

County Council – 18 October 2013

Agenda Item 12(b) - Notice of Motion by Dr Walsh

Fracking

National Context

National energy policy is that oil and gas make an essential contribution to the country's prosperity and quality of life. They play an important part of the UK's energy mix during the transition to low carbon energy supplies. The National Planning Policy Framework states that mineral extraction should not have unacceptable adverse impact on the natural or historic environment or human health. It goes on to state that there is pressing need to establish whether unconventional hydrocarbons are present and viable for production.

Phases of Extraction

Exploration Phase: Seismic surveys are used to understand the geological structure. Exploratory drilling (possibly including some hydraulic fracturing) is used to determine whether hydrocarbons are present. It is a short-term but intensive activity.

Testing and Appraisal Phase: This phase may involve further drilling to establish whether the deposit can be economically exploited. It is usually a short-term activity.

Production Phase: This involves the long-term production of oil or gas commercially.

Extraction of Conventional and Unconventional Hydrocarbons

Conventional: Oil/gas flows through porous rocks (e.g. limestone, sandstone) into reservoirs under impermeable layers/'cap rock'. Vertical (and possibly horizontal) drilling is used for extraction.

Unconventional: Oil/gas still trapped in impermeable rock (e.g. shale). Different technology (e.g. fracking) required to extract hydrocarbons. Vertical (and possibly horizontal) drilling is used for extraction.

Hydraulic Fracturing ('Fracking')

Liquid is used to open up and/or extend existing narrow fractures or to create new ones. Perforations created in rock and fluid (a mix of water, sand, and possibly chemicals) pumped under high pressure down the borehole through perforations into the rock. Sand props open the fractures allowing gas to flow out more readily.

Local Context

Exploration licences for oil or gas extraction have been granted by the Government since the early 1980s and cover most of the county. Exploration drilling at some sites led to the award of appraisal licences and borehole drilling took place at 14

sites. However, only three sites proved to be potentially productive at that time: Singleton, Storrington, and Lidsey.

There are three permitted production sites in West Sussex: Singleton (active); Lidsey (active); and Storrington (active). There are three permitted exploration sites in West Sussex: Markwells Wood, Forestside (active); Lower Stumble Wood, Balcombe (active); and Broadford Bridge (inactive). There are two proposed exploration sites: Wisborough Green/Kirdford; and Fernhurst.

Fracking took place in the early 1980s at Baxters Copse (nr Graffham). No fracking is currently taking place at the active exploration or production sites. No fracking is proposed at the inactive permitted exploration site or the proposed exploration sites.

Planning Process

The County Council is the mineral planning authority (MPA - other than for the area of the South Downs National Park) and is responsible for determining planning applications for onshore hydrocarbon extraction. Separate planning permissions are required for the exploration, appraisal, and production stages. The County Council has to work within the planning system which governs the development and use of land in the public interest.

Every planning application is subject to public consultation in accordance with the County Council's policy and practice. The responses submitted by statutory consultees and by objectors and supporters are fully considered before a decision is made. There can be no pre-determination of a planning application by members of the County Council and every proposal must be treated on its merits. Applications must be determined in accordance with the statutory 'development plan' (i.e. adopted local plans) unless 'material considerations' indicate otherwise; the latter include draft plans, Government guidance, and the views of consultees, landowners, and the public.

The Government has stated that an authority should not consider the national *demand* for onshore hydrocarbon resources but only whether use of land, and the impacts of the proposed development (including on health, the natural environment, and amenity), are acceptable or can be made acceptable (e.g. by attaching conditions to a permission to minimise or mitigate potential adverse impacts). Permitted development is monitored to ensure that it is in 'compliance' with the terms of the conditions attached to the permission. All possible breaches of planning control are investigated and, where necessary, appropriate enforcement action is taken. The planning and other regulatory regimes are separate but complementary (see Non-Planning Issues below).

Community Benefits

Planning legislation includes the essential principle that development should pay for the social and physical infrastructure to support and facilitate a development. Therefore, it is fair to expect developers to contribute to limiting the impact of their own development on the local area. However, any contributions secured through a legal agreement attached to a planning permission must be: necessary; directly related to the proposed development; and fairly and reasonably related in scale and

kind. 'Community benefits', over and above these developer contributions can only be secured through consensual or voluntary arrangements with the developer.

Planning Proposals involving Fracking

Within the planning system, there is no distinction between applications for the extraction of conventional and unconventional resources. Government guidance does not suggest that planning proposals that use fracking should be treated any differently when determining planning applications.

An Environmental Impact Assessment (EIA) is only required if the proposal likely to have significant environmental effects. Even if an EIA is not required, the potential environmental impacts of the proposal will still need to be assessed by the County Council before a planning application is determined.

Even if planning permission is granted that allows fracking to take place for exploration, appraisal or production, it cannot be used unless the applicant secures consent from the Department for Energy and Climate Change (DECC) and environmental permits from the Environment Agency (EA).

Non-Planning Issues

There are a number of matters that lie outside the planning system and which are not the responsibility of the County Council as the minerals planning authority. They include:

- seismic risks (DECC);
- well design, construction, and integrity (Health and Safety Executive);
- mining waste (EA);
- chemical content of fracking fluid (EA);
- flaring or venting of gas (DECC/EA but the County Council considers the noise and visual impacts);
- impact on water resources (EA); and
- disposal of water following fracking (EA).

As the minerals planning authority, the County Council is required to assume that non-planning regimes will operate effectively. Accordingly, in determining planning applications for onshore hydrocarbons, it may not address any emissions, control processes, or health and safety issues that are matters to be addressed under other regulatory regimes.

Sue Hawker

Director of Communities Commissioning