

PERMITTED DEVELOPMENT FOR SHALE GAS EXPLORATION

1. INTRODUCTION

- 1.1 In July 2018 the Ministry of Housing, Communities and Local Government published a consultation document regarding permitted development for shale gas exploration. The consultation runs until the 19th October.
- 1.2 This report identifies the key elements of the proposals and then sets out a format for response based on the specific questions asked. The proposed response, as set out below, takes on board as far as possible comments made at the meeting of the Environment Overview and Scrutiny Panel held on the 13th September. A copy of the draft minute is attached.
- 1.3 It should be noted that Hampshire County Council and the New Forest National Park Authority deal with minerals applications in this District and they would presumably deal with any notifications required with respect to the proposed permitted development rights were they to be introduced.

2. THE CONSULTATION

- 2.1 The Consultation begins by noting the major role onshore gas production, including Shale Gas, has in terms of securing energy supplies and creating economic benefits. It mentions that the Government intends to produce specific planning practice guidance on shale development and that the purpose of the consultation is solely to seek views on the:

“Principle of whether non-hydraulic fracturing shale gas exploration development should be granted planning permission through a permitted development right”

The proposed changes only apply to exploration, not extraction, and a further consultation regarding extraction and community engagement will be launched in the Autumn.

- 2.2 This consultation states that decisions on applications for exploration have been slow, with mineral planning authorities taking up to seven months to reach a decision. It makes it clear that other regulatory consents, including those dealt with by the Environment Agency and the Health and Safety Executive, would continue to apply.
- 2.3 Exploration comprises the exploratory phase of oil and gas extraction and involves obtaining geological data to establish whether hydrocarbons are present. It may involve drilling a well and conducting seismic surveys. It is proposed that any new permitted development rights would only allow non-hydraulic fracturing operations and would not allow the injection of fluids. .

A suggested definition reads:

“Boring for natural gas in shale or other strata encased in shale for the purposes of testing for natural gas and associated liquids, with a testing period not exceeding 96 hours per section test”

- 2.4 The consultation states that the Government remains committed to ensuring strong environmental safeguards remain in place and specifies that any new rights would not apply in most protected areas such as National Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest. In addition the rights would not apply for projects requiring an Environmental Impact Assessment.
- 2.5 As with other permitted development rights conditions could be imposed on any “approvals” in order to mitigate any foreseen adverse impacts. These could include restoration requirements, the height of any structures or substructures, time limits, restrictions on operations near sensitive sites, restrictions on the number of wells in an area and no removal of trees.
- 2.6 Consultation would also be required as part of any prior approval mechanism put in place. Such a process would be likely to only cover certain impacts such as highways, contamination, air quality and noise, visual impacts and neighbour impacts and could involve community consultation.
- 2.7 Permitted development rights are a national grant of planning permission. They are intended to provide a simpler more certain route by removing the need for planning permissions. They cover a wide range of development from householder extensions to digital communication masts. They are set out in legislation which defines the limits that apply and any inherent standard conditions intended to reduce the impact of any works allowed.
- 2.8 Any permitted development rights granted with respect to Shale Gas Exploitation could be temporary in terms of how long the procedure applies, with a period of two years being suggested.

3. THE QUESTIONS POSED

- 3.1 The responses with regard to the questions asked within the consultation are set out below.
- 3.2 Question1: Do you agree with the proposed definition (See Para 2.3 for the definition) to limit a permitted development right to non-hydraulic fracturing shale gas exploration?

Yes (This response does not mean the Council supports the proposal overall)

- 3.3 Question 2: Should non-hydraulic fracturing shale gas exploration development be granted planning permission through a permitted development right?

No. Even if all necessary information has to be submitted and agreed up to the level a planning application and this shows no meaningful impact on the environment or the amenity of local residents, full and thorough consultations are required beyond those proposed and an arena has to be in place for the community to fully represent its views. This is all facilitated by the full planning application process and the scale of

public concern over Shale Gas Exploration means this should continue to be the process followed.

- 3.4 Question 3a: Do you agree that a permitted development right for non-hydraulic fracturing shale gas exploration development would not apply to the following?

Area of Outstanding Natural Beauty, National Park, The Broads, World Heritage Sites, Sites of Special Scientific Interest, Scheduled Monuments, Conservation Areas, Sites of archaeological interest, Safety hazard areas, Land safeguarded for aviation or defence and Protected groundwater source areas.

Yes

Question 3b: Not relevant given last response.

Question 3c: Are there any other types of land where a permitted development right for non-hydraulic fracturing shale gas exploration development should not apply?

No. Given the legislation applying to European Nature Conservation Sites that would restrict any Permitted Development Rights.

- 3.5 Question 4: What conditions and restrictions would be appropriate for a permitted development right for non-hydraulic shale gas exploration development?

As proposed in Paragraph 28 of the consultation document (restoration, heights of equipment, time limits on times and duration of works, a restriction of the number of operations near sensitive site uses and/or in a specific area, restrictions near airports and no removal of trees), plus there should be a buffer zone around residential properties and sensitive uses in which the proposed rights would not apply.

- 3.6 Question 5: Do you have comments on the potential considerations that a developer should apply to the local planning authority for a determination, before beginning the development?

If the measures are to be brought in consideration must include time limits, hours of use, control of pollution, highways matters and impact on environmental and human receptors.

- 3.7 Question 6: Should a permitted development right for non-hydraulic fracturing shale gas exploration development only apply for 2 years, or be made permanent?

Two years if introduced.

- 3.8 Question 7: Do you have any views on the potential impact of the matters raised in this consultation on people with protected characteristics as defined in section 149 of the Equalities Act 2010?

No

4. FINANCIAL IMPLICATIONS

- 4.1 There are none

5. CRIME & DISORDER IMPLICATIONS

5.1 There are none.

6. ENVIRONMENTAL IMPLICATIONS

6.1 Shale Gas Exploration can have profound effects on the environment and is a key point of community concern. Any attempt to streamline the consent process in a manner that does not reflect community concerns and facilitate full community and consultee involvement would have environmental implications.

7. EQUALITY & DIVERSITY IMPLICATIONS

7.1 There are none.

8. RECOMMENDATION

8.1 That the responses set out above form the basis of the Council's response to the consultation on Permitted Development for shale gas exploration.

9. PORTFOLIO HOLDER ENDORSEMENT

I have agreed to the recommendation of this report.

Signed: CLLR E J HERON **Date:** 3 October 2018

Date notice of decision given: 3 October 2018

Last date for call-in: 3 October 2018

For further information contact:

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Background Papers:

MHCLG Consultation on Shale Gas
Exploration and the minutes of the
Environment Panel 13th September 2018

Extract of the Draft Minutes of the Environment Panel 13th September 2018

Public Participation

The Panel noted the public presentation made by Mr Slipper in respect of the Government's current consultation on proposals to bring shale gas extraction into the permitted development regime, and therefore outside normal planning controls. Mr Slipper had expressed his profound concern that the proposal would remove the consideration of such applications from the normal planning process, which was subject to checks and balances and open to the local community to influence the decision. He deplored the proposed loss of democratic accountability and asked that the Council consider the issue and perhaps respond to the Government's consultation.

Members of the Panel did not feel able to form a view on this matter without having further information about the Government's proposals. They considered that this was an important issue that should be considered further. Responses to government consultations were normally submitted by the relevant portfolio holder, and the Panel considered it would be useful to discuss the issues with the Portfolio Holder for Planning and Infrastructure in advance of the close of the consultation on 15 October. If necessary a special meeting of the Panel and Planning Committee could be arranged following the ordinary meeting of the Committee on 10 October.

Members were reminded that the issue under consideration was whether the Council should respond to the Government's proposals to include shale gas extraction in permitted development rights, and if so the terms of that response. The issue was not the advantages and disadvantages of shale gas extraction.

Members were also reminded that the Forest was subject to extensive areas of international nature conservation designations. If it was considered that a proposal for shale gas extraction would affect the international designation then it must be subject to an Appropriate Assessment and would automatically fall outside of the permitted development regime.