

Geological Disposal Facilities Team Department for
Business, Energy & Industrial Strategy,
Civil Nuclear and Resilience Directorate,
3rd floor,
1 Victoria Street,
London,
SW1H 0ET

GDFlanduseplanning@beis.gov.uk

19th April 2018

Dear Sir/ Madam,

Consultation on developing the Draft National Policy Statement (NPS) for Geological Disposal Infrastructure: A framework document for planning decisions on nationally significant infrastructure

We welcome the opportunity to respond to the above consultation, and on the accompanying Appraisal of Sustainability Scoping Report, and Habitats Regulations Assessment Report.

The statutory purpose of Natural Resources Wales (NRW) is set out under the Environment (Wales) Act 2016. In the exercise of its functions under the Environment (Wales) Act 2016, NRW must pursue sustainable management of natural resources in relation to all of its work in Wales, and apply the principles of sustainable management of natural resources in so far as that is consistent with the proper exercise of its functions. NRW's duty (in common with the other public bodies covered by the Well-Being of Future Generation (Wales) Act 2015) is to carry out sustainable development.

Draft NPS

Whilst the NPS applies in England only, the consultation document recognises that schemes in England may affect interests outside England. Our consultation response to the Draft NPS are mainly focussed on helping to ensure that all parties are aware of, and consider as appropriate, the potential effects from schemes on environmental interests within Wales. We recommend the following amendments to the NPS:

- Paragraph 1.4.6 of the Draft NPS should highlight the potential need to consult relevant consultees in Wales, where there are likely effects on features/ receptors in Wales.
- Section 4.2 of the Draft NPS could be improved by clarifying the relationship between the scoping opinion and the Environmental Statement. Such additional text could explain the benefits of the scoping stage to give certainty to all parties of what would

be expected to be assessed as part of the EIA, including any likely significant effects on receptors in Wales.

- Paragraph 5.4.3 of the Draft NPS usefully highlights the need to consider likely significant effects on nature conservation sites within and outside England. We recommend that the need to highlight the need for the Applicant's Assessment to consider effects outside England is also confirmed for all relevant topic areas set out in Chapter 5.

Habitats Regulations Assessment

Our comments in relation to the Habitats Regulations Assessment Report are made in the context of our role under the Conservation of Habitats and Species Regulations 2017.

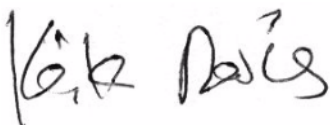
We welcome your commitment towards undertaking a Habitats Regulations Assessment (HRA). The conclusion of the appropriate assessment indicates that a number of European sites in Wales (as well as a number of sites in Scotland, and all sites in England) may be potentially affected by geological disposal infrastructure proposals in England. We note that an assessment of alternatives has been undertaken, and you have considered imperative reasons of overriding public interest, and compensatory measures. Our main comments relate to the Report's conclusions on adverse effects of considered alternative solutions. Our detailed comments to the Habitats regulations assessment are set out in Annex 1.

Appraisal of Sustainability (AoS)

Our main comments to the AoS are to ensure that ecosystem resilience is incorporated into the assessment methodology, and to ensure relevant plans and programmes for Wales are considered. Our detailed comments to the AoS are set out in Annex 2.

We trust that our advice will be useful to you. If you have any queries in relation to our detailed response, please contact Adrian James, Planning and Energy Team Leader, in the first instance at: adrian.james@cyfoethnaturiolcymru.gov.uk.

Yours faithfully,



Keith Davies
Manager Planning, Landscape Energy & Climate Change

Annex 1: Habitats Regulations Assessment (HRA)

Assessment of alternatives

Paragraph 6.8 indicates that the potential alternatives examined would: (i) not provide any additional certainty that adverse effects on European sites could be avoided or reduced, compared to the current NPS; (ii) not be feasible; and (iii) compromise the ability to ensure the successful and timely delivery of the GDF in geologically suitable environment (and hence not fulfil the Government's policy objective on the disposal of higher activity waste).

We do not have any comment on the feasibility of considered alternatives, or on their ability to ensure timely delivery of the GDF, and we do not have any comment on your decision to proceed on this basis.

However, the conclusion that the considered alternatives would not provide any additional certainty that adverse effects on European sites could be avoided or reduced, compared to the current NPS, is confusing and potentially misleading. In particular, with regard to the *Use of exclusionary criteria or policies* alternative solution, paragraph 5.16 indicates that an overarching exclusionary policy might be an acceptable approach for ensuring that adverse effects do not occur as a result of the NPS. Whilst paragraph 5.17 finds that the use of exclusionary policies approach would not fulfil the policy objective, it does not provide evidence to demonstrate that the current NPS is less damaging than the alternative *exclusionary criteria or policies* approach. We therefore consider that the *use of exclusionary criteria or policies* approach would be less damaging to European sites.

We recommend that you review the wording of your conclusions as set out under paragraph 6.8.

Compensatory measures

We recommend that the identified project-level compensatory measures should be amended by including the following additional criteria:

- Agreed by the statutory conservation body;
- Well managed over the necessary timescales; and
- Capable of being effectively monitored.
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Project level HRA

In light of the identified potential impact on European sites in Wales we welcome the clarity provided in the Report that the HRA of the draft NPS does not remove the need for project-level HRAs or prejudice the scope or outcomes of these assessments.

Annex 2: Appraisal of Sustainability (AoS)

Review of Plans and Programmes

Page No.	Section	Comment
9	1: Biodiversity and Nature Conservation - wales	We welcome the consideration of the State of Natural Resources Report as part of the review of plans and programmes. We recommend that the following should also be included in the review: <ul style="list-style-type: none"> - Natural Resources Policy (Welsh Government); and - Draft Planning Policy Wales (edition 10) (Welsh Government) (consultation document).
109	4: Land Use, Geology and Soils - Wales	The Contaminated Land (Wales) Regulations 2006 as amended by the Contaminated Land (Wales) (Amendment) Regulations 2012 should be considered.
158	5: Water Quality - Wales	Reference should also be made to the Groundwater (Water Framework Directive) (Wales) Directions 2016, and the Nitrate Pollution Prevention (Wales) Regulations 2013.
185 to 189	6: Flood Risk and Coastal Change - Wales	We advise the following should be considered as part of the assessment: <ul style="list-style-type: none"> • Flood Risk Regulations 2009 • National Strategy for Flood and Coastal Erosion Risk Management in Wales 2011 • Reservoirs Act 1975 • Natural Resources Policy Water Resources Act • Individual water company water resource management plans https://naturalresources.wales/guidance-and-advice/environmental-topics/water-management-and-quality/water-resource-management-planning/?lang=en • individual water company drought plans • Other drought plans, eg NRW https://naturalresources.wales/guidance-and-advice/environmental-topics/water-management-and-quality/drought/?lang=en

		<p>Further: Environmental Permits for Flood Risk Activities are required for any works in, over, under or near a main river or flood defence (including a sea defence) or within a floodplain. (Under Environmental Permitting Regulations and previously called a flood defence consent). Ordinary Watercourse Consent requirements for works near ordinary watercourses.</p> <p>CAMS applicable for Wales are available here: https://naturalresources.wales/guidance-and-advice/environmental-topics/water-management-and-quality/water-available-in-our-catchments/?lang=en</p>
361	13: Landscape and Townscape - Wales	<p>The review of relevant plans and programmes should include a review of:</p> <ul style="list-style-type: none"> - Natural Resources Policy (Welsh Government) - The State of Natural Resources Report (Natural Resources Wales), and - Draft Planning Policy Wales (edition 10) (Welsh Government) (consultation document)

Overview of Baseline

Page No.	Section	Comment
117	4. Land Use, Geology and Soils - Wales	<p>The geology description for Wales refers to 'Carboniferous peat'. We query whether this should instead refer to Carboniferous Coal Measures, or carboniferous rocks.</p> <p>We also advise that the Assessment should refer to Carboniferous Limestone and Devonian sandstones forming important groundwater resources in south Wales.</p> <p>The baseline should note that there are approximately 300 SSSIs in Wales which include geological features and 485 GCR sites. They are UNESCO Global Geoparks.</p> <p>It should also refer to Regionally Important Geodiversity Sites (RIGS). There are over 800 RIGS in Wales.</p> <p>As part of the Summary of Existing Problems Relevant to the Geological Disposal NPS (page 119), it may be useful also recognise the important role of geodiversity sites (SSSI, RIGS</p>

		<p>and Geoparks) in research, education and geo-tourism. Additionally, it should be noted that many geological SSSI and RIGS are on brownfield sites such as former mine sites, disused quarries etc.</p> <p>As part of the likely evolution of the baseline, it should be noted that geological features within SSSI must be firstly registered as GCR sites. GCR sites are not legally protected until they are notified as SSSI.</p>
166	5: Water Quality	<p>NRW, rather than Welsh Government, reported on the River Basin Planning progress in 2015.</p> <p>We advise that the paragraph following Table 5.2 is amended to clarify: “In 2009, 9% of all water bodies were in poor condition, 59% were in moderate condition and 32% were in good condition.”</p> <p>The text which reads: ‘The number of water bodies at poor status, meanwhile, has reduced to 6% with a resulting increase in the number of water bodies at moderate status’ is incorrect. The number of waterbodies reported as at moderate condition changed decreased to 55%.</p> <p>(Please note that the 2015 figures for the 2nd WFD cycle (2015 – 2021) will be based on a different method of calculation. If using 2015 figures as a baseline: the results should read as 37% at good or better status, 54% at moderate condition, 9% at poor condition and 0.4% at bad condition.)</p>
190	6: Flood Risk and Coastal Change	Figure for wales should be amended to read 208,500 properties at risk.
266	9: Climatic Factors – UK	The UK Clean Growth Strategy (2017) refers to UK low carbon policies, including the commitment to phase out coal generation of electricity by 2025, and should be considered as part of the review, as well as the UK Industrial Strategy which underpins the Clean Growth Strategy.
267	Climatic factors - Wales	<p>This section provides a clear synthesis of the Environment Act Part 2 framework for emission reduction in Wales. However, it does not reflect latest developments as it does not include any reference to the UK Committee on Climate Change advice to WG that sets out both the scope of the Welsh net emissions account https://www.theccc.org.uk/wp-content/uploads/2017/04/Welsh-Carbon-Targets-Committee-on-Climate-Change-April-2017.pdf</p>

		<p>The recommendations on the design of Welsh carbon targets has been accepted in full by the Welsh Government.</p> <p>Reference should also be made to the recommended interim targets and the first two 5-year carbon budgets https://www.theccc.org.uk/wp-content/uploads/2017/12/CCC-Building-a-low-carbon-economy-in-Wales-Setting-Welsh-climate-targets.pdf.</p> <p>Whilst the recommendations have not yet been accepted they should be noted.</p>
366	13: Landscape and Townscape - Wales	The review of baseline should consider information on landscapes in Wales that is included for in the State of Natural Resources Report, and in Landmap monitoring reports.

Assessing significance

Page No.	Section	Comment
37	1: Biodiversity and Nature Conservation Tables 1.6 and 1.7	Section 6 of the Environment Act (Wales) 2016 places a duty on public authorities in Wales to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems. Whilst we welcome the recognition of ecosystem structure and function, we suggest that in assessing effects In Wales, explicit reference should be made in the assessment to allow for effects on the <u>resilience</u> of ecosystems to be considered.
174	5: Water Quality	The final sentence in the second column of Table 5.4 should also refer to the Wellbeing and Future Generations Act indicators, Natural Resource Policy as being applicable in in Wales.
269	9: Climatic Factors Table 9.2	For improved clarity, we suggest that the second guide question should be amended to read: <i>Will the Geological Disposal Infrastructure NPS promote climate change adaptation to manage climate risks including rising temperatures, rising sea-levels, flooding and more extreme weather events)?</i>
270	9: Climatic Factors Table 9.2	We consider that the effects on GHG reduction and resilience/vulnerability should be independent of each other. Consideration should be given for considering mitigation effects and adaptation (resilience/vulnerability) effects independently or to make a clear case why both

		can be considered either consistently positive, neutral or negative.
367	13: Landscape and Townscape - Wales Tables 13.1 and 13.2	We suggest that the illustrative guide questions/ criteria for assessing significance should be amended to also consider the impact of noise and light pollution on tranquil areas in Wales. We also advise that the illustrative guidance/ questions on effects on designated landscapes in Wales should explicitly refer to the effects on the 'purposes' and the 'special qualities' of those protected landscapes.