

Council

17 July 2014

Report of the Cabinet Member for Environment, Planning & Sustainability.

Petition: Frack-Free York

Purpose of the Report

1. The purpose of this report is to inform members of the receipt of a petition with over 1,000 signatures submitted to the Council, entitled as above. The report describes the petition and the background to its submission.

Background

2. The petition, submitted by John Cossham of 'Frack-Free York' states:-

"We the undersigned are completely against the exploitation of any 'unconventional gas' in the York area. We ask the City of York Council to not permit any hydraulic fracturing (fracking) or coal seam gas extraction from within or underneath the York area.

We oppose these technologies on several grounds. Locally, we fear for aquifer contamination and other pollution, thousands of extra lorry movements and the industrialisation of the countryside and agricultural land. The process has been known to cause earth tremors and we believe these could endanger York's unique architectural heritage.

Nationally, we do not believe that this industry will bring meaningful long term employment or bring down energy prices. We don't believe the financial benefits promised by the government are worth the disruption and pollution. Looking at the bigger picture, we believe that if this country exploits fossil gas to generate power, that this will increase greenhouse gas emissions. This will mean that the UK will miss its Climate Change Act 2008 obligations of reducing greenhouse gases by 80% by 2050 based on a 1990 base-line, and that future generations will be condemned to unpredictable climate chaos.

We believe that York and the UK should reduce energy use and switch to clean energy, not further fossil energy. We ask City of York Council to incorporate this into the Local Plan and all planning and development decisions, to state publically its opposition to this industry, and to work with neighbouring authorities towards a clean energy future based on renewables.”

What is Fracking?

3. Fracking is a process used to collect shale gas. This process requires horizontal drilling deep into the earth in order to allow the injection of highly pressurized fluids, normally water, into narrow fractures of rock to force them open and allow shale gas to rise to the surface of a wellbore to be extracted.
4. In the United Kingdom, as in other countries—and in particular the United States, where the industry is most advanced and widespread hydraulic fracturing, or fracking, has generated a large amount of controversy.
5. The European Union has issued an approval for fracking under certain conditions from January 2014. It recognises that it can be an economic boost but there is a need to not repeat the pollution incidents that have occurred in the USA.

Fracking in the UK

6. The process was suspended in the UK between June 2011 and April 2012 after triggering minor earthquakes, but a report into the incidents concluded that earthquake risk was minimal, and recommended the process be given nationwide clearance.
7. The government claims that this industry could bring around 74,000 jobs to Britain as well as reducing energy bills. The Chancellor also announced tax breaks in the 2013 budget to encourage the extraction of shale gas in the UK.
8. The 2013 Energy and Climate Change Committee enquiry found that it was “too early to say whether domestic production of shale gas could result in cheaper gas prices in the UK”, and that it would be wrong to assume that prices would come down as a result of domestic or foreign shale gas.

9. Fracking is currently only at the exploratory phase in the UK. Most of the areas with large deposits of shale gas correlate with the location of traditional coal fields in the UK, including Yorkshire. The only current UK sites are in Lancashire, Cheshire, Kent, Scotland, South Wales, Lincolnshire and East Sussex.
10. Drilling companies are keen to manage the public perceptions of fracking. In 2013 it was announced that companies will give £100,000 to each community situated near exploratory sites, and a further 1% of the revenue will go back into these communities if gas is subsequently extracted. Companies will bid for licenses to conduct the extraction of gas.

Implications for York

11. The Department for Energy and Climate Change (DECC) have issued drilling licenses to gas companies to perform exploratory work for shale gas in several sites in North and East Yorkshire:
 - Between Easingwold and the western edge of York
 - South-west of Pocklington

National Planning Context

12. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF does not change this statutory status of the development plan. At the heart of the NPPF is a 'presumption in favour of sustainable development' as the golden thread that runs through both plan-making and decision-taking. This guiding principle applies as much to mineral development, including shale gas developments, as it does to other forms of development.
13. The National Planning Policy Framework (NPPF) recognises the importance of minerals development to the economy and the sets the requirements for Local Authorities to plan for an adequate supply of minerals in the future whilst taking into consideration the wider impacts of any development.
14. The NPPF requires planning authorities to assess applications for all minerals developments, including oil and gas developments, so as to ensure that permitted operations do not have unacceptable adverse impacts on the natural or historical environment or on human health, including from noise, dust, visual intrusion, or migration of contamination

from the site. In doing so, they should take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality.

15. The National Planning Policy Framework makes it clear that the phases of development - exploration, appraisal and production - of on-shore oil and gas extraction (including unconventional sources such as shale gas) should be clearly distinguished. Planning applications for each stage are subject to consultation with the local community and with relevant statutory consultation bodies such as the Environmental Regulator before the mineral planning authority/local planning authority takes a decision. Furthermore the applicant is required to provide sufficient information that is relevant, necessary and material to the proposed development.
16. In July 2013 the Government issued Planning Practice Guidance for Onshore Oil and Gas. This guidance provides additional advice on the planning issues associated with the three phases of extraction of hydrocarbons and must be read alongside other planning guidance and the National Planning Policy Framework. The guidance encourages mineral planning authorities to make appropriate provision for hydrocarbons in local minerals plans. This approach is intended to allow minerals planning authorities to highlight areas where proposals for hydrocarbon extraction may come forward, as well as managing potentially conflicting objectives for use of land.
17. Neither the NPPF nor the Practice Guidance indicates that mineral planning authorities should have a general presumption against shale gas exploration, appraisal or production. Indeed the emphasis is very much on the need for further exploration in order to help assess the contribution that shale gas production can make to the UK's overall energy resources. The expectation is that mineral planning authorities will include a criteria based policy in their mineral local plans to cover any specific local issues that need to be addressed in the plan area.

City of York Planning Context

18. City of York Council has a statutory responsibility to address waste and minerals matters arising in the area. Given the many cross-boundary issues and the requirement to embrace Localism and the Duty to Cooperate, the Council has decided to produce a Joint Minerals and Waste Plan with North Yorkshire County Council and the North York Moors National Park Authority.

19. An Issues and Options document was released for an 8 week public consultation in February-April 2014. This document consulted on all reasonable alternatives in relation to Minerals and Waste within the plan area and consequently it sets out options for extraction, processing, transportation and development control policies, including: landscape, biodiversity, the historic environment, water environment and sustainable design and construction. At the Issues and Options stage, all reasonable policy options must remain open in order to ensure a wide debate.
20. The Issues and Options document sets out all options in relation to oil and gas development (from page 92), including all gas extraction methods, such as Shale Gas or 'fracking'. These options represent all reasonable alternatives for consideration within the joint plan area but do not set policy at this stage. Once a single option is adopted, which is supported by additional policies in the plan; this will form the policy which future applications to be assessed against.
21. Shale Gas or 'Fracking' is addressed in the draft Plan and was discussed at the Local Plan Working Group meeting (13th January 2014). Given the national policy position, Members recognised the requirement at this stage for a full range of options regarding shale gas within the Planning Framework. This will allow for the public to make representations after viewing all the potential options available.
22. The options presented in the Issues and Options document for consultation cover:
 - a support in principle for the development of coal bed methane, underground coal gasification and shale gas resources;
 - a support in principle but only allowing consideration of this type of development away from sensitive areas including built up areas, areas of historic importance and areas of importance for nature conservation; and
 - a non-supportive option due to the uncertain nature of the impacts and risks involved within the Plan area.
23. The Joint Plan has also been subject to a full sustainability appraisal against a sustainability framework covering environmental, social and economic objectives. As part of this the lifecycle of Minerals and Waste Development was considered and set out in Volume 1 of the SA report. An extract of the lifecycle for gas developments is attached for information.

24. The Joint Plan Issues and Options document is available to download at www.northyorks.gov.uk/mwconsult
25. The Preferred Options stage of the Joint Plan will be consulted on in the winter, followed by publication, submission and adoption by the end of 2015.

Legal Issues

26. The law contains a “presumption in favour” of sustainable development. Development which accords with the development plan is expected to be approved without delay, and that where the development plan is “absent, silent or relevant policies are out-of-date”, there is a presumption in favour of granting planning permission unless the adverse impacts of doing so would “significantly and demonstrably outweigh the benefits” when assessed against the NPPF’s policies. An appropriate development plan therefore provides greater opportunities for managing unacceptable development.
27. The NPPF requires Councils to plan for mineral extraction including unconventional hydrocarbons. In doing so, they must understand the extent of the potential resource, and take account of the opportunities for its use.
28. Fracking (as with other mineral extraction) should be subject to detailed environmental criteria, which will be set out in the Joint Minerals and Waste Plan. Technical Guidance produced by CLG provides further advice on this. If the Joint Plan does not contain this detail then individual applications will be assessed only against national framework.
29. Development plans which do not deal with fracking or simply seek to restrain it will at best be accorded little weight by the Secretary of State on appeal leaving applications to be judged purely against the general policies of the NPPF.
30. A new development plan being presented to the Secretary of State for independent examination is unlikely to be passed if it does not adequately deal with these matters

Options

22. This is primarily an information report at this stage, requiring no decision from Council.

Council Plan

23. The petition is relevant to the following priorities from the Council Plan:
- Create jobs and grow the economy
 - Get York moving
 - Build strong communities
 - Protect the environment

Implications

24. The following implications have been assessed.
- **Financial** – Not applicable at this stage as this is a report for information.
 - **Human Resources (HR)** – No implications identified from this information report
 - **Equalities** – No implications
 - **Legal** – No implications
 - **Crime and Disorder** - None
 - **Information Technology (IT)** - None
 - **Property** - None
 - **Other** – None

Risk Management

25. In compliance with the Council's risk management strategy, no risks are identified arising from the report for information.

Recommendations

26. This is primarily a briefing report at this stage, requiring no decision from Council.

Contact Details

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Report
Approved



Date 08/07/14

Specialist Implications Officer(s) : N/A

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers: None