

The questions and responses to the Consultation paper “Compulsory community pre-application consultation for shale gas development”

None of the answers provided below, alter the response that Nottinghamshire County Council provided in relation to the consultations on “Permitted development for shale gas exploration” and the “Inclusion of shale gas production in the nationally significant infrastructure project regime” undertaken in July to October 2018.

Question 1

Should community pre-application consultation be compulsory prior to applying for planning permission for shale gas development?

Yes/No/Not sure

Nottinghamshire County Council has determined two planning applications for shale gas exploration. In both cases the applicant positively and proactively engaged with the public and other interested parties prior to the submission of their applications by:

- Setting up and facilitating a Community Liaison Group to serve as a forum between the developer and the community;
- Distributing letters to the nearest residents;
- Creating dedicated websites;
- Undertaking public exhibitions prior to the submission of the applications;
- Liaising with the relevant parish councils and attending meetings to discuss the proposal;
- Corresponding with the local Member of Parliament, Member of European Parliament and County Councillor.
- Meeting with and/or presenting to local interest groups and businesses;
- Undertaking pre-application discussions with Nottinghamshire County Council and Bassetlaw District Council;
- Partaking in discussions with relevant statutory and non-statutory consultees;

Paragraph 40 of the National Planning Policy Framework (NPPF) states that local planning authorities “should also, where they think it would be beneficial, encourage any applicants who are not already required to do so by law to engage with the community and, where relevant, with statutory and non-statutory consultees, before submitting their applications”.

Nottinghamshire County Council’s adopted Statement of Community Involvement sets out four principles central to its planning functions. These are:

- Front loading
- Continuous involvement
- Transparency
- Providing feedback

The requirement for pre-application engagement would positively align with these principles as well as with the aims of the County Council's Sustainable Community Strategy which amongst other objectives wishes to see local people influencing decisions which affect their lives and their communities.

Nottinghamshire County Council recognises the considerable public concern associated with shale gas development and, as a result, considers that early engagement (including pre-application consultation) will always be beneficial. This is to ensure that the community is given the opportunity to understand the development proposed and provide feedback that will allow the developer to understand and address locally specific issues and enable a better scheme to come forward when an application is submitted. Whilst the County Council's previous experience of pre-application engagement for shale gas development is positive, making it compulsory will ensure that this will always remain the case. As such, Nottinghamshire County Council supports compulsory pre-application consultation for shale gas development.

Question 2

By what process (if any) should prospective applicants be required to conduct community pre-application consultation prior to applying for planning permission for shale gas development?

Onshore wind development/ Nationally Significant Infrastructure Projects /Other (please specify)

The County Council is of the view that requirements for pre-application public consultation which currently apply to onshore wind development (set out in Section 61W of the Town and Country Planning Act 1990) would be a suitable mechanism to apply to shale gas development. It would ensure that the public are aware of a proposed application and require an applicant to demonstrate how the public's comments had been taken into account within the submitted planning application.

The County Council considers the pre-application requirements associated with the Nationally Significant Infrastructure Projects regime to be thorough and comprehensive. However, the rigidity of the process and the requirement to submit a report to Government would be disproportionate in relation to the scale and nature of applications for individual well-sites and should be retained for truly nationally significant development.

Question 3

What (if any) shale gas development should be subject to compulsory community pre-application consultation?

All shale gas development requiring a planning application/ Where an Environmental Impact Assessment is required/Other criteria or threshold (please specify)

Paragraph 209 b) of the National Planning Policy Framework explains that when planning for onshore oil and gas development Minerals Planning Authorities should clearly

distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production).

Developers can apply for exploration, appraisal and production individually; or for a combination of these phases. The County Council considers that pre-application consultation should be compulsory for all these phases, whether applied for individually or together.

The County Council is also of the view that exploration is the most important of all the phases with regard to pre-application consultation. As the first phase of shale gas development, it will be the first time that a community will become aware of where and what is being proposed. It will also be the point at which the community can have the greatest input into the design and working of development. The level of input that a community can have in relation to the appraisal and production phases will be less, given that these will relate to already established sites.

The County Council does not consider that compulsory community pre-application consultation should be limited to that where an Environment Impact Assessment (EIA) is required, but should apply to all full applications for exploration, appraisal and/or production. This reflects the County Council's view that pre-application consultation is most important at the exploration phase, which does not always require an EIA.

Whilst it is good practice for developers to keep the community informed through mechanisms such as Community Liaison Groups, the MPA does not consider it necessary for pre-application consultation to be compulsory for applications relating to variations (Section 73) or non-material amendments to development which already has the benefit of a full planning permission. This could serve to dilute the importance given by the public to consultations undertaken for the main phases.

The County Council repeats its position that shale gas exploration should not be permitted development. However, if Government decides to make shale gas exploration permitted development, it should be subject to prior community consultation. As highlighted above, this is the most important phase of shale gas development from a community consultation perspective.

Question 4

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 Equality Act 2010?

No comments.