a robust and credible evidence basis?”*

NDA Comment

*“The repository has a new Parent Body organisation with seconded management team, not a new operator, and the proposals do not **demonstrate** that wastes will be managed elsewhere, just that strategically, every effort will be taken to apply fit-for-purpose management to wastes that are currently expected to be disposal [sic] at the Repository to make optimum use of the national asset, as per Government Policy.”*

(Emphasis in original)

I questioned whether the “NDA Comment” represented a coherent and appropriate response to the question, and you confirmed that the answer applied to Low-level radioactive waste only, and that the NDA had made an error in the way it had

commented on this question. You thereby agreed that the question, as it applies to HLW/ILW, remains unaddressed: "What is the basis and justification for the approach to radioactive wastes (other than low-level wastes), including the specific policies for storage/disposal of high/intermediate-level wastes, and is the strategy for these wastes based on a robust and credible evidence base?"

I asked whether you could be quoted on this matter and you stated that you could. I am therefore writing to you to confirm this position in writing.

I will also ask whether you will be taking any other steps now that this error has been pointed out to you.

Yours sincerely

Phil Davies

From: phil davies [mailto:phil_davies_2000@yahoo.co.uk]
Sent: 26 October 2009 17:01
To: Enquiries
Subject: Fw: Error in NDA document at Cumbria MWDF Hearings

Dear Judith,

It's been over a month since I sent this request, and I've had no reply as yet. Would you be good enough to chase it for me?

Thanks

Phil Davies

From: Enquiries <Enquiries@nda.gov.uk>
To: phil davies <phil_davies_2000@yahoo.co.uk>
Sent: Tue, 27 October, 2009 8:44:53
Subject: RE: Error in NDA document at Cumbria MWDF Hearings

Dear Phil

Just heard back from Bill Hamilton. He says that you can quote him as agreeing that a mistake has been made and that the answer is incomplete. He is following up the matter with the originators of the document.

Regards

Judith Hollands

Information Access Manager

NDA, Herdus House, Westlakes Science and Technology Park , Moor Row , Cumbria , CA24 3HU

T: 01925 80 2077

W: <http://www.nda.gov.uk>

From: phil davies [mailto:phil_davies_2000@yahoo.co.uk]
Sent: 30 December 2009 12:00
To: Enquiries
Cc: rachel western
Subject: Re: Error in NDA document at Cumbria MWDF Hearings

Dear Judith,

I haven't heard back from Bill Hamilton about this matter which he agreed to follow up. Would it be possible for you to request a progress report?

Thanks,

Phil

From: Enquiries <Enquiries@nda.gov.uk>
To: phil davies <phil_davies_2000@yahoo.co.uk>
Sent: Mon, 4 January, 2010 11:34:46
Subject: FW: Error in NDA document at Cumbria MWDF Hearings

Dear Phil

The response I sent (appended below) on the 27th October was the update from Bill Hamilton – that is his response to you.

Regards

Judith Hollands
Information Access Manager
NDA, Herdus House, Westlakes Science and Technology Park , Moor Row , Cumbria , CA24 3HU
T: 01925 80 2077
W: <http://www.nda.gov.uk>

From: phil davies [mailto:phil_davies_2000@yahoo.co.uk]
Sent: 04 January 2010 18:11
To: Enquiries
Subject: Re: Error in NDA document at Cumbria MWDF Hearings: New FoI/EIR Request

Dear Judith,

It appears from your response that I will have to make a new Freedom of Information/ Environmental Information Regulations request.

On October 27th Bill Hamilton sent me a response to a query I sent initially on 22nd September 2009 about an NDA document EH 19 sent to the Cumbria County Council Minerals and Waste Development Framework hearings:

Dear Phil

Just heard back from Bill Hamilton. He says that you can quote him as agreeing that a mistake has been made and that the answer is incomplete. He is following up the matter with the originators of the document.

Regards

Judith Hollands

The mistake he admitted to was as follows. The extract below is from my letter to Bill Hamilton and includes the verbatim text of the NDA document from Document EH 19 (Highlighted). I would suggest to you that a response is called for since the NDA's "Comment" **in no way answers the question**, and appears to be **virtually devoid of meaning**.

[extract begins]

"Section 5 – Radioactive Wastes of the Examination of Minerals & Waste Core Strategy & Generic Development Control Policies DPD's [sic]

Schedule of Matters & Issues to Examination [sic]

NDA submission of further statements.

Key Issue:

(i) “What is the basis and justification for the approach to radioactive wastes, including the specific policies for storage/disposal of high/intermediate and low-level wastes, and is the strategy based on a robust and credible evidence basis?”

NDA Comment

“The repository has a new Parent Body organisation with seconded management team, not a new operator, and the proposals do not **demonstrate that wastes will be managed elsewhere, just that strategically, every effort will be taken to apply fit-for-purpose management to wastes that are currently expected to be disposal [sic] at the Repository to make optimum use of the national asset, as per Government Policy.”**

(Emphasis in original)

I questioned whether the “NDA Comment” represented a coherent and appropriate response to the question, and you confirmed that the answer applied to Low-level radioactive waste only, and that the NDA had made an error in the way it had commented on this question. You thereby agreed that the question, as it applies to HLW/ILW, remains unaddressed: “What is the basis and justification for the approach to radioactive wastes (other than low-level wastes), including the specific policies for storage/disposal of high/intermediate-level wastes, and is the strategy for these wastes based on a robust and credible evidence base?”

I asked whether you could be quoted on this matter and you stated that you could. I am therefore writing to you to confirm this position in writing.

I will also ask whether you will be taking any other steps now that this error has been pointed out to you."

[end of extract from my letter to Bill Hamilton]

My New Request is therefore:

In the light of Bill Hamilton's 27th October response to my letter of 22 September, in which he has agreed that a mistake has been made in this text, that the answer is "incomplete" , and that he would follow up this matter with the authors of the original document, (which was a publically available document for the public MWDF Hearings),

1) can he now inform me if the original authors of the document have reported to him what the nature of the mistake was, including in what ways it was "incomplete", and how the document should have read?

2) will a corrected version therefore be issued?

3) will a copy of the corrected version be sent to Cumbria County Council and to the Planning Inspectorate, to whom the original document was addressed, drawing attention to the nature of the mistake?

Yours sincerely,

Phil Davies

Enquiries <Enquiries@nda.gov.uk>

From: ...

[View Contact](#)

To: phil davies <phil_davies_2000@yahoo.co.uk>

Cc: "Hamilton, Bill" <Bill.Hamilton@nda.gov.uk>

5th January 2010

Dear Phil

I have read your email and in my view this is not a FOI or EIR request – you have had a response to your original question. That is the end of the matter as far as I am concerned.

Regards

Judith Hollands

Information Access Manager

NDA, Herdus House, Westlakes Science and Technology Park , Moor Row , Cumbria

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W: <http://www.nda.gov.uk>

NDA to Rachel Western – 18 August 2010

Dear Rachel,

I refer to your account of discussions relating to “Credibility of Evidence Base” which you emailed to Jo Fisher on 12 August. The following addresses the issue you raise. In responding to your query I refer you to the following document:

“CUMBRIA MINERALS & WASTE DEVELOPMENT FRAMEWORK - EXAMINATION OF MINERALS & WASTE CORE STRATEGY & GENERIC DEVELOPMENT CONTROL POLICIES DPDs - SCHEDULE OF MATTERS & ISSUES FOR EXAMINATION”

<http://www.cumbria.gov.uk/elibrary/Content/Internet/538/755/1929/1982/39730112351.pdf>

As you are aware, this document sets out the planning inspector’s Schedule of Matters & Issues for Examination “to guide and focus the discussion at the hearing sessions of the Examination into the soundness of the Cumbria Minerals & Waste Core Strategy & Development Control Policies Development Plan Documents”. This document is origin of the question to which you refer in your query:

“(i) What is the basis and justification for the approach to radioactive wastes, including the specific policies for storage/disposal of high/intermediate and low-level radioactive wastes, and is the strategy based on a robust and credible evidence base?”.

This can be found on Page 8, Section 6 of the document. The question refers to the “approach” and “policies” included in the Cumbria Minerals and Waste Development Framework documentation, i.e. the subject of the examination. The document which you quote, Ref: NDA/WNM/G/009, is NDA’s contribution to the examination, made in response to the planning inspector’s query regarding the MWDF documentation. We provided no comment on Higher Activity Wastes. **It was Cumbria County Council’s strategy and policy that was discussed under the examination and it was their evidence base that is referred to.**

In light of this we do not agree that this communication suggests that “...the NDA do not possess a ‘robust and credible evidence basis’ for their policies on radioactive waste management – or at least one that they are prepared to share with the Public in order to enable critical scrutiny” because **it was not our evidence base that was called into question.**

However, in response to your query I refer you to a number of underpinning documents that support strategy development at the NDA. Information on how we go about developing strategy at the NDA is available on our website:

<http://www.nda.gov.uk/strategy/>. The SMS process provides the underpinning for our strategy development. The website includes specific strategy topic and strand documentation as it becomes available. Both the imminent UK Nuclear Industry LLW Strategy and NDA Strategy II (soon to be published for consultation) have been supported by full Strategic Environment Assessments, the outputs of which are also consulted upon. If you are interested UK Nuclear Industry LLW Strategy Strategic Environmental Assessment it is still available on our website. When published the UK Nuclear Industry LLW Strategy will also be supported by the Post Adoption Statement (covering the SEA) and a Post Consultation Response setting out how we have responded to the comments received during consultation. A similar approach is anticipated for NDA strategy II in 2011.

I'd also like to point you to the LLWR website (www.llwrsite.com/strategy) where meeting notes, presentations and underpinning LLW strategy documents have been made available progressively since work commenced on its development in 2008.

I trust this clarifies matters.

Kind regards,

Matthew

Dr Matthew Clark

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