



31 October 2018 Westminster Hall Debate Briefing: Local Involvement in Shale Gas Development (4:30pm)

In a Written Ministerial Statement on 17 May 2018, the Government announced sweeping changes to planning rules, to “support the development of shale gas extraction”¹. These proposals include:

1. **Treating “non-fracking” drilling² as permitted development:** this would remove the current requirement on fracking companies to apply for planning permission when drilling or sampling a well, which is often the first step towards fracking. With 17,820km² kilometres of England covered by oil and gas licenses,³ this could lead to the wide scale industrialisation of the countryside.
2. **The inclusion of shale production projects into the Nationally Significant Infrastructure Projects Regime:** this would mean final planning permission for shale production projects would be taken away from local authorities and given to central Government. This would significantly reduce the input of local views into the decision-making process, a move opposed by a range of organisations, including the Campaign to Protect Rural England⁴ and the Local Government Association⁵.

CPRE and partners ask that the Government withdraw plans to treat non-hydraulic exploratory drilling as permitted development, and ensure local councils and communities retain the final say on applications submitted by fracking companies.

The Numbers

- Over 307,000 people have signed petitions by CPRE, Friends of the Earth, 38 degrees, 350.org and SumofUs opposing the Government’s plans.
- Over 600 councillors of all political stripes have signed the *Let Communities Decide* open letter to Ministers. <https://gofossilfree.org/uk/let-communities-decide-letter/>
- Over 30 councils have passed motions or publicly opposed the proposals.
- In a poll commissioned by CPRE and Friends of the Earth of Conservative Councillors in July, 80% were opposed to the government’s plans⁶.

¹ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-05-17/HCWS690/>

² For the purposes of this briefing, when we say ‘non-fracking drilling’ we mean non-hydraulic fracturing exploration.

³ Our Green and Pleasant Gasfield? Fracking and the English Countryside, page 10
<https://cdn.friendsoftheearth.uk/sites/default/files/downloads/HMW%20REPORT%20FINAL.pdf>

⁴ <https://www.cpre.org.uk/what-we-do/energy-and-waste/fracking/update>

⁵ LGA media statement, May 2018: <https://www.local.gov.uk/about/news/lga-responds-written-ministerial-statement-shale-developments>

⁶ <http://www.cpre.org.uk/media-centre/latest-news-releases/item/4927-polling-shows-conservative-councillors-at-odds-with-government-on-plans-to-fast-track-fracking>

- Fracking is overwhelmingly unpopular with the British public, with the latest BEIS poll showing only 18% support⁷.
- Research by Professor Calvin Jones (Cardiff Business School) reveals that we would need to drill the equivalent of one new well every day for 15 years to replace just half of UK gas imports for 2021-2035 with fracked shale gas. This would mean 6,100 wells scattering the English countryside, requiring around 3,500 hectares of land.⁸
- At the recent All Party Parliamentary Group on the Impact of Shale Gas expert planners gave evidence on how the proposals undermine the democratic planning system and have failed to consider the complexities of practical implementation at a local level.

Why drilling by fracking companies should not be treated as permitted development

A “misuse” of permitted development rights

Permitted development is traditionally a system designed to deal with minor building works, where the impact will be small and uncontroversial, such as putting up sheds, garden fences, extensions and phone kiosks. “Typically, site construction, drilling and site clearance will take between 12 to 25 weeks.”⁹ It is classed as major development, requiring planning and permitting consent.¹⁰ Drilling rigs are intrusive infrastructure, the average rig being 125ft tall.¹¹

The views of local people would be side-lined

Under permitted development, there would only be a requirement for ‘prior approval’, a process that does not consider whether development can happen, but instead only considers specific and limited factors. The local planning system is one of the main routes for the public to express their concerns (or support) for what happens in their area. Local councils should have a meaningful say in whether projects go ahead, where these could result in significant local impacts such as increased traffic, fields and open spaces being converted to drilling sites.

Industrialisation of the English countryside

New research¹² by Professor Calvin Jones at the Cardiff Business School, commissioned by Friends of the Earth, reveals that, in the central scenario, we would need to drill the equivalent of one new well every day for 15 years to replace just half of UK gas imports for 2021-2035 with fracked shale gas. This would mean 6,100 wells scattering the English countryside, requiring around 3,500 hectares of land - equivalent to 4,900 football pitches.

Incompatibility with tackling climate change

Permitted Development for non-fracking drilling would undermine the UK’s climate change commitments by enabling wide scale exploration (leading to extraction) of oil and gas. If we are to avoid dangerous levels of global warming, the majority of proven fossil fuel reserves need to stay in the ground.¹³ In 2016, as Minister

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/702640/Wave_25_Summary_Report.pdf

⁸ https://cdn.friendsoftheearth.uk/sites/default/files/downloads/FOE-Frack-Import-Report_0.pdf

⁹ Guidance on the planning for mineral extraction in plan making and the application process, paragraph 098 <https://www.gov.uk/guidance/minerals>

¹⁰ The Town and Country Planning (Development Management Procedure) (England) Order 2015:

http://www.legislation.gov.uk/ukxi/2015/595/pdfs/ukxi_20150595_en.pdf

¹¹ <http://www.ukoog.org.uk/community/what-it-looks-like>

¹² The Implications of Fracking in UK Gas Import Substitution, Professor Calvin Jones, April 2018:

https://cdn.friendsoftheearth.uk/sites/default/files/downloads/FOE-Frack-Import-Report_0.pdf

¹³ McGlade, C and Ekins, P, 2015. The geographical distribution of fossil fuels unused when limiting global warming. *Nature*, 517 187-190.

<http://www.nature.com/nature/journal/v517/n7533/full/nature14016.html>

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for Climate Change, Nick Hurd MP stated, “between 70-75% of known fossil fuels would have to be left unused in order to have a 50% chance of limiting global temperature rise to below 2°C¹⁴. The latest report from the IPCC underlines the urgency with which climate change must be tackled, arguing the planet has only 12 years to take action to avoid 1.5°C of warming.

How and when would the changes be implemented?

Consultation on the Government’s proposals ran until 25 October 2018. Changes to permitted development could be implemented by statutory instrument through a negative procedure, meaning they are not required to be brought before Parliament for a debate or for a vote. MPs should demand a vote to Let Communities Decide.

Housing, Communities and Local Government Select Committee report: “Planning Guidance on Fracking”, Paragraph 91, July 2018

“Shale gas development of any type should not be classed as a permitted development. Given the contentious nature of fracking, local communities should be able to have a say in whether this type of development takes place, particularly as concerns about the construction, locations and cumulative impact of drill pads are yet to be assuaged by the Government.”

Councillor Judith Blake, Local Government Association’s environment spokesperson, LGA Media Statement, May 2018

“We oppose any proposal for shale exploration to be allowed to bypass the locally democratic planning system through permitted development or national planning inspectors. We are clear that it should be up to local communities to decide whether or not to host fracking operations in their areas.”

Daniel Carey-Dawes, Senior Infrastructure Campaigner at the Campaign to Protect Rural England, Media Statement, May 2018

“Simplifying the shale gas application and exploration process will have disastrous effects for the health and tranquillity of our countryside, landscapes and environment. Our countryside is the breathing space for us all - it must not become an industrial testing ground for a fracking industry that has no environmental, economic or social licence”

Questions for the Minister

Planning and Local Democracy

- When a local planning authority reviews a shale gas application it will often look at very local issues such as specific roads where extra HGV movements are likely to occur or what levels of noise or light pollution would be considered acceptable. How does the Government propose to continue to capture and ameliorate these local concerns if production decisions are taken in Whitehall?

¹⁴ House of Commons Hansard 19th December 2016 <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-12-09/56871>

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- Would the Minister not agree that the major industrialisation, infrastructure and extreme depth drilling inherent to shale gas exploration is entirely inconsistent with a Permitted Development designation whose original intention was to expedite minor home improvements such as garden sheds, fences and conservatories?
- The cross-party Housing, Communities and Local Government Select Committee concluded that, *“Shale gas development of any type should not be classed as a permitted development. Given the contentious nature of fracking, local communities should be able to have a say in whether this type of development takes place”*. Why is the Committee wrong, and why should local communities not have a say?
- Does the Minister believe that the pre-application consultation undertaken by fracking companies is an appropriate substitute for a full local planning process?
- How does the Government square its commitment to localism and democratic planning with the proposals to let Ministers decide on shale production?

Countryside and Environmental Impact

- Has MHCLG carried out any internal analysis or been privy to any analysis on the number of wells likely to be drilled for exploration and production of shale gas?
- If the Government decides to press ahead with these proposals – what safeguards will be put in place to ensure they do not result in incremental industrialisation of the countryside?
- Does the Minister agree that development which requires an environmental impact assessment (EIA) under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 is generally excluded from the scope of Permitted Development (Article 3[10] of the 2015 Order)?
- Will the government commit to conduct a strategic environmental assessment on the potential impacts to the economy, food production and the environment of the countryside, before shale gas production is allowed to take place?
- In light of recent events in Lancashire, should a full seismic assessment now be included in the planning process?

Climate

- Why does the Government feel that shale gas drilling should be singled out for Permitted Development over other proven cheaper, cleaner forms of renewable energy?
- The recent IPCC report on climate change showed that in order to meet the aim of the Paris Agreement to hold global temperature rises to less than 1.5°C the world will have to move faster to decarbonise our economy. How will a future energy supply which includes significant shale gas be compatible with the tighter UK climate change targets, which will be required to move the UK to net zero greenhouse gas emissions before 2050?
- Does the Minister agree that these proposals are incompatible with the UK’s commitment to the Paris Agreement and will potentially encourage more production of plastics, especially single use plastics?
- In late 2017 BEIS released the Gas Security and Supply report, with a strategic analysis on outline energy projections for the coming years. The Government indicated that shale gas is not needed for energy security and did not include it as a contribution to energy production figures for the UK. Could the Minister explain how allowing Permitted Development and NSIP for shale gas will contribute to the

commitments of a low-carbon future for the UK, substituting natural gas with low-carbon gases like biogas and hydrogen as set out in the clean growth strategy?

- Does the minister agree that low carbon energy supplies give the UK better energy security and offer a considerable opportunity for exports compared to fracking?
- The licenses this government has sold do not specify or agree the proportion or price of fracked gas that has to be sold back into the national supply. How will the minister ensure that any gas from fracking in the UK is not sold by the Companies globally to the highest bidder and thereby not guaranteed for domestic use?

On the consultations

- The consultation on 'Permitted Development for shale gas exploration' has been critiqued for being worded in such a way as to produce responses in favour of the government's position. What is the Minister's response to this critique?
- Only one question (Q2) in the consultation on 'Permitted Development for shale gas exploration' asked about the principle of allowing non-hydraulic exploratory drilling for shale gas to be considered as Permitted Development - the stated reason for the consultation. The remainder of questions were based on what restrictions and parameters should be put in place on the assumption that Permitted Development rights were to be granted. Does the Minister not agree that this approach is not a balanced consultation on whether rights should be granted in the first instance?

Meeting

- On 21 May 2018 the Minister of State for BEIS (Claire Perry) held a roundtable with the fracking industry. Is the Minister aware of that meeting, and has he been informed of its purpose and outcome?
- Would the Minister be willing to receive a deputation of local councillors and landowners to hear their concerns over these proposals?