



Department for  
Business, Energy  
& Industrial Strategy

# REPORT FOR BEIS SELECT COMMITTEE – CONSULTATION ON NATIONAL POLICY STATEMENT FOR GEOLOGICAL DISPOSAL INFRASTRUCTURE

May 2018

# 1. Introduction

## Purpose

The purpose of this document is to provide an overview of the response to the public consultation on the National Policy Statement for Geological Disposal Infrastructure that took place between 25 January 2018 and 19 April 2018. This has been requested by the BEIS Select Committee to inform the Terms of Reference for their enquiry; this enquiry forms part of the parliamentary scrutiny of National Policy Statements (NPSs), which is required by the Planning Act 2008.

It should be noted that the information contained in this report is based on an initial analysis of consultation responses. There may be small changes to some of the data and information contained once a more in-depth review of the consultation responses is undertaken.

Further information on geological disposal and the parliamentary scrutiny process is in Annex 1.

## Aim of the consultation on the National Policy Statement for Geological Disposal Infrastructure

The UK Government sought views on whether the draft NPS provides an appropriate and effective framework for the Planning Inspectorate and the Secretary of State to examine and make decisions on development consent applications for geological disposal infrastructure in England.

Radioactive waste disposal is a devolved matter as is land-use planning. Further information on devolved administrations is given in Annex 1.

## 2. The Consultation

### Our approach to consultation

The Government have conducted the consultation on the NPS in line with the Cabinet Office consultation guidelines. This sets out that consultations should be informative and conveyed in a clear and concise manner so that those consulted can give informed responses.

The Planning Act 2008 requires not only a consultation on a draft NPS but also arranging associated publicity that the Secretary of State considers appropriate. Details of the consultation and how to respond were sent to stakeholders on our database as well as being published on the BEIS website; our proposals were also publicised in national newspapers and on social media. A series of stakeholder workshops took place in different parts of England as well as bespoke events for local authorities, nuclear industry and NGOs.

### Overview of consultation and responses received

In the consultation the Government asked seven questions as shown in Table 1.

**Table 1 Consultation questions**

Consultation questions	
1.	Does the draft NPS provide suitable direction to the Planning Inspectorate and Secretary of State on the need for geological disposal infrastructure?
2.	Do the assessment criteria adequately address the principles that the developer, the Planning Inspectorate and the Secretary of State should take into account in an application for development consent? If not, what further information on the assessment criteria is required?
3.	Does the draft NPS appropriately cover the impacts of geological disposal infrastructure and potential options to mitigate those impacts? Please provide reasons to support your answer.

4.	Chapter 5 - Do you agree with the findings (of 'likely significant effects') from the Appraisal of Sustainability Report and the recommendations for enhancing the positive effects of the draft NPS? Please provide reasons to support your answer.
5.	Chapter 6 - Do you agree with the conclusions of the Appraisal of Sustainability Report? If not, please explain why.
6.	Do you agree with the findings from the Habitats Regulations Assessment Report for the draft NPS? Please provide reasons to support your answer.
7.	Do you have any other comments on the draft NPS and the accompanying documents (Appraisal of Sustainability, Habitats Regulations Assessment)?

## Responses

There were 86 UK responses to the consultation. This figure excludes campaign responses from the German public which are covered separately below. The respondents are broken down by respondent type in Table 2 and Figure 1.

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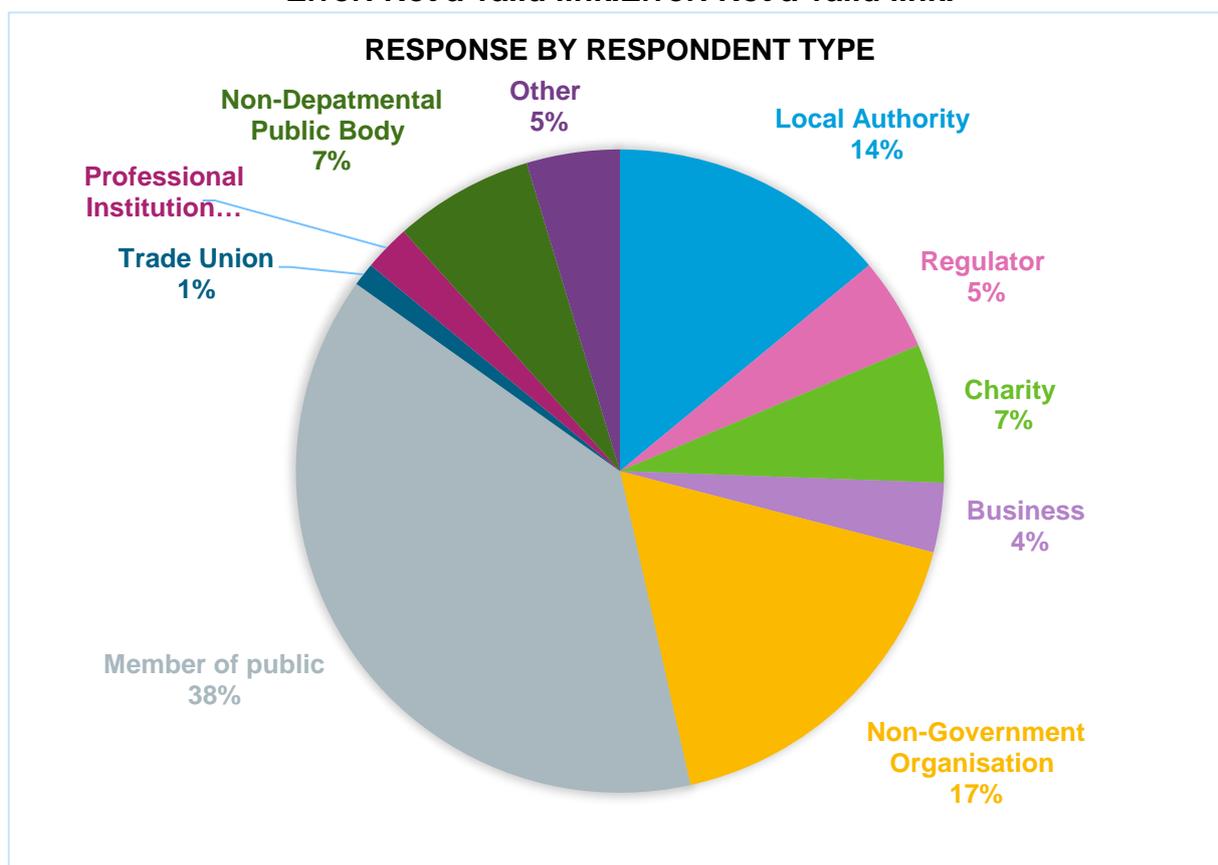


Figure 1 Response by respondent type

## Campaign responses from the German public

The Appraisal of Sustainability of the draft NPS concluded that there were no transboundary effects, and therefore no requirement to engage with other states under the Strategic Environmental Assessment (SEA) Directive as part of the consultation process. However, out of courtesy, we wrote to other states to make them aware of our consultation and gave them the opportunity to respond to the consultation if they wished. The German government responded and agreed with our assessment that there were no transboundary effects; they asked for permission to publish details of our consultation on their website, which we granted.

There were 377 campaign responses from the German public. The content of each response was the same. This rejected our conclusions that there are no 'transboundary effects' of our plans (the NPS) on other European states and requested further material and participation by the German public in environmental impact assessment. As part of this process it was also stated in the responses that the consultation documents should be translated into German. Parts of the Espoo and Aarhus Conventions, which relate to transboundary consultation and public participation in environmental decision-making, were quoted in the responses.

### 3. Overall Summary of Themes raised in consultation

A number of respondents supported the proposals in the consultation. Of those, some respondents thought that the need case (for geological disposal infrastructure) could be made more compelling and that there was a greater urgency that needed to be drawn out in the NPS.

For the respondents that did not support the proposals, the main issues raised were:

- a number disagreed that that the policy of geological disposal is the correct approach and considered the scope of the policy far too narrow as it solely considered geological disposal to address the requirements of higher activity waste disposal;
- that the case for GDF had not been made and that there were alternative disposal methods such as deep borehole disposal and near surface management which is adopted in Scotland. Retrievability of the waste was also mentioned as an alternative disposal concept as elements of the waste could become an important resource in the future;
- the case for new nuclear power was not made and that this should not form part of the need case for GDF i.e. the GDF should cover legacy wastes only and that government policy should not generate additional radioactive waste;
- Government policy is based on CoRWM recommendations and concerns were raised that this evidence was not current enough and/or that Government had cherry-picked some of their recommendations;
- several organisations stated that all development should be excluded in protected areas such as National Parks and Areas of Outstanding Natural Beauty (AONBs). These respondents recommended that the alternative option of a NPS with exclusionary criteria that we considered in the Appraisal of Sustainability (but decided not to adopt as our preferred option) should become the Government's preferred option;
- there should be more information and /or tighter requirements on the impacts of a GDF, such as noise, transport and construction waste;
- concerns were raised about the safety and security of a GDF, specifically with reference to the Swedish Environmental Court decision for further information on the properties of the disposal canister that formed part of the application for the Swedish GDF site. Views were also expressed that there was insufficient contingency for nuclear accidents

and emergencies, with international incidents such as Fukushima and Chernobyl mentioned as examples;

- there were 377 campaign responses from the German public stating that a full consultation should be carried out with members of the German public;
- one response was also received from a coalition of Irish NGOs stating that transboundary effects had not been properly considered (in accordance with the SEA Directive and Espoo/Aarhus Conventions) and that a consultation with the Irish public should be carried out.

More detailed question-by-question analysis is given in Annex 2.

# Annex 1 - Background

## Why do we need a Geological Disposal Facility?

There is a need for a permanent disposal solution for higher activity radioactive waste from a wide range of activities, including: waste from 60 years of nuclear generation and waste from new nuclear power stations; as well as waste from medical treatments, research, and defence activities.

UK policy for the long-term management of higher activity radioactive waste mirrors international best practice and scientific advice. This is to construct a geological disposal facility (GDF) – a highly engineered underground facility in which waste can be permanently disposed.

The 2014 White Paper ‘Implementing Geological Disposal’ committed to bringing GDFs and deep investigatory boreholes (necessary to characterise sites) within the definition of nationally significant infrastructure projects (NSIPs) in the Planning Act 2008 and then to produce a draft NPS for them. The relevant secondary legislation to add geological disposal infrastructure to the categories of NSIP was passed in March 2015. [Further details on NSIPs and NPSs are in Annex 3]

The NPS will guide developers when preparing, and the Planning Inspectorate and the Secretary of State when considering, applications for development consent relating to geological disposal infrastructure.

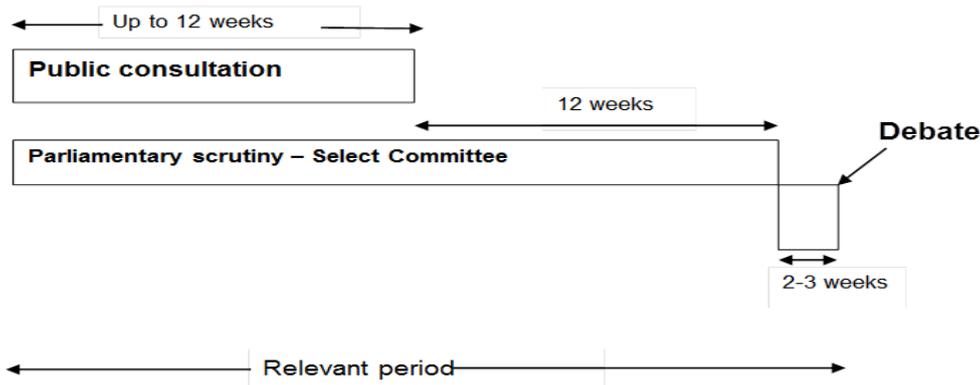
The Planning Act 2008 requires NPSs to undergo a period of public consultation before they are published.

This consultation also sought views on the accompanying Appraisal of Sustainability Report and Habitats Regulations Assessment Report, which are supporting environmental appraisals to the draft NPS. The Appraisal of Sustainability assesses the potential socio-economic and environmental impacts of the draft NPS; the Habitats Regulations Assessment is an assessment of whether there are any ‘likely significant effects’ on any ‘European site’ (e.g. special areas of nature conservation). Further details are given in Section 4.

The Government has run a parallel consultation on the policy for Working with Communities, found here <https://www.gov.uk/government/consultations/working-with-communities-implementing-geological-disposal>. The Working with Communities consultation sets out UK Government’s proposed policy on how communities should be engaged and represented in a siting process to identify a site for a geological disposal facility.

## Parliamentary scrutiny of NPSs

The Planning Act 2008 also requires NPSs to go through a period of parliamentary scrutiny (the 'relevant period'); this begins in parallel with the launch of the public consultation, but extends beyond so that a Select Committee can take account of the outputs arising from the public consultation.



## Devolved administrations

Radioactive waste disposal is a devolved matter as is land-use planning. Any planning decisions for geological disposal infrastructure in Wales would be taken through the planning system in Wales. Similarly, as a geological disposal facility is an infrastructure development on a major scale, and of national significance, all planning issues in Northern Ireland would be considered by the relevant department within the Northern Ireland Administration.

Scottish Government policy is that the long-term management of higher activity radioactive waste should be in near-surface facilities located as near as possible to the sites where the waste is produced. While the Scottish Government does not support deep geological disposal, it continues, along with the UK Government and other devolved administrations, to support a robust programme of interim storage and an on-going programme of research and development.

The NPS provides the framework for decision making on development consent applications for the construction of geological disposal infrastructure in England, and beneath the seabed in waters adjacent to England up to the seaward limits of the territorial sea. However, the associated Appraisal of Sustainability and Habitats Regulations Assessment, which inform this National Policy Statement, consider the potential socio-economic and environmental impacts of geological disposal infrastructure (located in England) on Wales and Scotland, given their common borders with England. Although the

National Policy Statement only covers England, responses to our consultation were welcomed from throughout the UK.

## Annex 2 - More detailed question by question analysis

**Q1. Does the draft NPS provide suitable direction to the Planning Inspectorate and Secretary of State on the need for geological disposal infrastructure?**

### Background

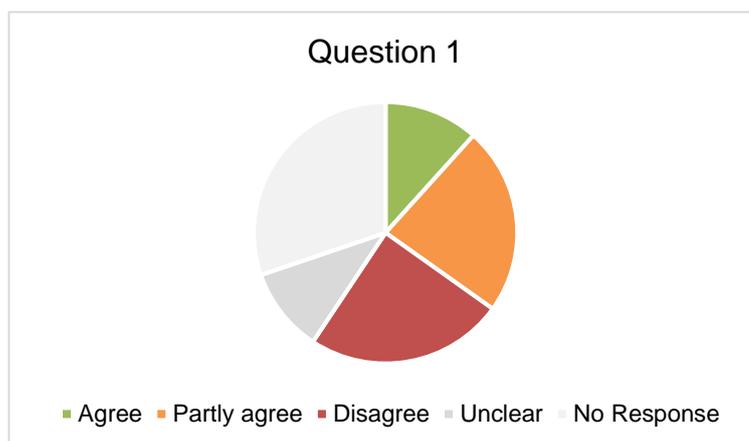
The drivers, for a long-term solution to the management of radioactive waste, identified in Chapter 3 include the legacy waste from over 60 years of nuclear generation. This and other legacy waste is currently stored temporarily at over 30 sites in the UK. There is also a need for a solution for the waste from new nuclear power stations that are required for the UK to meet its climate change targets.

Chapter 3 also sets out the international consensus on a geological disposal facility being the safest and most secure means of disposing of higher activity radioactive waste.

### Overview of responses

Agree/ Disagree	Count	%
Agree	10	12%
Partly agree	20	23%
Disagree	21	24%
Unclear	9	10%
No Response	26	30%

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### Themes emerging in response

The respondents that agreed considered that the need case for geological disposal had been made in Chapter 3 of the document; they stated that there was evidence and experience, both domestically and internationally, to support this view. Amongst those that agreed, some qualified their support by stating that the radioactive waste inventory should be more clearly defined as well as that further information on the cost and timelines for a GDF should be provided. Some respondents also considered that the case for GDF could be made more compelling, possibly by making clear the urgent need to clear up nuclear sites such as Sellafield.

For those respondents that disagreed with this question, a number stated that there were other options to geological disposal of radioactive waste, including deep borehole disposal or adopting the Scottish policy of near surface management of radioactive waste. Some respondents stated that the CoRWM recommendations (that the Government policy is based on) for geological disposal were outdated or specific recommendations had been cherry-picked by the Government. Some respondents questioned the safety of a GDF and others stated that the concept was not fully scientifically and technically proven. Although it was accepted that a solution was required for the legacy waste that the country had built up, several respondents disagreed with the Government policy for new nuclear power stations and disagreed that waste from new nuclear should form part of the need case for GDF.

The retrievability of radioactive waste (as elements of it could become a valuable resource) in the future was mentioned by both respondents that agreed and disagreed with the proposals.

**Q2. Do the assessment criteria adequately address the principles that the developer, the Planning Inspectorate and the Secretary of State should take into account in an application for development consent? If not, what further information on the assessment criteria is required**

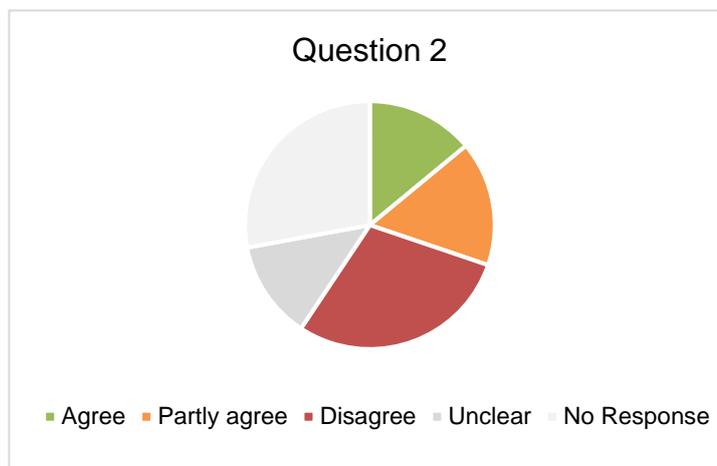
### **Background**

Chapter 4 of the draft NPS sets out certain general principles in accordance with which development consent applications relating to geological disposal infrastructure are to be decided. It sets out assessment criteria for these principles, which relate to design, the environment, health, safety and security. It also refers to regulatory requirements associated with planning as well as outlining the other regimes such as permitting and licensing that operate alongside the planning regime.

### Overview of responses

Agree/ Disagree	Count	%
Agree	12	14%
Partly agree	14	16%
Disagree	25	29%
Unclear	11	13%
No Response	24	28%

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### Themes emerging from responses

The respondents that agreed stated that the assessment principles and criteria were appropriate. Some qualified their agreement with stating that the requirements on climate change and safety should be amended.

The respondents that disagreed raised concerns that there were insufficient environmental protections such as for ancient woodland and suggested that all development should be excluded from areas such as National Parks. Safety and security concerns were also raised about a GDF as well as concerns that the Secretary of State could overrule local concerns as a GDF is a nationally significant infrastructure project. Views were also expressed that there was insufficient contingency for nuclear accidents and emergencies, with international incidents such as Fukushima and Chernobyl mentioned as examples.

Alternatives for a GDF were suggested including long term storage and options around retrievability of the waste, as well as alternative design options to the GDF. There were also concerns about impacts along transport routes and recommendations made that more information should be included.

## Q3. Does the draft NPS appropriately cover the impacts of geological disposal infrastructure and potential options to mitigate those impacts? Please provide reasons to support your answer.

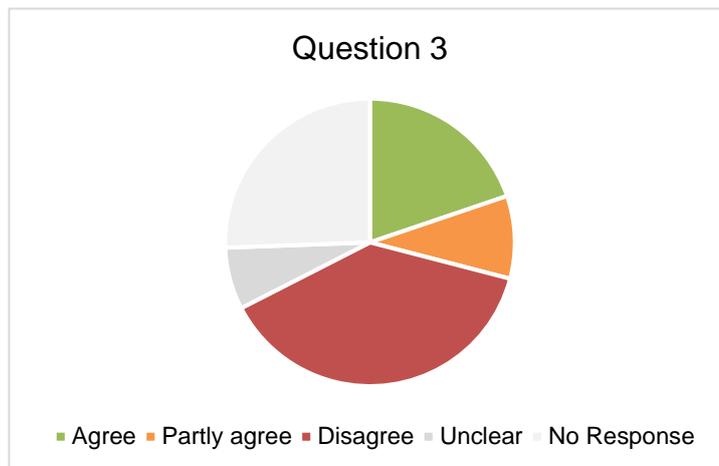
### Background

Chapter 5 of the draft NPS sets out the generic impacts to be considered during the development consent process and covers 13 topic areas: air quality, noise, biodiversity and nature conservation, climatic factors including climate change and adaptation, cultural heritage including architectural and archaeological heritage, socio-economics, population and demographics, flood risk and coastal change, human health, landscape and visual impacts, land use, traffic and transport, waste management, water quality.

### Overview of responses

Agree/ Disagree	Count	%
Agree	17	20%
Partly agree	8	9%
Disagree	33	38%
Unclear	6	7%
No Response	22	26%

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### Themes emerging from responses

The respondents that agreed thought that some of the sections could be strengthened such as the training and recruitment benefits in the community that hosts the GDF. More information was requested on the impacts including nature conservation, transport impacts, construction waste and noise from the GDF. There should be more tests (in the NPS) and how to weigh up different effects/impacts, as well as advocating net gains in biodiversity.

Those respondents that disagreed stated that development in National Parks and Areas of Outstanding Natural Beauty should be ruled out entirely.

Safety concerns were raised, specifically with reference to Swedish court decision for further information on the copper canisters that formed part of the application in Sweden's GDF programme. Additional considerations were suggested around long term climate change, earthquakes and future ice ages as well as more information on geological suitability. Lack of trust in the Government and developer was also expressed as well as concerns about the Secretary of State having the power to make the final decision under the NSIP planning regime. The potential impact on 'brand' and tourism for the local area was also raised.

For legislative requirements it was stated that post-Brexit requirements could be made clearer.

## Q4. Chapter 5 - Do you agree with the findings (of 'likely significant effects') from the Appraisal of Sustainability Report and the recommendations for enhancing the positive effects of the draft NPS? Please provide reasons to support your answer.

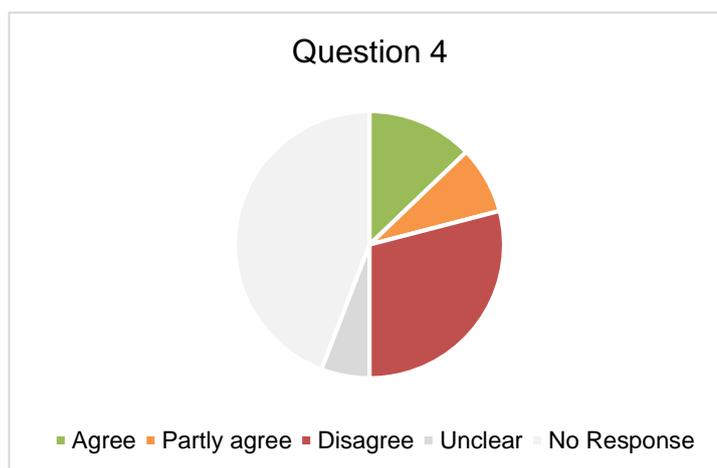
### Background

The Planning Act 2008 requires that an AoS must be carried out before a NPS can be designated. The main purpose of this appraisal is to ensure that the likely environmental and socio-economic effects of the NPS, at a national level, are identified, described and evaluated. If potential significant adverse effects are identified, the AoS recommends options for avoiding or mitigating such effects

### Overview of responses

Agree/ Disagree	Count	%
Agree	11	13%
Partly agree	7	8%
Disagree	25	29%
Unclear	5	6%
No Response	38	44%

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### Themes emerging from responses

Where respondents agreed with the AoS findings, little additional commentary was provided; however, occasional comments such as 'findings and recommendations as presented appear to cover the matters we would expect and reach a logical position in conclusion' were provided.

Key points from those that disagreed/partially disagreed with findings of the AoS:

- a number disagreed with the policy of geological disposal and considered the scope of the policy far too narrow. They recommended consideration of other alternatives, citing as examples the Scottish Government approach of near surface near site storage. This included considering alternatives that would be passively safe, above ground, monitorable and would provide retrievable storage of existing waste;
- some disagreed with the scoring of environmental and socioeconomic effects identified and considered some of the effects were negative or uncertain, instead of

positive as in the report. Comments also considered that the appraisal was of a GDF rather than an appraisal of the NPS;

- several respondents, including NGOs and statutory consultees disagreed with the justification for not selecting a NPS with exclusionary criteria (i.e. excluding development in certain areas on the grounds of landscape, cultural and natural heritage and nature conservation). One respondent considered that the AoS should have considered the effects of moving packaged higher activity waste (HAW) on affected communities on the transport route.

## Q5. Chapter 6 – Do you agree with the conclusions of the Appraisal of Sustainability Report? If not, please explain why.

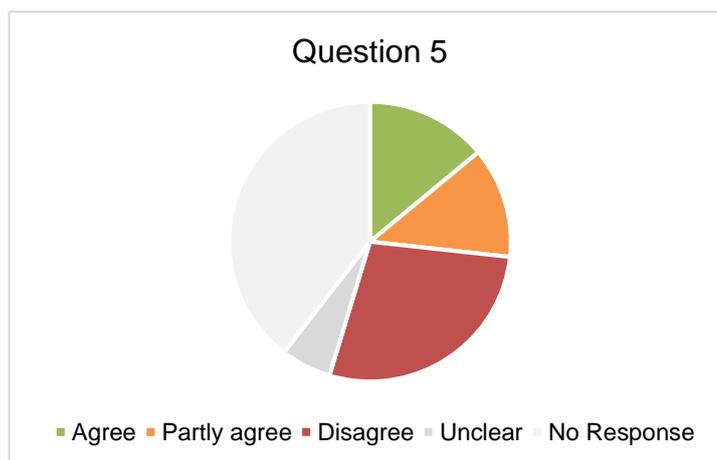
### Background

Please refer to background for Q4.

### Overview of responses

Agree/ Disagree	Count	%
Agree	12	14%
Partly agree	11	13%
Disagree	24	28%
Unclear	5	6%
No Response	34	40%

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### Themes emerging from responses

Where respondents agreed with the AoS findings, little additional commentary was provided as the question only asked for justification if the respondent disagreed.

Comments received from respondents who disagreed with the conclusions of the AoS Report were similar to those for Question 4. Additional points were that the AoS did not give sufficient consideration to the wider impacts on the economy, tourism and food production and blight from siting a GDF in either a National Park or an AONB. Several NGOs raised concerns that the draft NPS did not provide adequate protection for habitats and species.

## Q6. Do you agree with the findings from the Habitats Regulations Assessment Report for the draft NPS? Please provide reasons to support your answer.

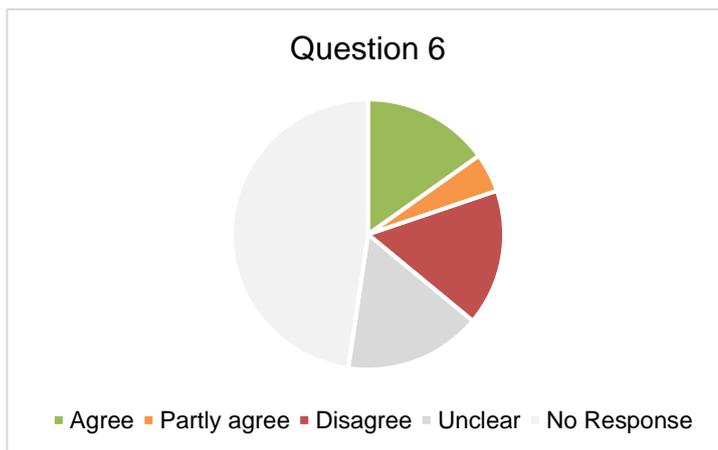
### Background

The NPS is also subject to the EU Habitats Directive and the relevant domestic implementing regulations (the Habitats Regulations). These require an assessment of whether there are likely to be any ‘significant effects’ on any European site (sites protected because of their importance to European nature conservation) as a result of the implementation of the NPS. In the Habitats Regulations Assessment (HRA) Report, the Government has relied on the public interest test, imperative reasons of overriding public interest, as the non-site-specific nature of the NPS makes it impossible to fully rule out adverse effects on European conservation sites.

### Overview of responses

Agree/ Disagree	Count	%
Agree	13	15%
Partly agree	4	5%
Disagree	14	16%
Unclear	14	16%
No Response	41	48%

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### Themes emerging from responses

Several respondents agreed with the assessment, and some of those that did made recommendations for additional guidance or examination of alternative ways of implementing the GDF e.g. single or multiple GDF's or site specific or general criteria.

Key points from those that disagreed with the findings of the HRA included disagreement with the policy of new nuclear build, the additional higher activity radioactive waste resulting from that policy and the need for disposal. Some respondents disagreed with the HRA findings, on the basis that they did not provide sufficient certainty with regard of the avoidance of adverse effects. Other respondents disagreed with the conclusions of the analysis, the alternatives considered and the reliance on the public interest test (IROPI - Imperative Reasons of Overriding Public Interest) for development of geological disposal infrastructure.

## Q7. Do you have any other comments on the draft NPS and the accompanying documents (Appraisal of Sustainability, Habitats Regulations Assessment)?

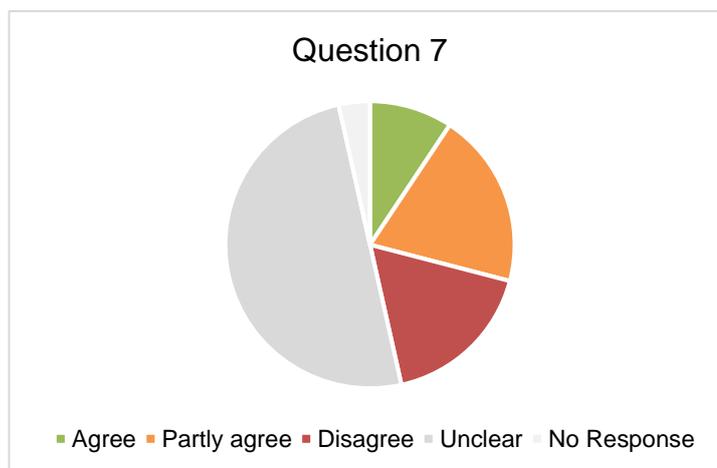
### Background

This was an additional question to capture any further comments that respondents had on the three documents in our consultation.

### Overview of responses

Agree/ Disagree	Count	%
Agree	8	9%
Partly agree	17	20%
Disagree	15	17%
Unclear	43	50%
No Response	3	3%

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### Themes emerging from responses

For those that agreed with the proposals, some thought that the site for a GDF should be decided by Government and not by consent-based siting. There were also suggestions about ensuring retrievability of the waste and considering former mines as a site for a GDF. Alternative disposal methods were suggested as well as undersea GDFs. Several respondents broadly agreed with the proposals but favoured exclusion of National Parks, AONBs, World Heritage sites and Natura 2000 sites from development; in addition, "net gain" (that leaves biodiversity in a better state than before) was also put forward.

Those who disagreed (with our proposals) stated that there should be no new nuclear and renewables should be used instead. Concerns were raised about the safety of a GDF and the risk of accidents. Some also stated that the consideration of transboundary impacts was inadequate.

Several organisations, including statutory consultees, made a number of comments about where text could be clarified and improved, as well as stating that some references needed to be corrected.

One response was also received from a coalition of Irish NGOs stating that transboundary effects had not been properly considered (in accordance with the SEA Directive and Espoo/Aarhus conventions) and that a consultation with the Irish public should be provided for.

## Annex 3 – NSIPs and NPSs

### What are nationally significant infrastructure projects (NSIPs)?

- 1.1. Nationally significant infrastructure projects are major infrastructure developments of a type and scale defined under the Planning Act 2008 relating to energy, transport, water, waste water and waste disposal.
- 1.2. The 2014 White Paper set out the UK Government's position that a geological disposal facility for the disposal of higher activity radioactive waste is infrastructure of national significance, and that the approach to land-use planning should reflect this. It confirmed the Government's intention to amend the Planning Act 2008 to bring both a geological disposal facility, and the deep investigative boreholes necessary to assess and characterise the suitability of potential sites, within the definition of nationally significant infrastructure projects. This was completed in March 2015.

### What is a National Policy Statement (NPS)?

- 1.3. NPSs set out the need for major infrastructure. Introduced as part of the Planning Act 2008, they set out the policies against which applications for development consent will be considered and set out how the impact of any proposed infrastructure will be assessed and mitigated.
- 1.4. NPSs set out the criteria by which development consent applications for nationally significant infrastructure projects are determined. They include the Government's objectives for the development of nationally significant infrastructure projects in a particular sector and set out:
  - how this will contribute to sustainable development;
  - how these objectives have been integrated with other Government policies;
  - how actual and projected capacity and demand have been taken into account;
  - relevant issues in relation to safety or technology;
  - circumstances where it would be particularly important to address the adverse impacts of development;
  - specific locations for the infrastructure, where appropriate, in order to provide a clear framework for investment and planning decisions;
  - how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change.
- 1.5. They also include any other policies or circumstances that Ministers consider should be taken into account in development consent decisions on the relevant category of infrastructure.
- 1.6. NPSs provide a framework within which the Planning Inspectorate makes its recommendation to the Secretary of State on development consent applications. In

making decisions on such applications, the Secretary of State must also have regard to any local impact report submitted by a local authority, and any other matters which the Secretary of State considers are both important and relevant to any decision.

- 1.7. Under the Planning Act 2008, the Secretary of State must decide a development consent application for geological disposal infrastructure in accordance with the NPS, unless to do so would:
  - lead to the UK being in breach of its international obligations;
  - be unlawful;
  - lead to the Secretary of State being in breach of any duty imposed by or under any legislation;
  - result in adverse impacts of the development outweighing its benefits;
  - be contrary to legislation about how the decisions are to be taken.
- 1.8. NPSs also provide an opportunity for democratic accountability in their drafting and development. Draft NPSs must be publicly consulted on in addition to facing Parliamentary scrutiny before they are approved and designated.

### **The Development Consent Process**

- 1.9. Under the Planning Act 2008, a developer wishing to construct a nationally significant infrastructure project must make a development consent application to the Secretary of State.
- 1.10. A developer will require development consent under this process for a geological disposal facility as well as for the drilling of deep boreholes to characterise and to assess potential sites. As part of this process, the developer will need to assess the impacts resulting from the proposed development, using the NPS as a framework.
- 1.11. For such projects, the Secretary of State will appoint an 'Examining Authority' to examine the application in accordance with the NPS. The Examining Authority will be arranged by the Planning Inspectorate and will be either a single Inspector or a panel of between two and five Inspectors. Once the examination has been concluded, the Examining Authority will make a recommendation to the Secretary of State, who will make the decision on whether to grant or to refuse consent.
- 1.12. The process for applying for development consent to assess, using deep investigative boreholes, or develop a site (or sites) for a geological disposal facility is distinct from the separate process of identifying a potential site (or sites).

The six key stages in the development consent application process for nationally significant infrastructure projects are shown in Figure 3

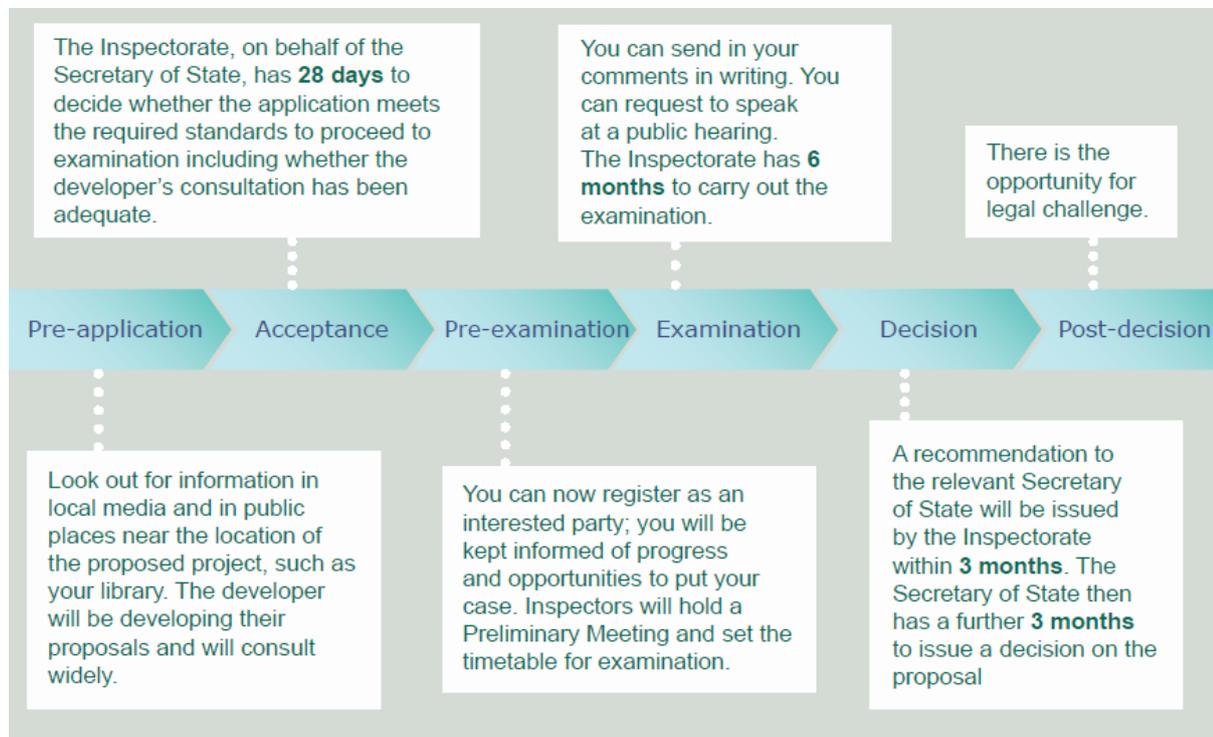


Figure 2 Application Review Progress