

HAMBLETON DISTRICT COUNCIL

Report To: Cabinet
4 December 2018

Subject: **RESPONSE TO GOVERNMENT CONSULTATION**

All Wards
Portfolio Holder for Planning: Councillor D A Webster

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to provide Cabinet with details of Government consultation exercises in relation to (1) Permitted development for shale gas exploration and (2) Inclusion of shale gas production projects in the Nationally Significant Infrastructure Project (NSIP) regime and the response provided by Officers on behalf of the Council. Both consultation responses were required by 11:45pm on 25 October 2018.
- 1.2 The purpose of the consultation on Permitted development for shale gas exploration was 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, and in particular the circumstances in which it would be appropriate.
- 1.3 Officers' response to this consultation focussed on rejecting the proposed changes for extending Permitted Development rights to shale gas exploration on the basis that locally-based decision making would be removed. The full response is provided in Annex A.
- 1.4 The related consultation on the Inclusion of shale gas production projects in the Nationally Significant Infrastructure Project (NSIP) regime was an initial consultation to gather views from industry, regulators and other interested parties on the timings and criteria for including shale gas production projects in the Nationally Significant Infrastructure Project (NSIP) regime under the Planning Act 2008.
- 1.5 Officers' response to this consultation focussed on rejecting proposals to include shale gas production projects in the Nationally Significant Infrastructure Project on the basis that decision making for planning at all stages of shale gas extraction (fracking) should sit with the Local Mineral Planning Authority. The response also expressed that the most transparent method to involve local communities in the planning decisions of any shale gas application is to retain such planning decisions at a local level. Additionally, it was noted that the scale of fracking production development does not appear to fit within the large-scale defined thresholds considered within the Nationally Significant Infrastructure Project.
- 1.6 A significant area of Hambleton District is identified within the search area for shale gas, however only small areas are covered by a licence (Easingwold down to York, a small area near Brandsby and a further small area at the north of the district).

2.0 LINK TO COUNCIL PRIORITIES:

- 2.1 Consideration of local circumstances specific to any proposed development would ensure the correct planning decision for the Hambleton area; this would support the Council's priorities of Providing a Special Place to Live and Driving Economic Vitality.

3.0 RISK ASSESSMENT:

3.1 There are no risks associated with this report.

4.0 FINANCIAL IMPLICATIONS:

4.1 There are no financial implications associated with this report.

5.0 LEGAL IMPLICATIONS:

5.1 There are no legal implications associated with this report.

6.0 EQUALITY/DIVERSITY ISSUES

6.1 Equality and Diversity Issues have been considered however there are no issues associated with this report.

7.0 RECOMMENDATION:

7.1 That Cabinet endorses the Officers' response to the Government consultation on (1) Permitted development for shale gas exploration and (2) Inclusion of shale gas production projects in the Nationally Significant Infrastructure Project (NSIP) regime on behalf of Hambleton District Council.

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Background papers: None

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ANNEX A – Response to Consultation on Permitted development for shale gas exploration

The definition of non-hydraulic fracturing

Question 1

a) Do you agree with this definition to limit a permitted development right to non-hydraulic fracturing shale gas exploration?

No

b) If No, what definition would be appropriate?

The definition requires greater clarity around the explicit exclusions on exploration techniques which would be required to monitor and enforce any development.

Question 2

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

No

Development not permitted

Question 3

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

- Areas of Outstanding Natural Beauty
- National Parks
- The Broads
- World Heritage Sites
- Sites of Special Scientific Interest
- Scheduled Monuments
- Conservation areas
- Sites of archaeological interest
- Safety hazard areas
- Military explosive areas
- Land safeguarded for aviation or defence purposes
- Protected groundwater source areas

Yes

b) If No, please indicate why.

N/A

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

No comment.

Development conditions and restrictions

Question 4

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

A number of conditions and restrictions could be applied to permitted development right for non-hydraulic shale gas exploration development; however, these would be specific to the local circumstances of any proposed development.

Prior approval

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?

As per the response at Q4 above, local circumstances would inform the matters that need to be dealt with via prior approval and could include: transport and highways, visual/landscape impact assessment, noise, residential/local amenity, air quality, ecology, hydrogeology, hydrology (especially water quality) and ground stability.

Time-period for a permitted development right

Question 6

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

2 Years

Public sector equality duty

Question 7

Do you have any views 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 comment

ANNEX B – Response to Consultation on Inclusion of shale gas production projects in the Nationally Significant Infrastructure Project (NSIP) regime

Question 1

Do you agree with the proposal to include major shale gas production projects in the National Significant Infrastructure Project regime?

No

Question 2

Please provide any relevant evidence to support your response to Question 1.

When considered alongside the parallel proposal for Permitted Development rights for non-hydraulic fracturing shale gas explorations, proposals would in effect remove any powers of direct decision making from local mineral planning authorities. This contradicts the statements made in the consultation overview that “*The government recognises that the development of shale gas needs to be alongside support from local communities...*” and that “*local communities must be fully involved in planning decisions and any shale gas application – whether decided by councils or government.*”

The scale of fracking production development does not appear to fit within the large-scale defined thresholds considered within the NSIP.

Question 3

If you consider that major shale gas production projects should be brought into the NSIP project regime, which criteria should be used to indicate a national significant project with regards to shale gas production? Please indicate from the list below:

- a. The total number of individual wells per well-site (or ‘pad’)
- b. The total number of well-sites within the development
- c. The estimated volume of recoverable gas from the site(s)
- d. The estimated production rate from the site(s), and how frequently (e.g. daily, monthly, annually or well lifetime)
- e. Whether the well-site has/will require a connection to the local and/or national gas distribution grid
- f. Requirement for associated equipment on-site, such as (but not limited to) water treatment facilities and micro-generation plants
- g. Whether multiple well-sites will be linked via shared infrastructure, such as gas pipelines, water pipelines, transport links, communications, etc
- h. A combination of the above criteria – if so please specify which
- i. Other – if so please specify

We do not consider that major shale gas production should be brought into the NSIP project regime, and that decision making for planning at all stages of fracking should sit with the Local Mineral Planning Authority.

Question 4

Please provide any relevant evidence to support your response(s) to Question 3.

The most transparent method to involve local communities in the planning decisions of any shale gas/fracking application is to retain such planning decisions to the Local Minerals Planning Authority.

Question 5

At what stage should this change be introduced? (For example, as soon as possible, ahead of the first production site, or when a critical mass of shale gas exploration and appraisal sites has been reached).

No comment

Question 6

Please provide any relevant evidence to support your response to Question 5.

No comment