

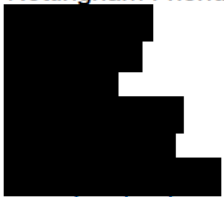
From: Nigel Lee [REDACTED]
Sent: 11 October 2019 14:15
To: Planning Policy
Subject: RE: Nottinghamshire Minerals Local Plan consultation
Attachments: 191011NFOE-MLP_representation-form.docx

Follow Up Flag: Follow up
Flag Status: Completed

Please find attached our response to the Minerals Plan consultation.

Nigel Lee

Nottingham Friends of the Earth



www.facebook.com/groups/138538309515103

From: Steven Osborne-James [REDACTED]
Sent: 29 August 2019 14:30
To: Undisclosed recipients:
Subject: Nottinghamshire Minerals Local Plan consultation opens 30th August

Dear Sir or Madam

Nottinghamshire County Council has a statutory duty to publish an up-to-date Minerals Local Plan – a blueprint for future of minerals extraction in the county up to 2036. We have completed a number of stages of public consultation on a new Minerals Local Plan since 2017, with the most recent public consultation on the draft version of the minerals plan in July 2018.

As a result of the comments you submitted - relating to the content of the draft plan or on a site-specific quarry proposal, you are receiving notification of the next stage of public consultation which will open on **Friday August 30th and close at 16.30 Friday 11th October 2019.**

The public consultation on the 'Publication Version' of the minerals plan is seeking views on whether the plan is legally compliant and considered 'sound'. As a result, representations need to focus on.

1. Is the plan legally compliant? Issues to consider before making a representation on legal compliance include:

- Has the Local Plan followed the key stages as set out in the authorities Local Development Scheme;
- Is the Local Plan in general accordance with the authorities Statement of Community Involvement;
- Has the authority prepared a Sustainability Appraisal.
- Does the Local Plan should comply with all other relevant requirements of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012, as amended.

2. Is the plan considered 'sound' namely that it is:

- Positively prepared – providing a strategy which, as a minimum seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet

need from neighbouring authorities is accommodated where it is practical to do so and is consistent with achieving sustainable development;

- Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- Effective - deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the NPPF.

You can find a more detailed guidance note on the County Council’s website at **[Nottinghamshire.gov.uk/minerals](https://www.nottinghamshire.gov.uk/minerals)** to help you understand the tests of soundness.

We would encourage you to submit your representations online via our consultation system as this will allow you to add representations to specific sections of the plan and in the correct format. You can find more information about submitting representations electronically at **[Nottinghamshire.gov.uk/minerals](https://www.nottinghamshire.gov.uk/minerals)**. As an alternative, representations can be sent either as a word document or PDF via email, however they will still need to be presented in the correct format. See our webpage for further guidance. Submitting representations electronically aids in the speed and effectiveness of the consultation process.

Representations submitted on paper will be accepted if they are in the correct format, however this increases the time taken to process representations and slows the development of the minerals plan. A hard copy of the Publication Version of the Minerals Local Plan can be viewed at County Hall, District / Borough Council offices and the following libraries during normal opening hours; Arnold, Beeston, Bingham, Clifton, Hucknall, Kirkby-in-Ashfield, Mansfield, Newark, Retford, Southwell, Sutton-in-Ashfield, West Bridgford and Worksop.

If you no longer wish to be informed about the development of the Minerals Local Plan please get in touch.

Regards

Planning Policy Team

Information regarding the development of the new Nottinghamshire Minerals Local Plan can be found at: [Nottinghamshire.gov.uk/minerals](https://www.nottinghamshire.gov.uk/minerals)

The following message has been applied automatically, to promote news and information from Nottinghamshire County Council about events and services:

Not sure what to do with the kids during the summer holidays? Visit our [dedicated page](#) for ideas on how to keep them active and entertained! Don't forget to use #ExploreNotts on your social media posts to help us highlight great things to do across the county.

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Representation Form

This is the representation form for the Nottinghamshire Minerals Local Plan - Publication Version published by Nottinghamshire County Council. The Publication Version and the supporting information can be found online at www.nottinghamshire.gov.uk/minerals. You can submit your representations online via our interactive system by using this link.


The formal representation period is open from Friday 30th August 2019 to 4.30pm Friday 11 October. All representations must be received during this period.

If you wish to submit a representation to the Plan using this form, please complete all parts and then send it to us via email or post, using the addresses below. Please note:

- **All respondents need to provide their personal details.** It is not possible for representations to be anonymous. All responses will be made public.
- **Representations must be on the basis of the ‘soundness’ of the plan or its legal and Duty to Co-operate compliance.** Please read the guidance note on this for further information.
- **Part B of the form contains your representations.** Please fill in a separate Part B for each representation you wish you make. You only need to fill in Part A once.
- **If you are part of a group that share a common view,** it would be helpful for that group to send a single representation rather than multiple copies stating the same point. Please indicate how many people are represented and how it has been authorised (e.g. by means of a list with contact details for each person or by a committee vote). This holds the same weight as separately submitted representations.

If you have any queries please contact us as below or ring us on 0300 500 80 80.

Please return completed forms to:

 Planning Policy Team  planning.policy@nottscc.gov.uk
County Hall, West Bridgford,
Nottingham, NG2 7QP

We must receive your representations before 4.30pm, Friday 11th October 2019. Representations received after this cannot be accepted.

All of the representations received will be submitted with the Plan and will be examined by a planning inspector who will consider whether the Plan is ‘sound’ and complies with the legal requirements.

Nottinghamshire County Council's Planning Policy Service is committed to protecting your privacy and ensuring all personal information is kept confidential and safe. View our privacy notice at www.nottinghamshire.gov.uk/privacy

| |
|--|
| <i>Office use only</i> Person No: Rep Nos: |
|--|

Part A – Personal details

| | 1. Personal details | 2. Agent details (where applicable) |
|--|---------------------------------|-------------------------------------|
| Title | Mr | |
| First name | Nigel | |
| Last name | Lee | |
| Address line 1 | ██████████ | |
| Address line 2 | ██████████ | |
| Address line 3 | | |
| Postcode | ██████████ | |
| Email | ██████████████████ | |
| <i>For those replying on behalf of an organisation or group:</i> | | |
| Organisation | Nottingham Friends of the Earth | |
| Job title | | |

Part B – Your representation

| |
|---|
| <i>Office use only</i> Person No: Rep No: |
|---|

Please read the guidance note before completing this section.

Name or organisation: Nottingham Friends of the Earth

3. To which part of the Local Plan does this representation relate?

| | | | | | | | | | |
|--------|------|-----------|--|----------|--|-----------|--|-------|--|
| Policy | MP12 | Site code | | Map/Plan | | Paragraph | | Other | |
|--------|------|-----------|--|----------|--|-----------|--|-------|--|

4. Do you consider the identified part of the Local Plan to be:

| | | | | |
|--------------------------------------|-----|--|----|---|
| Legally compliant? | Yes | | No | X |
| Sound? | Yes | | No | X |
| Complies with the Duty to co-operate | Yes | | No | |

Please tick as appropriate.

5. Please give details of why you consider the identified part of the Local Plan is not legally compliant or is unsound, or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

Policy MP12: Oil & Gas

This policy is not sound on two main grounds – climate change and unconventional hydrocarbons. And it is not legally compliant on climate change.

Climate change

- 1) Although there is a separate policy on Climate Change (SP3), which we support, there are specific issues relating to oil and gas which should be added in Policy MP12.
- 2) There is a legal requirement for Plan policies to reduce climate emissions (Planning & Compulsory Purchase Act 2004, s19(1A)). The Plan period will extend beyond 2030 so should be compatible with statutory climate emissions reductions targets set for 2030, and with carbon budgets through the Plan period. Policy MP12 should be redrafted to ensure that proposals for exploitation of hydrocarbon minerals are tested against this requirement.
- 3) Plan policies should take a precautionary approach to climate emissions and should not approve any development which may cause leakage of methane in the short, medium or long term. In particular, any proposal which cannot reliably quantify and control methane leaks in the short, medium and long term should not be allowed. That should mean no new working of coal, oil or gas seams, given the impossibility with current technology of guaranteeing the integrity of well casings, etc. For the same reason, the Plan should continue to support capping of disused coal mines to prevent methane leaking to atmosphere.
- 4) As an example, the Cumbria Minerals & Waste Local Plan adopted in September 2017¹ includes under Policy DC13 (Criteria for energy materials) a requirement that, for exploration and appraisal, “the impacts of the development have been considered in relation to impact on climate change”; and, for commercial exploitation, “the impact of the development has been considered in terms of contributing to the mitigation of climate change”.
- 5) The Kirklees Local Plan adopted in February 2019² includes under Policy LP42 (Proposals for production of hydrocarbons) a requirement that proposals “will be considered against the following criteria: ... h. Where a proposal demonstrates that it will have a net zero impact on climate change.”

Unconventional hydrocarbons

- 6) The statement in section 4.108 that “It is considered that there is no justifiable reason in planning policy terms to separate shale gas from other hydrocarbon development” is not sound.
- 7) This has been demonstrated in public examination of the North Yorkshire Minerals & Waste Joint Plan in 2018 where a number of issues were considered requiring specific policies for hydraulic fracturing, including:
 - A definition of hydraulic fracturing suitable for the planning system: “Hydraulic fracturing is the process of opening and/or extending existing narrow fractures or creating new ones (fractures are typically hairline in width) in gas or oil bearing rock, which allows gas to flow into wellbores to be captured.”³
 - 500m separation distance.⁴
 - Arguments for a maximum wellpad density and for financial guarantee.⁵

¹ http://www.cumbria.gov.uk/planning-environment/policy/minerals_waste/MWLP/Adopted.asp

² www.kirklees.gov.uk/localplan

³ Main Modifications, s 5.119:

<https://www.northyorks.gov.uk/sites/default/files/fileroot/Planning%20and%20development/Minerals%20and%20waste%20planning/Examination%20Library/LPA%20Docs/LPA90%20-%20Main%20Modifications%20to%20be%20discussed%2013%20April%202018.pdf>

⁴ <https://drillordrop.com/2018/04/13/live-updates-inspector-examines-key-issues-on-fracking-in-north-yorkshire/>
<https://www.northyorks.gov.uk/sites/default/files/fileroot/Planning%20and%20development/Minerals%20and%20waste%20planning/Examination%20Library/LPA%20Docs/LPA89%20500m%20buffer%20note.pdf>

⁵ <https://drillordrop.com/2018/03/13/live-updates-fracking-policy-for-n-yorkshire-comes-under-scrutiny/>

- 8) Similarly, the East Riding Joint Minerals Local Plan Policy EM6 Extraction of Shale Gas (Hydraulic Fracturing) includes criteria requiring “adequate provision of the supply of water”, “measures to avoid pollution of ground water, aquifers, and potable water supplies”, “measures to avoid unacceptable adverse impacts as a result of vibration and induced seismicity”, “measures to avoid air pollution”, etc.⁶
- 9) In the Nottinghamshire context, specific reference should be made to risks associated with former coalfield workings. Bassetlaw MP John Mann has urged consideration be given to a report by Geophysics Professor Peter Styles who has drawn attention to the importance of making use of high-resolution mapping of faultlines and recommended 500m separation of hydraulic fracturing from former mine workings and 850m from any fault lines.⁷
- 10) Specific reference should also be made to the importance of the Sherwood Sandstone Aquifer. The Water Framework Directive requires a precautionary approach, particularly to protect groundwater from all contamination.⁸ Particular care will be required to protect Sherwood sandstone aquifers used for drinking water and agriculture, and particularly in the former coal mining areas which are already subject to minor earthquakes and minewater pollution. (The biggest risk of earthquakes is to damage well linings and allow leakage of toxic fluids and gases.)
- 11) As well as a risk of methane leakage affecting climate emissions, there is also a risk of venting carcinogenic gases such as benzene, toluene, ethylbenzene, xylene (BTEX) as well as radon which is radioactive, which may be a direct threat to public health. Diesel compressors which are necessary for high pressure hydraulic fracturing and vehicles also contribute to gasfield haze with particulates, nitrogen dioxide and ground-level ozone likely occupational hazards. Silica sand used in hydraulic fracturing may also be a major health hazard. A precautionary approach should therefore be taken, particularly to any proposal which may involve hydraulic fracturing.
- 12) Policy MP12 should make clear that definition of site boundary must include (in 3-D) the full extent of any horizontal drilling underground. (As required by Town & Country Planning Act 1990 s55(1) which defines “development” to include “... building, engineering, mining or other operations in, on, over or under land ...”)
- 13) The scale and intensity of high volume hydraulic fracturing requires specific policies to protect Nottinghamshire’s people and environment. Shale is not porous so the gas (and perhaps oil) that it contains does not flow to the well - to drain an extensive area it is necessary for fracturing to create artificial porosity. This has to be done across an area not at a single location requiring the construction of many originating well pads each of which is associated with a great deal of surface activity and infrastructure. During the time the Plan will be in force large parts of Notts could be turned into extensive gasfields – exploiting shale gas in Northern Notts and South Western Notts, and coal bed methane in Eastern Notts. The potential scale of industrialisation of the countryside is indicated in a briefing by Ineos showing upto 420 wells in each 10km square licence area (30 wellpads with upto 14 horizontal wells from each wellpad.⁹ This will require extensive roadways, pipelines, etc as well as the wellpads. While Ineos acknowledges that social and environmental constraints mean that the actual intensity of development will be less than this theoretical maximum, it is still anticipating perhaps 10 wellpads with 12 wells from each per 10km square – around 120 wells in total – which could result in over 1,000 wells just in Ineos’ licenses around the Sherwood Forest area.

Background information

- 1) Fossil fuel extraction has been a major source of climate emissions through methane leakage, particularly over the last decade when high volume hydraulic fracturing has become established in the US and elsewhere. A NASA team recently calculated that fossil

⁶ <https://www.eastriding.gov.uk/mineralsplan>

⁷ <https://www.parliament.uk/edm/2017-19/1303>
<http://www.talkfracking.org/wp-content/uploads/2018/05/Fracking-and-Mining-Styles-Final.pdf>

⁸ https://ec.europa.eu/environment/water/water-framework/info/intro_en.htm

⁹ <http://frackfreeryedale.org/wp-content/uploads/2016/05/INEOS-online-ad-for-Seismic-Survey-Contractor-06.05.16.pdf>

fuels have contributed about 12 to 19 teragrammes methane to the atmosphere each year since 2006, about half of the overall increase, the other half being due to biogenic sources. (John R Worden et al, Nature Communications 8, 2227, 20 December 2017. See: <https://earthobservatory.nasa.gov/IOTD/view.php?id=91564&src=ve>)

- 2) The planning authority has a responsibility to check that other regulators will be able to do their job. Planning Practice Guidance (Reference ID: 27-112-20140306) advises minerals planning authorities that “before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body: ...

Mitigation of seismic risks...
Well design and construction...
Well integrity during operation...
Operation of surface equipment on the well pad...
Mining waste...
Chemical content of hydraulic fracturing fluid...
Flaring or venting...
Final off-site disposal of water...
Well decommissioning/abandonment...”

(As an example, the Planning Inspector in rejecting an appeal by Egdon Resources against refusal of planning permission for a conventional oil well at Wressle by North Lincolnshire Council (APP/Y2003/W/17/3173530 & APP/Y2003/W/17/318060, 4 January 2018 <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?Caseid=3173530&CoID=0>) found that the required ground condition report had not been prepared and this did not seem to have been addressed by the Environment Agency in their Environmental Permitting decision document (para 24).)

In some cases, planning conditions may need to be used to ensure these issues are adequately addressed, particularly to protect ground and surface water and to minimise the impact on the causes of climate change in the short, medium and long term.

- 3) Regulatory failures include a failure by the Environment Agency to stop Cuadrilla dumping fracking wastewater from Preese Hall containing radioactivity into the Manchester Ship Canal. And Michael Hill, an engineer involved in fracking at Preese Hall, states that “the only well to have been fracked in the U.K.

suffered an integrity failure that the HSE were not aware of for up to THREE years, suffered damage to the casing due to unpredicted induced seismicity, caused by the fracking, which neither HSE nor the DECC were aware of for over 12 months, was never inspected once by the HSE for well integrity, which may or may not have leaked into the surrounding formations (we do not know because the EA have not checked) and which has now been abandoned.”

http://media.wix.com/ugd/b0aabf_5902a55b06fd4338a56db38dd8687240.pdf

- 4) A review of evidence on regulation by Watterson & Dinan of Stirling University (October 2016) concluded (<http://www.regulatingscotland.org/report/frackingandregulation.pdf>):
- the evidence base for robust regulation and good industry practice is currently absent. There are multiple serious challenges surrounding location, scale, monitoring and data deficits facing regulators overseeing onshore UGE and fracking in the UK;
 - the evidence from peer-reviewed papers suggests fracking in the UK will not be effectively regulated. It is highly likely that regulatory agencies may lack the staffing and resources necessary to monitor and enforce effective regulation of the industry;
 - US and UK peer-reviewed analyses and EU law identify both the precautionary principle and prevention as keys to dealing with fracking. This is underpinned by findings from the peer-reviewed public health literature that already identifies significant hazards and major potential risks from the industry.

- 5) UK government policy and guidance on high-volume hydraulic fracturing is based on out of date research, such as the Royal Society/Royal Academy of Engineering review (July 2012) and a report by Public Health England (although this was published in June 2014 it was not significantly changed from a 2013 draft which was based on evidence available upto 2012). This ignores more than 80% of the peer reviewed scientific literature on the environmental and health impacts of shale gas development which has been published since 2012: www.psehealthyenergy.org/our-work/shale-gas-research-library/ And only one out of 10 recommendations of the RS/RAE review had been implemented in full after 2 years: [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)60888-6/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)60888-6/fulltext)
- 6) The most detailed research is probably that carried out by the State of New York's Department of Environmental Conservation which considered the available information on potential environmental impacts of high-volume hydraulic fracturing and possible mitigation measures and concluded (in June 2015): "In the end, there are no feasible or prudent alternatives that would adequately avoid or minimize adverse environmental impacts and that address the scientific uncertainties and risks to public health from this activity. The Department's chosen alternative to prohibit high-volume hydraulic fracturing is the best alternative based on the balance between protection of the environment and public health and economic and social considerations." (2015 SEQR Findings Statement, page 42: www.dec.ny.gov/energy/75370.html)
- 7) The most comprehensive review of peer reviewed studies on the impacts of fracking has been produced by the Concerned Health Professionals of New York. The sixth edition dated June 2019 (<https://concernedhealthny.org/compendium/>) lists the following emerging trends:
1. Regulations are simply not capable of preventing harm.
 2. Fracking and natural gas are incompatible with climate solutions.
 3. Fracking and the disposal of fracking waste threaten drinking water.
 4. Drilling and fracking contribute to toxic air pollution and ground-level ozone at levels known to have health impacts.
 5. Public health problems associated with drilling and fracking include poor birth outcomes, reproductive and respiratory impacts, and cancer risks.
 6. Occupational health and safety risks for workers are severe and include both physical and chemical hazards.
 7. Earthquakes are a proven consequence of both fracking and the underground injection of fracking waste.
 8. Fracking infrastructure poses serious potential exposure risks to those living nearby.
 9. Drilling and fracking activities bring naturally occurring radioactive materials to the surface.
 10. Drilling and fracking activities harm wildlife through multiple pathways.
 11. The risks posed by fracking in California are unique.
 12. Fracking in Florida presents many unknowns.
 13. The economic instabilities of fracking exacerbate public health risks.
 14. Fracking raises human rights and environmental justice issues.
 15. Health professionals are increasingly calling for bans or moratoria on fracking, based on a range of health hazards and as reviews of the data confirm evidence for harm.

6. Please set out what change(s) you consider necessary to make the identified part of the Local Plan legally compliant or sound, in respect of any legal compliance or soundness matters you have identified above. (please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Suggested addition to Policy MP12 (Oil & Gas)

A condition should be added to Policy MP12 to ensure that any proposed development will not compromise the Council's duties in relation to climate change mitigation, and will be fully compatible with statutory climate emissions targets and carbon budgets during the Plan period.

Suggested additional Policy MP12a (Hydraulic fracturing)

Policy should be added to address problems specific to hydraulic fracturing, including:

- A definition of hydraulic fracturing suitable for the planning system, such as that discussed in the North Yorkshire Minerals & Waste Joint Plan Examination (“Hydraulic fracturing is the process of opening and/or extending existing narrow fractures or creating new ones (fractures are typically hairline in width) in gas or oil bearing rock, which allows gas to flow into wellbores to be captured.”).
- Minimum separation distance from homes and other sensitive sites.
- Minimum separation distance from former mine workings.
- Minimum separation distance from fault lines (and a requirement to make use of high resolution mapping, as recommended by Professor Peter Styles).
- The site boundary of the development to include in 3-D the full extent of any horizontal drilling.
- Maximum well-pad density.
- Financial guarantee.
- Protection of the Sherwood sandstone aquifer.
- Arrangements for adequate provision of water supply and disposal of toxic waste water.
- Measures to avoid unacceptable impacts of vibration and induced seismicity.
- Measures to avoid air pollution, including BTEX and radon.
- Measures to protect people working on site, for example from silica dust, radioactive water and gases, and emissions from compressors.
- A risk assessment to demonstrate that all reasonable scientific doubt that there is any risk of adverse impacts has been eliminated.

Please note: In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions. After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

7. If your representation is seeking modification to the plan, do you consider it necessary to participate in the examination hearing session(s)?


| | |
|--|------------|
| No , I do not wish to participate in the hearing session(s) | |
| Yes , I wish to participate in the hearing session(s) | Yes |

Please note that while this will provide an initial indication of your wish to participate in the hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

| |
|---|
| <p>Large parts of Nottinghamshire have been licensed for Petroleum Exploration and Development, including around 1,000 square kilometres around the Sherwood Forest area – where there is potential for shale gas exploitation.</p> <p>The County Council has persistently refused to include policy adequate to respond to potential proposals for development of unconventional hydrocarbons.</p> <p>We would hope that the Examination will include discussion of this issue, and would wish to be involved in this discussion. We would intend to coordinate with other groups making similar points.</p> |
|---|

***Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.*

| | | | |
|------------------|---|-------------|-----------------|
| Signature |  | Date | 11 October 2019 |
| Name | Nigel Lee | | |