

**Open Report on behalf of Andy Gutherson, Executive Director - Place**

Report to:	<b>Executive</b>
Date:	<b>05 October 2021</b>
Subject:	<b>Invitation to join a Geological Disposal Facility Working Group in eastern Lincolnshire</b>
Decision Reference:	<b>I022944</b>
Key decision?	<b>Yes</b>

**Summary:**

Lincolnshire County Council (LCC) has been invited by Radioactive Waste Management (RWM) to join a Working Group to explore further whether eastern Lincolnshire, and the former Theddlethorpe Gas Terminal site in particular, would be an appropriate location for a geological disposal facility. The formation of a Working Group by RWM is a government requirement, and the government's preference is that a relevant principal local authority should be part of a working group. A similar invitation has been sent to East Lindsey District Council.

Joining a Working Group does not mean that Lincolnshire County Council supports the concept of a geological disposal facility.

It means that LCC wishes to understand more about the investment that the proposal could lead to and that LCC wishes to understand more about the risk and implications of the proposal.

RWM have described a geological disposal facility as "a multi-billion-pound UK infrastructure investment that will provide several hundred direct jobs and wider benefits to the local economy through the supply chain for more than 100 years. A geological disposal facility is also likely to involve major investments in local transport facilities and other infrastructure and create secondary benefits within industry, local education resources and local service industries."

One of the tasks of the Working Group is to identify a Search Area, this is the area where RWM would carry out more detailed feasibility studies within a Community Partnership, if one were to be formed. When a Community Partnership is formed, the community is given access to a substantial community grant fund each year. The other tasks of the Working Group are to begin to engage with the community and to identify members of a Community Partnership.

Before RWM seeks final regulatory approval and development consent to begin construction of a geological disposal facility in a particular community, there must be a Test of Public Support of residents in the potential host community to determine whether it is willing to host a geological disposal facility.

Because RWM see a relevant principal local authority's input as providing knowledge and experience of the local area, it is recommended that the Executive nominates a representative who can provide a clear overview of the factors which affect the area, the interests of the Lincolnshire public, and the investment requirements of the county.

**Recommendation(s):**

That the Executive: -

- (1) approves acceptance by the Council of the invitation from Radioactive Waste Management to join a Working Group to explore the potential for a geological disposal facility in eastern Lincolnshire;
- (2) approves the Council taking up membership of any subsequent Community Partnership that may be formed; and
- (3) identifies a Councillor to represent the Council on the Working Group and, if it is formed, the Community Partnership.

**Alternatives Considered:**

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| 1. | <p>Not to accept the invitation to join the Working Group and any subsequent Community Partnership.</p> <p>RWM have indicated that the Working Group (and if it is formed, the Community Partnership) will explore the potential location, the critical infrastructure required, and the process of undertaking a Test of Public Support. The Community Partnership will also set the parameters for the proposed community investment funding.</p> <p>Unless LCC becomes a member of the Working Group and subsequent Community Partnership it will not be able to understand the detailed considerations relating to the proposal and nor will it be able to influence the important infrastructure requirements for the area which will be articulated in a community vision produced by the Community Partnership. Not being a member of the Community Partnership will mean that LCC cannot help to establish the parameters for the community grant fund. It is the principal local authorities within a Community Partnership who must decide whether to</p> |
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exercise the Right to Withdraw and to decide if or when to seek the community's views through a Test of Public Support.

LCC has a significant role of representing the county and its requirements and deciding whether to exercise the Right to Withdraw or hold a Test of Public Support. Not being a member of the Working Group or a Community Partnership if one is formed will mean that LCC cannot perform that representation role effectively, nor will it be able to decide whether to exercise the Right to Withdraw or hold a Test of Public Support, and therefore the alternative should not be pursued.

**Reasons for Recommendation:**

The reason that it is recommended that LCC becomes a member of the Working Group and any subsequent Community Partnership, is that it will enable LCC to represent the county and its requirements.

LCC's role will notably be to build up an understanding of the risk and opportunity associated with a potential geological disposal facility, to advocate the necessary infrastructure requirements from any potential investment, and to advise on the parameters of the community investment funding.

Being a member of the Working Group or Community Partnership does not commit LCC to supporting a geological disposal facility.

**1. Background**

Lincolnshire County Council has been invited by Radioactive Waste Management (RWM) to join a Working Group to explore further whether eastern Lincolnshire, and the former Theddlethorpe Gas Terminal site in particular, would be an appropriate location for a geological disposal facility. The formation of a Working Group by RWM is a government requirement, and the government's preference is that a relevant principal local authority should be part of a working group. A similar invitation has been sent to East Lindsey District Council.

*Theddlethorpe Gas Terminal*

The terminal and site, owned by National Grid, is now being decommissioned. Planning permission granted by the County Council in the 1970s requires the site to be restored to agricultural use. A scheme has been agreed to restore the site back to agriculture by 2025 and work is currently taking place to remove plant and machinery. The gas terminal provides a significant opportunity to the area. The gas pipes which run under the sea will remain in place, and the terminal is connected to the national gas grid via Hatton near Wragby and there is also a small high-pressure pipeline to the south bank of the Humber. This infrastructure provides the opportunity for the site to be used for energy purposes,

providing high quality jobs and investment. If the terminal were not to be operational then the Benefit Cost Ratio of Environment Agency investment in flood protection on Lincolnshire's coast would be likely to drop substantially.

Since the decommissioning, Lincolnshire County Council have been involved in a dialogue with National Grid to encourage them to seek productive uses of the site rather than return it to farmland. LCC has taken the lead on this dialogue because the site was granted permission as a mineral operation (gas transferred from off-shore is classed as a mineral) and any alternative from the site being returned to agriculture requires the approval of LCC as Mineral Planning Authority. This planning responsibility is in addition to our experience of investment and of major projects.

We are aware of several bodies who have expressed an interest in the site and have been in touch with National Grid.

### Geological Disposal Facilities

Radioactive Waste Management Limited (RWM) is a wholly owned subsidiary of the Nuclear Decommissioning Authority (NDA). RWM are leading a Department of Business, Energy, and Industrial Strategy (BEIS) sponsored Nationally Significant Infrastructure Project to deliver a geological disposal facility to dispose of the UK's higher activity radioactive waste deep underground safely and permanently, in a suitable geological formation. Internationally, it is recognised that a permanent deep geological disposal facility (between 200m and 1000m underground), is the safest and most secure way to manage such waste in the longer term. RWM has already launched Working Groups in two other districts in England and is currently talking to several other local authorities and communities that might be interested in hosting this £multi-billion, inter-generational infrastructure project.

RWM has completed an Initial Evaluation of the East Lindsey area and has concluded that the area around the former Theddlethorpe Gas Terminal appears to hold strong potential to host such a facility, and in particular the area has strongly favourable geological conditions at around 500m depth under the inshore areas adjacent to the coast. The surface access facilities for a geological disposal facility can be located onshore, with the bulk of the deep underground elements offset laterally by several kilometres, including extending beyond the coastline at depth.

The Initial Evaluation has also highlighted that a geological disposal facility is expected to bring substantial benefits to the community which hosts it. As a major infrastructure project, a geological disposal facility is expected to generate several hundred well-paid, skilled jobs each year for over 100 years in construction, engineering, administration, safety, operations, and project management. The timescales involved mean there is a unique opportunity for skills and experience to be developed by people in the community and for the jobs to be undertaken by them. With geological disposal facilities due to be developed in every country around the globe with a significant nuclear industry, this is set to become a development of international significance that will attract collaboration with overseas partners and generate further opportunities.

Given the scale of a geological disposal facility, it is likely it could require a significant upgrade to local transport infrastructure which could bring significant wider benefits to local residents and businesses and make the area more attractive for inward investment. In addition, the community would benefit from opportunities to use community investment funding for locally important priorities early in the siting process. The Government has also committed to providing significant additional investment to the community that hosts a geological disposal facility. RWM have indicated that a Geological Disposal Facility could provide over 1000 construction jobs and then several hundred permanent technical and skilled jobs and would include investment in the area's infrastructure – through flood management, transport infrastructure road improvements, and potentially training and skills investment. The full identification and scoping of these requirements would take place through the National Significant Infrastructure Project process.

The RWM business model includes a substantial budget for community development during their testing and operational period: £1m per year during the local study period, and £2.5m per year during the drilling of boreholes and ground investigations. If RWM were to move ahead with a programme in Theddlethorpe then it would be the early to mid-2030s before any final decision on building the facility would be taken.

#### Working Group and Community Partnership structures

RWM operate a clear process of local engagement which involves the following, and from which the community can withdraw at any time:

- Production of an initial feasibility report
- Establishment of an independent working group, with an independent chairman, to narrow the location down
- Establishment of a community partnership to steer and comment on the detailed investigation work
- The right of withdrawal at any time for the community
- A test of public support ballot before any final investment takes place in the geological disposal facility

RWM are currently ready to establish an independent working group and have written to LCC –and also to East Lindsey District Council- to invite them to join the Working Group.

There are several main functions of a Working Group. The first is about fact finding - the gathering of information about the community and providing information to the community about geological disposal.

The second is to identify a Search Area. The Search Area is the geographical area within which RWM would seek to identify potentially suitable sites to host a Geological Disposal Facility. Defining the boundaries of the Search Area is important in order to identify appropriate membership for the Community Partnership, including relevant principal local

authorities, and to determine eligibility for Community Investment Funding. It is projects, schemes and initiatives within the Search Area which may be eligible for this funding.

The third main function is to work to identify members of the community who may be interested in joining a Community Partnership.

The role of the Community Partnership is to:

- facilitate discussion with the community;
- identify relevant information that people in the Search Area and potential host community want or need about the siting process;
- be the key vehicle for community dialogue with RWM;
- review and refine the boundaries of the Search Area as RWM's investigations progress;
- identify priorities for Community Investment Funding;
- make recommendations to the relevant principal local authorities on the Community Partnership on whether to invoke the Right of Withdrawal and if and when to launch a Test of Public Support;
- agree a programme of activities to develop the community's understanding of the siting process and the potential implications of hosting a Geological Disposal Facility;
- develop a community vision and consider the part a Geological Disposal Facility may play in that vision;
- monitor public opinion in relation to siting a Geological Disposal Facility within the Search Area and the potential host community.

Of particular importance are the Right of Withdrawal and the Test of Public Support.

Under the first of these the community can withdraw from the siting process at any point up until a Test of Public Support is taken. Once the Test of Public Support has been taken the Right of Withdrawal will cease.

The Test of Public Support reflects the Government's policy not to impose a Geological Disposal Facility on a community, but to seek to build community support through open and transparent engagement in a consent-based siting process. Before RWM seeks regulatory approval and development consent to begin construction of a Geological Disposal Facility in a particular community, there must be a Test of Public Support of residents in the potential host community to determine whether the community is willing to host a Geological Disposal Facility.

There are currently three main mechanisms that could be used: a local referendum, a formal consultation or statistically representative polling. The Test of Public Support would only be taken after extensive community engagement allowing time for the community to ask questions, raise any concerns and learn more about the proposals. There will only be one opportunity for a Test of Public Support.

### LCC involvement in the Working Group and Community Partnership

The government have developed a siting process following consultation, in which RWM work in partnership with communities and the principal local authorities that represent those communities – i.e., district councils, county councils and unitary authorities. The government recognises that a successful consent-based process needs a willing community with relevant principal local authority support. The process itself is designed to be open, transparent, as flexible as possible and democratically accountable.

Principal local authorities are therefore central to the siting process. This is particularly clear at the Community Partnership stage. At that stage the Community Partnership must contain at least one principal local authority covering the whole of the Search Area.

In addition to this it is the principal local authorities within a Community Partnership who must decide whether to exercise the Right to Withdraw and to decide if or when to seek the community's views through a Test of Public Support.

While there is no requirement for the Council to join a Working Group, it is the government's preference and the central role that the Council would be called on to play in a Community Partnership strongly suggests that it should be involved in the early stages of this proposal so that it is fully informed both about the proposal and community attitudes.

LCC would be an equal partner in the Working Group with other members. In other parts of the country Working Groups have involved local authorities, local parish council representation, and other Interested Parties. RWM have indicated that they would cover any costs associated with LCC's membership of the Working Group.

Joining the Working group is not an indication that there is support from the council for a facility, it is simply agreement to be involved in the process to explore whether the proposal is feasible, a process that could proceed without Council involvement.

Unless LCC becomes a member of the Working Group and, should one be formed, a Community Partnership then it will not be able to understand the detailed considerations that RWM are making and nor will it be able to play the representative role envisaged by the process.

The Council is not required, either to be a member of any future Community Partnership.

However, not being a member of any future Community Partnership would mean that it would proceed with other principal local authority involvement in which case the Council would lose the ability to influence the outcome and the community leadership role of determining whether to exercise the Right of Withdrawal or carry out a Test of Public Support would be carried out by another principal local authority. LCC would also not be able to help to establish the parameters for the community grant fund.

Because RWM see a relevant principal local authority's input as providing knowledge and experience of the local area, it is recommended that the Executive appoints a representative who can provide a clear overview of the factors which affect the area, the interests of the Lincolnshire public, and the investment requirements of the county.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

This paper recommends that LCC joins a Working Group and as such attends meetings, prepares for meetings, etc. The LCC representative on the Working Group will ensure that the group's Terms of Reference include a clear, direct, and positive reference to implementing the Equality Act 2010.

#### Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Wellbeing Strategy (JHWS) in coming to a decision.

The JSNA identifies a strong link between the economy/employment and health and wellbeing. The JSNA recognises that the east coast of Lincolnshire is an area which suffers from health and wellbeing difficulties, often as a result of economic disadvantage. The Working Group will explore how any proposed investment can be to the economic benefit of this part of the county, with a knock-on effect on the health and wellbeing of the residents.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

Many studies have shown a link between levels of unemployment and levels of crime. Should the proposed investment occur then it is hoped that a large number of jobs will be created which should have a positive impact by reducing the risk of increased crime and disorder in Lincolnshire.

### **3. Conclusion**

In summary, a geological disposal facility would create substantial employment and infrastructure investment in an area whose economy is struggling. No investment in a facility would be imposed on the area, a formal process would be undertaken, and the community has the right to withdraw from that process at any time.

#### **4. Legal Comments:**

The Council has the power to take up membership of the proposed Working Group and any future Community Partnership.

The decision is consistent with the Policy Framework and within the remit of the Executive.

#### **5. Resource Comments:**

Participation in the Working Group and any subsequent Community Partnership as recommended is not expected to require any contribution from the Council's own resources beyond Officer and Member time which is already provided for in the approved revenue budget.

Should the level of input required be such that it cannot be contained within existing resources, RWM have indicated that they will cover any costs associated with LCC's membership of the Working Group.

The RWM business model includes a substantial budget for community development (including access to a community grant fund) each year during their testing and operational period: £1m per year during the local study period, and £2.5m per year during the drilling of boreholes and ground investigations.

#### **6. Consultation**

##### **a) Has Local Member Been Consulted?**

Yes

##### **b) Has Executive Councillor Been Consulted?**

Yes

##### **c) Scrutiny Comments**

On 14 September 2021, the Environment and Economy Scrutiny Committee considered a report in relation to the Invitation to join a Geological Disposal Facility Working Group in Eastern Lincolnshire and supported the Recommendations to the Executive.

The following points were highlighted:

- The Chairman of the Committee welcomed the group of campaigners that attended the session and respectfully engaged with the group and their representative. The group representative Mr I. Smith accepted the Chairman's invitation, addressed the Members of the Committee, offered an account of the

group's views on the subject, and expressed the group's appreciation for being given the opportunity to be heard at the Committee Meeting.

- Members emphasised the importance of being part of the discussions of this working group, which was likely to go ahead regardless of whether Lincolnshire County Council participated or not. Being a member of the working group would enable LCC to influence and help shape the outcomes through sharing of knowledge and information. The report made clear points on the benefits of the proposed project, nevertheless, further engagement with the process on LCC's part would help to ensure that risks and potential problems (e.g., safety issues regarding the site, and/or transporting the materials to be stored etc.) were also being known and understood. Membership to this working group, further, allowed for subtleties and nuances, to be seen, as these would emerge. Any fear and uncertainties felt in the local community, would also be acknowledged.
- This was also an opportunity to engage with and support the local community that was being consulted on whether they wanted to have this facility in their local area.
- Members recognised that on face value the proposed project could potentially address issues around deprivation in eastern Lincolnshire.
- Members acknowledged that it was up to the residents to make the decision on whether to host a geological disposal facility in the future. Therefore, it was clarified that Members held no view on supporting the plans for the facility going ahead, rather, Members took a role to ensure that the local communities had access to information and knowledge for a fair, balanced and fully informed decision to be made.
- It was acknowledged that regardless of the decision to join the working group, there were factors such as the geology of the local area that were simple facts; the requirement for long-term storage of radioactive waste remained present and the discussions around this project would still go ahead even if LCC decided against joining the working group. Members agreed that it was in LCC's and the community's best interest for the former to have had a seat around the table, being thus able to access information and influence decisions.
- The process being undertaken and followed by Radioactive Waste Management was clearly prescribed and well defined by the Government in documents attached to the report. This document specifically described the location of the community as District Council level Wards in which the following are located: proposed surface development; associated development; transport links; and direct physical impacts (p. 59, §6.84 of [linked](#) document).
- Information being availed directly to the public was an important part of the Terms of Reference (TOR) of any working group; detailed account of how TOR was being shaped was also included in the government's document. The impact analysis attached to the report showed that LCC would wish to introduce additions to the terms of reference (e.g., ensuring equality of access to information). Equally, where members of the working group identified gaps in the TOR, they would be able to request additions to be considered at the first meeting of the working group. The process also recognised the importance of listening to the views of the community from the outset.

- For the purpose of high levels of transparency being maintained, it was agreed that TOR, agreed by the working group, as well as ongoing information about progress of the working group’s remit was fed back to this Committee and more widely.
- It was clarified that the working group was subject to the Freedom of Information Act.
- In other parts of the country Parish, Town Councils and local relevant bodies were being part of such working groups whereas in this paper LCC and East Lindsey District Council were mentioned as participants. Assurance was given that it was being asked of the Executive to consider that LCC’s position echoed the view that Parish, Town Councils, and local relevant bodies were part of the working group on this occasion.

#### **d) Risks and Impact Analysis**

This paper recommends that LCC joins a Working Group and as such that it attends meetings, prepares for meetings, etc. As such, a risk assessment is not necessary.

### **7. Background Papers**

The following background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

Document title	Where the document can be viewed
Working with Communities	<a href="https://www.gov.uk/government/publications/implementing-geological-disposal-working-with-communities-long-term-management-of-higher-activity-radioactive-waste">https://www.gov.uk/government/publications/implementing-geological-disposal-working-with-communities-long-term-management-of-higher-activity-radioactive-waste</a>

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