



12 September 2018 Westminster Hall Debate Briefing: Planning Permission for Shale Gas Exploration

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

1. **Treating “non-fracking” drillingⁱⁱ 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,ⁱⁱⁱ 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 for the Protection of Rural England^{iv} and the Local Government Association^v.

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

The Numbers

- Over 250,000 people have signed petitions by CPRE, Friends of the Earth, 38 degrees, 350.org and SumofUs opposing the Government’s plans.
- Nearly 500 councillors of all political stripes have signed the *Let Communities Decide* open letter to Ministers. <https://gofossilfree.org/uk/let-communities-decide-letter/>
- In a poll commissioned by CPRE and Friends of the Earth of Conservative Councillors in July 80% were opposed to the government’s plans^{vi}.
- Fracking is overwhelmingly unpopular with the British public, with the latest BEIS poll showing only 18% support^{vii}.
- 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.

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.^{viii} It is classed as major development, requiring planning and permitting consent.^{ix} Drilling rigs are intrusive infrastructure, the average rig being 125ft tall.^x

The views of local people would be side-lined

Under permitted development, there would only be a requirement for ‘prior approval’, a process which 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 research^{xi} by Professor Calvin Jones at the Cardiff Business School, commissioned by Friends of the Earth, reveals that, in the most likely 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.^{xii} In 2016, as Minister 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°C^{xiii}.”

How and when would the changes be implemented?

The Government’s proposals are subject to consultation, currently live and closing on 25 October. Changes to permitted development would 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.

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?
- 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)?

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?
- Does the Minister agree that these proposals are incompatible with the UK's commitment to the Paris climate agreement and will potentially encourage more production of plastics, especially single use plastics?
- In late 2017 the Department for Business, Energy and Industrial Strategy 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?

Meeting

- On May 21st 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 ^{xiv}their concerns over these proposals?

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

ⁱⁱ For the purposes of this briefing, when we say 'non-fracking drilling' we mean non-hydraulic fracturing exploration.

ⁱⁱⁱ Our Green and Pleasant Gasfield? Fracking and the English Countryside, page 9
<https://cdn.friendsoftheearth.uk/sites/default/files/downloads/HMW%20REPORT%20FINAL.pdf>

^{iv} <https://www.cpre.org.uk/what-we-do/energy-and-waste/fracking/update>

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

^{vi} <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>

^{vii} https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/702640/Wave_25_Summary_Report.pdf

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

^{ix} The Town and Country Planning (Development Management Procedure) (England) Order 2015: http://www.legislation.gov.uk/ukSI/2015/595/pdfs/ukSI_20150595_en.pdf

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

^{xi} 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

^{xii} 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>

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