UKOOG response to Doncaster consultation: V4

UKOOG is the trade association for the onshore oil and gas industry. We welcome the opportunity to respond to the supplementary question posed by the Inspector. In this capacity, we are submitting a response on behalf of the Petroleum, Exploration and Development license (PEDL) holders that fall within the Plan boundary, IGas Energy PLC, Cuadrilla Resources and INEOS, hereinafter referred to as the PEDL holders.

The question posed by the Inspector pertinent to UKOOG and the PEDL holders is as follows:

**Energy Minerals**

Policy 65 states that applications for the exploration, appraisal and development (including production) of on-shore gas and oil in licenced areas will be determined in accordance with national policy, guidance and relevant policies in the Plan. Petroleum exploration and development licence areas and hydrocarbon sites are identified on the Policies Map.

Q15. 9. Is policy 65 consistent with national policy, and will it be effective in planning positively for on-shore oil and gas exploration and extraction?

**UKOOG summary position on Q15**

As part of our original submission we provided evidence of what is required as part of national policy, what is not within the remit of local planning and some minor comments on the proposed modifications on the Plan.

We provide evidence to the Inspector to support our previous comments and suggest some minor amendments. In coming to this conclusion, we have made reference to not just policy 65 but to the whole of the relevant parts of the local plan (“the Plan”).

In addition, we anticipate there may be some respondents who will provide a view on the recent Dove Judgment and the quashing of NPPF 209(a). We do not believe this to now be relevant as it is not part of national policy. However, for completeness we provide evidence to this affect.

1. **Consistency with National Policy**

The table below identifies the policies of the National Planning Policy Framework (NPPF) considered to be most relevant, provides comments where the Plan is considered to accord with the NPPF and suggests where minor amendments are required to ensure the Plan accords with the NPPF and is sound:

<table>
<thead>
<tr>
<th>National Policy</th>
<th>Comments</th>
<th>Suggested amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPPF 203 states ‘It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation”</td>
<td>Paragraph 14.33 of the Plan states “Minerals, such as sand and gravel, limestone and clay are essential to meeting society’s needs for economic growth and development. Others, such as gas and oil, are important in helping meet our needs for energy. Planning for minerals have a number of specialist characteristics not</td>
<td>None Required</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>NPPF 204(a) provides that planning policies should provide for the extraction of mineral resources of local and national importance. “Mineral resources of local and national importance” are defined as minerals which are necessary to meet society’s needs, including oil and gas (including conventional and unconventional hydrocarbons)</th>
<th>In addition to policy 65, policies 62, 63 and 64 cover these matters.</th>
<th>None required</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPPF 205 provides that, when determining planning applications, ‘great weight should be given to the benefits of mineral extraction, including to the economy’</td>
<td>This again is outlined as part of the overall Plan including policies 62, 63, 64 and 65.</td>
<td>None required</td>
</tr>
</tbody>
</table>
| NPPF 209b requires local authorities when planning for on-shore oil and gas development to ‘clearly distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for’; | While site restoration is covered in policy 64 there is no specific demarcation of the three phases as set out in 209b.  
It is considered the Plan would be enhanced by including these or reference made directly to the planning practice guidance notes or to other Plan policies.  
There are many examples of local plans which include policies relating to hydrocarbons that have been examined and subsequently adopted where common controls and mitigations across the three phases have been included. Previous representations made by the industry suggested a similar approach would ensure the Plan complied with national policy and would be sound. For the purposes of this Plan: | 1. Make direct reference to the phases and how they interact with parts of the plan as indicated in the comments column.  
2. Make comment on cumulative impact to the extent that the cumulative impact on local communities and the environment with existing or proposed development of a similar kind in the same or adjoining areas is considered acceptable. |
1. Odour, dust or particle emissions – these are referenced in policy 63 footnote 30.

2. Noise - these are referenced in policy 63 footnote 30, policy 55 pollution and in appendix 11 of the plan.

3. Lighting - these are referenced in policy 63 footnote 30 and in policy 55 pollution.

4. Traffic - these are referenced in policy 63 footnote 30 and policy 14.

5. The cumulative impact.

6. Air Quality – many of these aspects are covered by the Environmental permit governed by the Environment Agency, but are also covered in policy 63 footnote 30 and policy 55.

7. Landscaping - these are referenced in policy 63 footnote 30 and in policy 34 landscape.

In addition, the production phase as it will be for a longer period of time will need to take into consideration transport of the hydrocarbon either by pipeline or by road.
Government Support for these NPPF paragraphs were reiterated in the Written Ministerial Statement of 23 May 2019 by the Secretary of State for MHCLG (SoS). It was also confirmed that the Written Ministerial Statements of 16th September 2015 on ‘Shale Gas and Oil Policy’¹ and 17th May 2018 on ‘Planning and Energy Policy’² also remain unchanged and extant.

2. Other Regulators

The oil and gas industry is heavily regulated and requires a range of licences, permits and consents from the Oil and Gas Authority (OGA), the Health and Safety Executive (HSE), the Environment Agency (EA), and the Mineral Planning Authority (MPA). In relation to the role of the MPA, the National Planning Policy Framework (NPPF) (2019) says that the focus should be on whether the proposed development is an acceptable use of the land, rather than the control of processes or emissions where these are subject to separate pollution control regimes. Planning decisions should assume that these regimes will operate effectively (NPPF 183).

In our view it would be beneficial to expand the explanation text in 14.73 of the Plan to set out the role of the other regulators or reference made to the appropriate planning practice guidance, such that there is clarity on the issues that each regulator addresses outside of the planning system. This would ensure that any confusion over the role of the other regulators is avoided.

Paragraph 183 of the National Planning Policy Framework June 2019 and Paragraph 112 ID: 27-120-20140306 of the Planning Policy Guidance (Minerals), are very clear about the different roles that MPAs and regulatory bodies have and that MPAs should assume that those regulatory regimes will operate effectively.

UKOOG wish to draw attention to the Planning Inspector’s decision for the Wressle oil development (Appendix 5) and specifically to part of paragraph 27:

‘I am entitled to assume that other regulatory regimes will operate effectively and that it is not necessary for me to carry out my own assessment because I can rely on the assessment of the other regulatory bodies. There is no evidence that other regimes are incapable of operating effectively and adequately regulating the development.’

3. Impact of quashing of NPPF 209a

The recent Dove judgement³ opined on the lawfulness of the consultation process that the MHCLG carried out ahead of the decision by the SoS to adopt the revised NPPF with the exclusion of paragraph 209a). The ruling concluded that scientific evidence (the Mobbs Report) challenging the role that onshore shale gas would play in assisting the UK to transition to a low carbon economy by 2050 had not been taken into account. As a result of that oversight the consultation process was found to be


² [https://questions-statements.parliament.uk/written-statements/detail/2018-05-17/HCWS690](https://questions-statements.parliament.uk/written-statements/detail/2018-05-17/HCWS690)
unlawful. Paragraph 209a, which advised that decision-makers should attach significant weight to that role when preparing development plans and determining individual planning applications was struck out. Following the decision, the Government elected to simply remove paragraph 209a from the revised NPPF.

The Court was not required to opine, and did not opine, on the relative merits of the scientific evidence. A review carried out by UKOOG of the Mobbs Report, however, has revealed significant flaws in its author’s interpretation and application of baseline empirical evidence that render its conclusions invalid. Until such time, therefore, as the validity of the competing scientific evidence is re-visited (presumably) in the context of the next review of the NPPF, the question of whether or not the production of onshore oil and gas would facilitate the transition process and in doing so assist the UK in meeting its new statutory “net zero” climate change commitment remains undetermined in planning terms.

What remains clear, however, as evidenced by the terms of the most recent WMS issued on 23 May 2019 is that the UK Government remains committed to “the safe and sustainable exploration and development of [the country’s] onshore shale gas resources.” This together with the provisions of paragraph 209b of the revised NPPF to “plan positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for” makes it clear that the Plan must make provision for onshore petroleum development (our emphasis) in a way that is compliant with the requirements of the NPPF.

The response to climate change and in particular the relevance of research and actions required under the Climate Change Act 2008 as amended should be left to central government as is very clearly stated within the Act. There is still a strong and material case for shale gas as the recent WMS (23 May 2019) states “We remain committed to the safe and sustainable exploration and development of our onshore shale gas resources”.

This point is reiterated by the recent recovering by the SoS for MHCLG of the Ellesmere Port and Woodsetts planning appeals for exploration development. The reason for recovering the appeals is common to both: “The reason for this direction is that the appeal involves proposals for exploring and developing shale gas which amount to proposals for development of major importance having more than local significance. The Government has made clear in the WMS of May 2018 that it would consider carefully recovering appeals of this nature.”

UKOOG has reviewed the Mobbs report and concludes it to be an attempt to undermine the analysis and conclusions in the Mackay & Stone report, which the UK Government has used to justify their approach to shale gas, and specifically its role in the transition to a low carbon economy. In summary we believe the Mobbs report is inaccurate and out of date (published February 2017).

The Committee on Climate Change found in its 2016 report "The Compatibility of Onshore Petroleum with Meeting the UK’s Carbon Budgets" that the exploitation of shale gas on a significant scale would not be compatible with UK carbon budgets or the 2050 commitment to reduce emissions by at least [now 100%] unless three tests were satisfied.

In essence these tests are that:

- Well development, production and decommissioning emissions must be strictly limited;
- Gas consumption must remain in line with carbon budgets requirements, and
- Shale gas production emissions must be accommodated within carbon budgets.
The first test is addressed by both the Environment Agency through the issuing of Environmental permits and by the Health and Safety Executive through the Offshore Installations and Wells (Design and Construction Etc) Regulations 1996 (DCR). In addition, the existing Plan through policies require that emissions are strictly reviewed and mitigated (Policy 55).

In terms of the second and third tests, the Committee on Climate Change (CCC) has recommended the UK moves to a net zero target for emissions by 2050. A statutory instrument with respect to the Climate Change Act 2008 changing the target was approved by Parliament on 24 June 2019. However, the detailed response by Government is still awaited.

The CCC forecast that the UK would require 600 TWh (55bcm) of natural gas in 2050. This requirement equates to a 32% reduction in UK gas demand from today. Based on forecasts by the Oil and Gas Authority (OGA) for the UK Continental Shelf (UKCS) natural gas production (i.e. offshore), the UK would therefore be reliant upon imported gas to meet 86% of demand by 2050. Such a level of imports represents a significant increase from today, where 50% of our natural gas is imported.

In their net zero report, the CCC states very clearly that offshoring of emissions is simply not acceptable: ‘The design of the policy framework to reduce UK industry emissions must ensure it does not drive industry overseas, which would not help to reduce global emissions, and be damaging to the UK economy.’

Subsequently, UKOOG has clarified with the Committee on Climate Change that this statement includes the production of fossil fuels. In addition, the Net Zero report and supporting documents identifies a significant and growing production emissions envelope for onshore gas production.

It is now beyond argument that the UK needs a secure long-term supply of natural gas to meet our net zero targets. It should be beyond argument that the UK sources natural gas not only from a diverse supply, but also gas with the lowest emissions footprint – i.e. that being domestically produced onshore and offshore natural gas. Not doing so will ensure that the CCC net zero recommendations are not met.

4. UKOOG comments on main modifications:

Doncaster Council has provided main modifications to the document:


In this section, hydraulic fracturing is defined as ‘The process of opening and/or extending existing narrow fractures or creating new ones (fractures are typically hairline in width) in gas or oil-bearing rock, which allows gas or oil to flow into wellbores to be captured.’

First and foremost there is no need to have a new local plan specific definition for hydraulic fracturing. Instead, the Plan should use the definition provided in section 4a of UK Infrastructure Act:

Section 4A: supplementary provision

(1) “Associated hydraulic fracturing” means hydraulic fracturing of shale or strata encased in shale which—

(a) is carried out in connection with the use of the relevant well to search or bore for or get petroleum, and

(b) involves, or is expected to involve, the injection of—
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(i) more than 1,000 cubic metres of fluid at each stage, or expected stage, of the hydraulic fracturing, or

(ii) more than 10,000 cubic metres of fluid in total.

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