Consultation response form

If you are responding by email or in writing, please reply using this questionnaire pro-forma, which should be read alongside the consultation document. You are able to expand the comments box should you need more space. Required fields are indicated with an asterix (*)

This form should be returned to:

shaleconsultation@communities.gsi.gov.uk

Or posted to:

Planning and Infrastructure Division
Ministry of Housing, Communities and Local Government
2nd floor, South East
Fry Building
2 Marsham Street
LONDON
SW1P 4DF

By 25 October 2018

Your details

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Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?*

Organisational response
If you are responding on behalf of an organisation, please select the option which best describes your organisation.*

| Local authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs) |

If you selected other, please state the type of organisation.

| Local Authority. |

Please provide the name of the organisation (if applicable).

| Doncaster Council |
The definition of non-hydraulic fracturing

Question 1

a) Do you agree with this definition to limit a permitted development right to non-hydraulic fracturing shale gas exploration?

No

b) If No, what definition would be appropriate?

Doncaster Council wants to make it clear that no definition would be appropriate because non-hydraulic exploratory drilling for shale gas should not be considered as Permitted Development under any circumstances and the council opposes the principle of making non-hydraulic fracturing shale gas exploration permitted development.

The council strongly believes that the proposal is a misuse of the permitted development rights which are a tried, tested and widely accepted way to deal with small non-contentious developments. Development of this type and nature is clearly contentious. Making such proposals Permitted Development will bring the whole planning system into disrepute. It will undermine the trust in the existing PD regime whose purpose will be become to allow contentious proposals to bypass due planning processes, public scrutiny and consultation. That is a very dangerous message for the Government to be giving planning authorities and the public. It is also clearly contrary to the Government’s direction of localism and giving local residents more say in where development takes place. Doncaster Council is committed to making planning decisions faster and more transparent. The use of the permitted development rights for this type of development is not appropriate.

Onshore exploration for hydrocarbons involves site construction (and associated drilling) which can have significant (and currently undetermined) impacts on land. The definition only takes account of the boring and testing, with no consideration of the associated and impacts prior to this point. Exploration may also involve additional drilling at multiple sites, where cumulative issues and impacts will require consideration.

Given that exploration for hydrocarbons is such an emotive subject with local communities, they should be allowed to voice an opinion through the ‘normal’ planning process and planning applications should be considered locally by planning authorities, allowing for the consideration of identified issues in relation to construction, location and cumulative impacts and provide for appropriate mitigation, such this be appropriate. It states in your consultation booklet that the right would apply to ‘all onshore oil and gas exploration and / or extraction operations’, however the development requirements to be considered through the planning process are the same or very similar. The council feels that adopting this approach will bring the
permitted development regime in to disrepute.

Question 2

Should non-hydraulic fracturing shale gas exploration development be granted planning permission through a permitted development right?

No. Permitted development rights should only be used on uncontroversial and limited impact applications.

Development not permitted

Question 3

a) Do you agree that a permitted development right for non-hydraulic fracturing shale gas exploration development would not apply to the following?

- Areas of Outstanding Natural Beauty
- National Parks
- The Broads
- World Heritage Sites
- Sites of Special Scientific Interest
- Scheduled Monuments
- Conservation areas
- Sites of archaeological interest
- Safety hazard areas
- Military explosive areas
- Land safeguarded for aviation or defence purposes
- Protected groundwater source areas

Yes; however the wording implies it is therefore appropriate that other areas not in the list are suitable for non-hydraulic fracturing and Doncaster council does not agree that exploration for shale gas should take place outside these areas without prior planning consideration and appropriate consent through the ‘normal’ planning application process. The consultation booklet states ‘The Government remains committed to ensuring that the strongest environmental safeguards are in place’; however there is no consideration in the above list for local impacts on wildlife, biodiversity or people, which is unacceptable. The revised NPPF makes reference to irreplaceable habitats such as ancient woodlands, which by their very nature are difficult to restore and impossible to recreate or replace. Doncaster is proud to have two exceptional lowland raised mires at Hatfield and Thorne, which are not only SSSIs but also have the European SAC and SPA designation. These european designations are not considered above.
b) If No, please indicate why.

Doncaster council believes that no definition would be appropriate. Please see response to question 1B.

c) Are there any other types of land where a permitted development right for non-hydraulic fracturing shale gas exploration development should not apply?

Doncaster council would like to point out that the ‘permitted development regime’ was established so that small uncontroversial developments can progress without the applicant having to apply for full planning permission. As noted earlier Doncaster council strongly opposes the principle of non-hydraulic shale gas exploration development through permitted development.

Development conditions and restrictions

Question 4

What conditions and restrictions would be appropriate for a permitted development right for non-hydraulic shale gas exploration development?

This question makes the presumption that ‘the principle of non-hydraulic exploratory drilling for shale gas on which this consultation is based has already been decided’. Doncaster council does not feel it appropriate to list other conditions and restrictions. Conditions and restrictions relating to hydrocarbon development and associated impacts on the land should remain with the relevant minerals planning authority and considered through the current planning regime. The use of generic conditions and restrictions (as proposed in through the permitted development regime) may not be suitable for differing site impacts in differing localities. Planning officers in adjacent authorities have used a large number of very specific conditions to make the development acceptable in planning terms.

Doncaster council wishes to point out that shale gas exploration is major development with potential to impact on residential amenity and (without appropriate mitigation) cause serious environmental harm including noise pollution, increased HGV traffic, air pollution, water contamination and potential health issues for people living in the vicinity of well pads. Mitigation of these issues should remain with local planning authorities and considered locally using appropriate policy and guidelines.
Prior approval

Question 5

Do you have comments on the potential considerations that a developer should apply to the local planning authority for a determination, before beginning the development?

Again Doncaster council would like state its strong opposition to making exploration for shale gas permitted development. The construction process related to the development of exploratory well sites, with all the accompanying noise, traffic and disruption, is currently classed as major development. The ‘prior approval’ principle through the permitted development process is not a suitable approach for development of this type. The current approach allows for the appropriate detailed consideration of transport and highways impacts, contamination issues, air quality and noise impacts, visual impacts, setting in the landscape, biodiversity, hydrology, ground stability and health impacts and also includes an element of public consultation. Although the permitted development approach says these issues will still be considered there is no consideration of the democratic decision making process which is currently part of the existing planning regime. Also the associated conditions and restrictions could still be very lengthy further highlighting that permitted development is not an appropriate approach.

Time-period for a permitted development right

Question 6

Should a permitted development right for non-hydraulic fracturing shale gas exploration development only apply for 2 years, or be made permanent?

The council is unable to answer this question as it does not know what effect the changes would have or how effective they will be. On that note, temporarily testing the regime would identify issues and effectiveness

Public sector equality duty

Question 7

Do you have any views the potential impact of the matters raised in this consultation on people with protected characteristics as defined in section 149 of the Equalities Act 2010?

NO COMMENT

Written Statement from Doncaster Council
The council is disappointed with the standard and wording of the consultation questions as they are all appear to be quite leading. The principle of the consultation is to establish support for making non-hydraulic exploratory drilling for shale gas permitted development, however there are no opportunities within question 1, 2 or 6 to oppose the principle. For example question 6 does not provide an option for opposing the general principle. The question says… ‘Should a permitted development right for non-hydraulic fracturing shale gas exploration development only apply for 2 years, or be made permanent?’ – It’s not really clear what this relates to. Does it relate to regime being proposed?

The council would like to clarify that neither option is suitable, however a permanent option should definitely not be considered as the impacts and effects of the regime are currently unknown.

Minerals development (including all forms of hydrocarbon extraction) should still remain temporary consents with appropriate mitigation and conditions to address all identified issues. The period of time for which a development is allowed to take place (for minerals) is determined by various factors related to both the development itself and the local considerations of each individual application and should not be limited by a blanket timescale imposed by central government, should this be the case.

Doncaster Council believes the permitted development regime is inappropriate for ‘non-hydraulic fracturing shale gas exploration’. The government clearly states in the consultation that the ‘right would not apply to all onshore oil and gas exploration and/or extraction operations’, however the impacts on the land and surrounding environment are essentially the same.

The Government is proposing to remove one of the key regulatory requirements whereby the Minerals Planning Authority can determine the suitability of a location of wells or well pads and impose relevant conditions to ensure the use of the land is acceptable. The consideration of potentially conflicting land uses should remain with the mineral planning authority. Wells and Well pads are very much required for shale gas exploration; as the non-hydraulic fracturing shale gas exploration involves well pad development, drilling and boring.

Doncaster council does not support of the government’s view that the ‘principle’ of hydrocarbon exploration development should be established nationally and imposed locally as permitted development. Should permitted development be imposed on planning authorities approval considerations (such as transport and highways impact, contamination issues, air quality and noise impacts, visual impacts, proximity of occupied areas, setting in the landscape, and public consultation) will still be required. Identifying a raft of considerations that will be require prior approval as part of the PD process will still require lots of time and input and it is likely that generic
conditions will not be suitable. The prior approval process could still therefore be time-consuming and frustrating, making the new regime an onerous one. Also, as planning authorities are funded through planning fees, should permitted development be allowed to progress there will be no forthcoming fees to cover the resource needed to deal with this area of work, impacting further on planning authority resources.

The National Planning Policy Framework advocates the promotion of healthy and safer communities; however nowhere in this consultation is there any consideration of health impacts or implications on local public health. Doncaster is ranked as the 39th most deprived area in England and the 3rd most deprived area in the Yorkshire and Humber region.

Health inequalities are unjust differences in health outcomes between individuals and groups. They are driven by differences in social and economic conditions that influence people’s behaviours and lifestyle choices, their risk of illness and any actions taken to deal with illness when it occurs. Inequalities in these social determinants of health are not inevitable, and are therefore considered avoidable and unfair. The causes are complex, but are linked to an individual’s social, economic or geographic status. There have been many studies undertaken throughout the UK to investigate the problem of health inequalities over the years. These confirm people who live in more deprived areas have a shorter life expectancy than those who live in less deprived areas. Inequalities exist in a number of areas:

- Socio-economic e.g. income and education
- Lifestyle and health-related behaviours e.g. smoking, diet and physical activity
- Access to services e.g. access to maternity care or screening
- Health outcomes e.g. life expectancy and rates of death or disease

The fracking industry brings with it wider changes at a community level that can have a detrimental impact on the health of a population that already experiences health inequalities. Workers and nearby residents are exposed to continuous noise from drilling, flaring and compressor stations; exposure to noise pollution is linked to cognitive impairment and sleep disturbance. There are also likely impacts on the local community due to the increase in traffic during the construction, drilling, fracking and wastewater disposal stages as well as the impact on the mental health and wellbeing of local residents. It is therefore important to ensure that the broader public health and socio-economic impacts are considered at a local level.

The introduction of fracking as permitted development is likely to take away the requirement for a local comprehensive health impact assessment (HIA) to be completed on individual applications. An HIA provides a framework to assess the adverse and beneficial health effects, include up-to-date evidence (which is currently limited) and incorporate a strong emphasis on local stakeholder participation and community engagement.