

Ministry of Housing, Communities & Local Government
Planning Infrastructure Division

24 October 2018

Dear CLG,

Thank you for the opportunity to respond to the consultation on permitted development for shale gas exploration.

Regen is an independent, not-for-profit centre of expertise on sustainable energy with 15 years of frontline experience working in the energy sector.

Our response conveys the views of Regen, however as a membership organisation, it has been informed by the 200 business, local authority and community energy members that support our mission to transform the energy system, and by the many hundreds of energy businesses, communities and stakeholders that we work with.

We have extensive experience of guiding the sector through shifts in the energy system over the last decade and influencing change in both the public and private sector. Regen has a long track record of working with the industry, communities and the public sector to help define planning policies that are effective and fair. This includes producing one of the first planning protocols for onshore wind project and for the development of PV, both of which have been adopted by several local authorities.

We are currently working on innovation projects such as researching [the future of planning with the RTPI](#) and in-depth advisory work and energy scenario forecasting for utility companies and public bodies including local, central and devolved governments.

Please find attached Regen's response to the consultation.

Yours faithfully,



Johnny Gowdy
Director, Regen



Ministry of Housing,
Communities &
Local Government

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
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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.*

Interest group, industry representative body, voluntary or charitable organisation

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

[Click here to enter text.](#)

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

Regen

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?

The definition of non-hydraulic fracturing needs to be improved. It is unclear from the definition given in the consultation what exactly would be involved at this stage and therefore the impact it would have. For example, what is meant by a 'section test'? How many section tests would be involved in one phase?

It is also important to distinguish the proposed activities from 'dry fracturing' which is a process in the industry where alternatives to water are used (such as carbon dioxide) to extract gas.

It is concerning that the government are proposing to relax planning rules for exploratory phase fracking without a clear definition of what is involved and therefore the impact it would have.

Question 2

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

No

We do not believe that exploratory phase non-hydraulic fracturing should be classed as permitted development.

1. There is an inherent conflict and contradiction between support for investment in new forms of fossil fuel extraction and the UK's commitment to decarbonisation and clean growth.

The UK is not currently on track to meet targets set in the 4th and 5th carbon budgets, according to the most recent report from the Committee on Climate Change (CCC), with heat being an area of key concern¹.

While gas, along with renewable energy, has been part of the transition away from coal since 2010, further progress to decarbonise the power and heat sectors will now require the UK to significantly reduce its gas dependence. Extracting new fossil fuels is therefore not a logical step for the energy industry and creating a whole new industry around that extraction will be out of step with the evolution of the rest of the sector.

¹2018 progress report to parliament. <https://www.theccc.org.uk/wp-content/uploads/2018/06/CCC-2018-Progress-Report-to-Parliament.pdf>

The CCC has highlighted the uncertainty of the impact of shale gas exploitation on greenhouse gas emissions and would only be compatible with carbon budgets if three specific tests are met, including tightening regulation, keeping gas consumption in line with carbon budgets and offsetting emissions from shale gas in other areas of the economy. To date, neither the government or the fracking industry set out a credible scenario in which these scenarios would be met.

Moreover, it is our strong belief that the government’s apparent support for the fracking industry is sending a conflicting message to its clean growth and decarbonisation strategy. This inconsistency is sending the wrong message to investors, consumers and other energy stakeholders as to the government’s commitment and intention to transition to a low carbon economy.

2. An attempt to reduce planning timescales, stymie public opposition and increase the discretion of central government to approve shale gas production against the wishes of local communities runs against the principles of localism and devolution that the government has otherwise supported.

Local opposition to fracking is high with only 18% of respondents to the BEIS public attitudes survey actively supporting it². Many proposed fracking sites across England have been the focal point for protest while Scotland and Wales have both moved to ban fracking altogether.

The easing of the regulations for exploration, combined with the move to treat the production phase under the national rather than local planning regime, will take the power out of the public’s hands and increase the feeling of disenfranchisement. The government should note the advice from the Parliamentary Committee for Housing, Communities and Local Government whose most recent report did not support any of the suggested planning changes and stated that making such changes *“is likely to exacerbate existing mistrust between local communities and the fracking industry”*³.

Reducing the amount of public involvement in planning decisions on fracking runs counter to the principles of localism, and potentially forces citizen activists to take every more extreme actions to register their protest against fracking. Instead of removing their power to influence decisions, the government should be finding ways to hear these voices and reduce their need to take such drastic steps.

We would also highlight the contrast and contradiction between the way fracking is being supported by government and the policies related to low carbon and cost-effective technologies like onshore wind, which continue to have a high degree of public support.

3. The case that unconventional gas could play a significant part in the UK’s future energy mix, and the infrastructure that would be required to support it, is completely unproven at this time.

Fracking as an industry in the UK is still uncertain and unproven and does not have public support. The level of recoverable resource, cost of energy, environmental and greenhouse gas emission impacts, infrastructure investment and route to market are all unclear and highly contested. The

² BEIS Energy and Climate Change Public Attitudes Survey Wave 25 April 2018
<https://www.gov.uk/government/statistics/energy-and-climate-change-public-attitudes-tracker-wave-25>
³ <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/767/76702.htm>

UK should not be looking to change planning rules at this stage and we oppose the move to include exploratory phase fracking as permitted development.

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

b) If No, please indicate why.

Click here to enter text.

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

Click here to enter text.

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?

We do not agree with the proposal to introduce a permitted development right for non-hydraulic fracturing exploration.

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?

This question illustrates why exploratory phase non-hydraulic fracturing should not be treated as permitted development. The consultation documents states that the prior approval process is limited for the local planning authority, is 'less prescriptive' than other planning applications and 'a light touch process'.

Given that the definition of non-hydraulic exploratory phase fracturing is unclear in this consultation document, it is difficult to assess the impacts that should be considered as part of the planning process. Currently there are a number of impacts that need to be considered under the full planning regime, not least the increase in carbon emissions that will occur with the set-up of an exploratory site and are likely to increase as more sites are set up under a lighter touch planning regime. The government should be clear about the extent to which prior approval considers issues such as carbon emissions, contamination, noise etc. If they are to be considered the same extent as under the current regime, then it makes little sense to make the changes proposed. If they are not considered to the same extent, what safeguards exist to prevent the negative effects of such impacts?

The parliamentary committee for Housing, Communities and Local Government have stated in a recent report that "shale gas development of any type should not be classed as a permitted development" citing concerns that local communities will feel further undermined. Whilst prior approval could contain an element of local consultation, this is likely to be less thorough than under the current regime and will increase feelings of disenfranchisement amongst local communities.

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?

Please select an option from this drop down menu

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?

Click here to enter text.