



23rd October 2018

Agenda Item: 7

REPORT OF CORPORATE DIRECTOR – PLACE

RESPONSE TO THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT AND THE DEPARTMENT FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY ON THE TWO CONSULTATION PAPERS RELATING TO SHALE GAS PROPOSALS

Purpose of Report

1. To seek Members' approval of the response to the Government's consultation papers relating to shale gas proposals entitled 'Permitted development for shale gas exploration' and 'Inclusion of shale gas projects in the nationally significant infrastructure project regime' as set out in the appendix to this report.

Background information

2. A report was brought to this Committee on 18th September setting out officers' draft response to the questions posed in the consultation papers. The draft responses were debated and were agreed subject to there being a change in emphasis in relation to the loss of local decision making and representation of local constituents in matters relating to shale gas applications. It was agreed that the response would be amended to make greater reference to the lack of local decision making and local accountability which is likely to occur should these government proposals be brought into effect. The formal responses to the consultation papers have been updated to take these changes on board. These are set out as an appendix to this report.

Motion to Full Council on 20th September

3. Following the Planning and Licensing Committee there was a motion moved by Councillor Creamer on behalf of the Labour Group at Full Council on 20th September. An amended motion was moved by Councillor Barnfather which sought to make minor technical clarifications to the original motion. The amended motion stated the following;
4. "This council congratulates its Planning Officers for the comprehensive written evidence submitted to the House of Commons Communities and Local Government Committee on guidance for local authorities taking planning decisions on fracking applications.

Summarising this written evidence, the authority highlighted the need for involvement in such applications throughout the various stages of the decision making process. This authority's response also emphasised:

'The need to include both local professional and specialist input, as well as opportunities for elected members to represent their communities. The views of local people must be given the same level of consideration as is currently the case. It must remain a fair and transparent process and one with which local people feel able to engage'.

In this spirit, the Council respects the rights of Community Liaison Groups which are properly established as a condition of a planning permission to provide an open dialogue between local residents, the County Council as the Minerals Planning Authority and the site operators.

This Council welcomes the opportunity to comment on the two Ministry of Housing, Communities and Local Government consultation documents, 'Permitted development for shale gas exploration' and 'Inclusion of shale gas projects in the Nationally Significant Infrastructure Project regime', and supports the findings of the Housing, Communities and Local Government Committee report on 'Planning guidance on fracking', in particular that:

- 1) No justification or evidence had been provided for why fracking has been singled out to be included in a Nationally Significant Infrastructure Projects regime.
- 2) Mineral Planning Authorities should be free to adapt their Local Plans as they see fit as long as they do not arbitrarily restrict fracking developments. It is essential that Mineral Planning Authorities have the right to put conditions in their Local Plans which can be justified having proper regard to local circumstances.
- 3) It is essential that Mineral Planning Authorities are sufficiently resourced to deal with fracking planning applications.

This council is in general support of the guidance issued by the House of Commons Select Committee, published July 5th 2018. Furthermore, this Council resolves to respond to the current consultation on 'Permitted development for shale gas exploration' and the consultation for 'Inclusion of shale gas production projects in the Nationally Significant Infrastructure Project regime'. We believe that, on balance, the right to determine shale gas exploration applications for Nottinghamshire should remain within our jurisdiction, and we do not support any proposal to grant the status of 'Permitted Development' for shale gas exploration applications."

5. The reference to the rights of Community Liaison Groups was made due to experience in relation to the Misson and Tinker Lane shale gas exploration sites. An interim court injunction originally named the Tinker Lane Community Liaison Group website amongst a list of 'organisations, groups and individuals believed to oppose the Claimants' activity'. This entry was removed from the final injunction. The Tinker Lane CLG was properly established, as a condition of the

planning permission, to provide an open dialogue between local residents, the County Council and IGas as site operators.

6. The amended motion became the substantive motion and was unanimously agreed by Full Council.

Summary of changes to response

7. In the light of the debate at Planning and Licensing Committee on 18th September and the motion passed at Full Council on 20th September the following changes to the final response have been made;
 - All references to the “views of officers” has now been changed to the “views of Nottinghamshire County Council”.
 - The text has been updated to reflect Full Council’s view of the benefits of local decision making and local accountability.
 - The response has been amended to reflect Full Council’s view “that there is no justification for singling out fracking to be included in the ‘Nationally Significant Infrastructure Project’ regime.
 - In terms of financial considerations, the following wording has been added “It is essential, more than ever, that Minerals Planning Authorities are sufficiently resourced to deal with shale gas planning applications”
 - All proposed new text is shown in bold text and all wording now considered to have been superseded is shown as crossed out.

Statutory and Policy Implications

8. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below.

Human Rights Implications

9. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

RECOMMENDATIONS

It is recommended that Members approve the detailed response as set out in the appendix to this report as the formal comments of the County Council to the Government departments on their two consultation papers.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 26/9/2018]

Planning & Licensing Committee is the appropriate body to consider the contents of this report

Comments of the Service Director – Finance [RWK 26/09/2018]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Divisions and Members Affected

All

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For any enquiries about this report, please contact the report author.