

**NOTTINGHAMSHIRE COUNTY COUNCIL**

**MINERALS LOCAL PLAN**

**EXAMINATION HEARINGS 28<sup>th</sup> APRIL 2020 (NOW DELAYED)**

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**HEARING STATEMENT ON BEHALF OF FRIENDS OF THE EARTH**  
**MAIN MATTER 3: MINERALS PROVISION POLICIES**

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**Appearances**

Yes

**Introduction**

1. Friends of the Earth England, Wales and Northern Ireland has previously made written representations to the wider strategic objectives, strategic policies and hydrocarbons policies of the draft plan (re 10<sup>th</sup> Jan 2018 and 11<sup>th</sup> Oct 2019). **It has however come to our attention that our latest representations submitted to the Reg. 19 consultation were not registered by Notts CC or seen by the Inspector. We have been informed by the Programme Officer that this is due to an administrative error on the part of Nottinghamshire CC, which has now been partly remedied, but await confirmation of the final outcome. Given the nature and substantive concerns we raised in our representations duly made which the county council failed to register, the inspector may wish to consider whether the MIQs need to be revised. We would draw your attention to the approach of other inspectors in recent Minerals and Local Plan Examinations (e.g. East Riding Minerals Plan and Northumberland Local Plan) where climate change points were raised as relevant matters in the MIQs.** This Hearing Statement should be read alongside these two sets of representations and the separate hearing statement for MM3 (MIQ40).
2. This Hearing Statement addresses the Inspector's Matters, Issues and Question ("MIQ") 40 and also provides some additional commentary on Policy MP12 (re implied flexibility provided by the inspector in the PO's email<sup>1</sup>).

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<sup>1</sup> Email dated 8/4/20 – *"He responded to say he didn't really mind and would be flexible"*.

**MIQ40. Please comment on any implications for Policy MP12 arising from the judgement that quashes paragraph 209(a) of the Framework.**

3. This statement refers to separate appendices which show both our final policy amendments and justify our arguments for such policy changes. These include:
- **Appendix 1:** Final proposed policy changes
  - **Appendix 2:** Cumbria Minerals and Waste Plan
  - **Appendix 3:** Lancashire Minerals Plan (IR)
  - **Appendix 4:** North Yorkshire Minerals and Waste JP Main Mods and 4a) 500m buffer letter
  - **Appendix 5:** East Riding and Kingston Upon Hull Minerals Plan Inspector’s Report and 5a) Main modifications
  - **Appendix 6:** Statement of Common Ground between Friends of the Earth and Northumberland CC
  - **Appendix 7:** Letter regarding Talk Fracking Judgement and deletion of para 209(a)

## **RESPONSE TO MIQ**

**MIQ40. Please comment on any implications for Policy MP12 arising from the judgement that quashes paragraph 209(a) of the Framework.**

4. In response to the above, **Appendix 7** includes a copy of a letter we sent to the Notts CC planning policy team on 12<sup>th</sup> June 2019 (which we also sent to all minerals planning authorities in England). It details possible implications for local plan making as a result of the Talk Fracking judgement.
5. While the letter we refer to above was less specific regarding Policy MP12, we note that despite raising the implications of the Judgement last year, the publication version of the plan failed to include a revised approach to oil and gas policy MP12, citing there was *“no justifiable reason in planning policy terms to separate shale gas from other hydrocarbon development.” (para 4.108)*. Friends of the Earth finds it difficult to understand that despite the deletion of para 209a - the result of which the NPPF no longer provides in-principle support for unconventional hydrocarbons nor states any requirement to *“put in place policies that facilitate their exploration and extraction”* - no substantive change was deemed necessary to the policy wording to account for this significant change in national policy.

6. The policy and justification should reflect the diminished weight attributable to planning for fracking exploration/production, a position that is surely reinforced given the government's overall policy stance towards fracking has changed significantly (re the current moratorium).

### **Seismicity**

7. Our previous October submission detailed the very specific impacts of hydraulic fracturing, compared to conventional hydrocarbon extraction, as supported by evidence (see previous reps). **Appendices 2,4, and 5** also detail alternative approaches taken by other minerals planning authorities to oil and gas policies, with North Yorkshire, East Riding and Cumbria and for example, including separate conventional and unconventional policies based on unknown risks of hydraulic fracturing – including induced seismicity.
8. The lumping together of conventional and unconventional drilling and extraction in policy MP12 however assumes no such difference in likely risks or subsequent impacts since the draft policy was first drafted. We would highlight the obvious risk of induced seismicity that was unfortunately realised last August at the Preston New Road Fracking site in Lancashire; when a 2.9ML event<sup>2</sup> led to the Government's moratorium on high volume fracking which remains in force.
9. The application of the moratorium is a pertinent example of the precautionary principle being engaged correctly, following realisation that scientific evidence at the time of the applicant's submission was unable to predict with any certainty earthquake activity that might result from hydraulic fracturing.<sup>3</sup> How this point on induced seismicity, as well as other likely impacts can continue to be ignored in the draft policy wording is hard to understand – especially when other authorities – such as North and East Yorkshire – have taken much more evidence based and precautionary approaches – while maintaining positively worded policies.

### **Proposed 500m buffer**

10. To save repetition, we refer to our previous representations as to our principal concerns on specific planning impacts of hydraulic fracturing. These link to noise; landscape and visual

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<sup>2</sup> See our October representations - pgs 7,12, 13, 14, 16

<sup>3</sup> The BEIS website states: "*it is not currently possible to accurately predict the probability or magnitude of earthquakes linked to fracking operations*". <https://www.gov.uk/government/news/government-ends-support-for-fracking>

impacts; highway capacity/safety; air quality; disturbance<sup>4</sup> seismicity and other impacts linked to 24-hour drilling and operation of sizeable industrial forms of development in the countryside (see submission dated 11<sup>th</sup> October 2019). Such detail both contextualises and justifies the overriding need for a 500m surface buffer from sensitive residential receptors in this plan.

11. By way of example of where such an approach has been deemed appropriate, the Inspector examining the North Yorkshire Minerals and Waste Joint Plan recently confirmed that the proposed 500m set-back policy in that plan will now stand, subject to a main modifications consultation and nuanced detail in her final report - see **Appendix 4a**. The Inspector's reasoning directly relates to the above judgement and further justifies the imposition of a 500m buffer in **this** plan:

*'I have considered all the representations concerning the Stephenson judgement and the quashing of NPPF 209a. Due to the uncertainties arising from the scientific evidence, particularly over methane emissions from hydraulic fracturing, and the consequential uncertainties over the potential impact this could have on air quality in the vicinity of nearby receptors, I am content that the retention of the 500m buffer zone in the Plan is sound.*

12. Our suggested final amends to draft policy MP12 (**Appendix 1**) reflect these above points.

### **Cumulative Climate Change**

13. We consider policy MP12 should incorporate more specific requirements to take account of cumulative impacts, including climate change (as suggested in our other hearing statement on MIQ40). We consider the primary cumulative impacts from hydraulic fracturing to be:

- Greenhouse gas emissions (emissions arising from burning to hydrocarbons as well as fugitive methane emissions);
- Highway safety and capacity (construction traffic as well as gas and waste vehicles);
- Landscape and visual (perceptual visual impacts of the rigs, compounds, security fencing and 24-hour lighting, as well as actual physical landscape impacts linked to possible loss of tree cover, field systems and other key physical features);

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<sup>4</sup> Linked to protected species linked to the [Conservation of Habitats and Species Regulations 2017](#)

- Air quality (methane, NO2 from diesel generator emissions powering lights, pumps, rigs etc.);
- Groundwater and soil quality.

13. Our view is that this non-exhaustive list of potential cumulative effects should be included to render the NMP sound; especially as other types of development, such as renewable energy proposals, are required to demonstrate compliance against stringent cumulative tests (eg landscape and visual impact). The need to consider cumulative effects is also required during EIA screening more generally for Schedule 2 developments, which hydraulic fracturing schemes can be considered in certain instances (re Schedule 2).

14. Our suggested amendments to MP12 in this regard are at **Appendix 1**.

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## **APPENDICES**

### **Appendix 1 – Proposed Friends of the Earth Policy Changes (Final)**

Attached separately

### **Appendix 2 – Cumbria Minerals and Waste Plan – Inspector’s Report extract – Policy DC 13**

Attached separately

### **Appendix 3 – Policy DM2 of the Lancashire Minerals and Waste Local Plan**

Attached separately

### **Appendix 4 – North Yorkshire Minerals and Waste Joint Plan – Extract from Schedule of Draft Main Modifications – (10 April 2018); and**

#### **Appendix 4a) - Inspector’s update letter (October 2019)**

Attached separately

### **Appendix 5 – East Riding and Kinston Upon Hull Joint Minerals Plan – Inspector’s Report**

#### **Appendix 5a) Main modifications**

Attached separately

### **Appendix 6 – Joint Statement of Common Ground – FoE and Northumberland CC – Feb 2020**

Attached separately

### **Appendix 7 - Letter regarding Talk Fracking Judgement and deletion of para 209(a)**

Attached separately