

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF PLANNING & REGENERATION	PLANNING COMMITTEE	7 MARCH 2018	4

HOUSE OF COMMONS SELECT COMMITTEE CONSULTATION

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Housing, Communities and Local Government (HCLG) Select Committee is to examine whether guidance for local authorities taking planning decisions on fracking applications needs to be updated or improved.

The inquiry on the planning guidance for hydraulic fracturing or shale gas extraction will also focus on whether there needs to be a comprehensive document bringing all existing guidance together, for all those involved in the planning process.

The Select Committee will also consider whether applications for fracking should be determined by the national planning regime rather than at a local level.

In order to assist in their inquiry, the Select Committee has invited written submissions on a number of specific questions.

RECOMMENDATIONS

That Fylde Council responds to the House of Commons Select Committee in order to advise that:

1. The current planning guidance needs to be updated in order to reflect best practice emanating from experience gained from the onshore exploration and extraction of unconventional shale gas.
2. That specific guidance relating to unconventional hydrocarbons is maintained as a comprehensive document that is capable of regular updates, similar to the current online guidance and which explains the relationships and interactions between planning and other consents that control the process.
3. That there is merit in considering applications for fracking as national infrastructure projects under the Planning Act 2008.

SUMMARY OF PREVIOUS DECISIONS

None

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	
Working with all partners (Vibrant Economy)	√
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

REPORT

Introduction

1. The HCLG Select Committee is to examine whether guidance for local authorities taking planning decisions on fracking applications needs to be updated or improved. The inquiry will also focus on whether there needs to be a comprehensive document bringing all existing guidance together, for all those involved in the planning process. The Committee will also consider whether applications for fracking should be determined by the national planning regime rather than at a local level.
2. In order to assist in their inquiry, the Select Committee is inviting written submissions on the following questions:
 - Is there the need to update and improve the guidance available?
 - Is there the need for a comprehensive document incorporating existing and updated guidance?
 - What is the status – in planning terms – of the extant Government guidance?
 - Should applications for fracking be dealt with as national infrastructure under the 2008 Planning Act?

Guidance

3. Current Central Government Guidance on planning for mineral extraction in respect of plan making and consideration of planning applications, including specific guidance in regard to process is available on the Government website at: <https://www.gov.uk/guidance/minerals>
4. The current government guidance covers both conventional and unconventional hydrocarbons. Conventional hydrocarbons are oil and gas where the reservoir is sandstone or limestone. Unconventional hydrocarbons refers to oil and gas which comes from sources such as shale or coal seams which act as the reservoirs.
5. Being an online resource, the guidance can be easily updated as best practice evolves. However as the guidance relates to both conventional and unconventional hydrocarbons, it is not always clear as to which parts of the guidance are relevant to unconventional resources. For the sake of clarity, there is an opportunity to split the guidance to provide a single resource relating to unconventional hydrocarbons.
6. The exploration and exploitation of shale gas reserves are covered by a multi consent regime (See appendix A). In addition to obtaining planning permission, a developer must acquire an Exploratory Development Licence and a Well Consent from the Department for Business, Energy and Industrial Strategy (Formerly Department of Energy and Climate Change (DECC) and Environmental Permits from the Environment Agency. The Health and Safety Executive and the district or unitary council's Environmental Protection Team also have a role in overseeing the drilling process. The current multi agency process is often confusing for members of the public when they are seeking assurance that the required licences and consents are in place or when they are questioning potential breaches of the relevant regulations. A single set of guidance that covers planning and other responsibilities (making it clear which requirements relate to the various consents) would make it clear which matters are to be considered by the individual authorities involved.

Decision Process

7. Applications for planning permission relating to on shore hydrocarbons are currently submitted to the Minerals Planning Authority (MPA), which in regard to proposals within Fylde Borough is Lancashire County Council (LCC). On receipt of a planning application, the MPA consult all interested parties, including district councils, to ascertain their views on the proposed development. If planning permission is refused, or granted subject to conditions, the applicant may appeal the MPA's decision. An appeal would normally be considered by the Planning Inspectorate although the Secretary of State for Housing, Communities and Local Government may recover the appeal for his or her own determination.
8. Planning Applications relating to Nationally Significant Infrastructure Projects (NSIP) are considered under a different process. This essentially requires an application for a nationally significant project to be submitted directly to the Planning Inspectorate. Following a public hearing the Planning Inspectorate would report to the Secretary of State (SoS). In the case of proposals relating to Hydrocarbons, this would be likely to be the SoS for Business, Energy and Industrial Strategy. The NSIP application process is set out at appendix B to this report in diagrammatic form. More detailed information, including a short video that explains the NSIP process, is available at: <https://infrastructure.planninginspectorate.gov.uk/application-process/the-process>
9. Some have suggested that, as the ultimate decision would rest with the SoS, the NSIP process is not locally accountable. However, as has been seen from the applications to establish exploration sites within Fylde, the decision on the planning applications under the current process have been made by the SoS following planning appeals. The NSIP process incorporates extensive community engagement from an early stage in the application process and so does not exclude the local community or the involvement of the local authority. Given the complexity of the matters that must be taken into account in the determination of a planning application for the extraction of unconventional hydrocarbons and their potential significance in maintaining the UK energy supply, there would be some merit in the consideration of such planning applications under the NSIP process.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report.
Legal	None
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
HCLG Select Committee – Planning guidance on fracking inquiry	Deadline – 14 March 2018	https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2017/planning-fracking-17-19/

Attached documents

Appendix A – Exploratory Well Application Process

Appendix B – NSIP Application Process