

[REDACTED]

From: [REDACTED]
Sent: 20 July 2018 07:26
To: Carmel Edwards
Subject: Re: MWJP examination: Consultation on Select Committee on Planning Guidance on fracking Report
Attachments: image003.png

Carmel,

Consultation on Select Committee on Planning Guidance on fracking Report

We refer to your email dated 6th July 2018 setting out the request from the Inspector to provide a brief statement on:-

- “1. whether the Report affects the Plan, and if so how;
2. whether the Plan should be modified and if so how to reflect the Report.”

We are instructed to submit a response on behalf of INEOS.

It is INEOS' view that the Report should not affect the Minerals and Waste Joint Plan (MWJP) and the MWJP should not be altered to reflect the Select Committee Report.

Following the publication of the Select Committee Report the UK Government will now be expected to reply to this Select Committee report within 2 months of the date of its publication. The more important point of reference for the Inspector, therefore, ought to be the response from the Government (possibly through a further Written Ministerial Statement) rather than the report, which is only advisory in its nature. Therefore, it is the UK Government's response to this report that the Joint Plan should be expected to attach weight to rather than to the findings set out in the Select Committee report itself.

Put simply there is little point in making adjustments to the Plan in the light of this Report in circumstances where the UK Government's response to it may ultimately depart significantly from the terms of its recommendations.

Therefore, our response to the Inspector's request is based upon the process that has led to this report and the role of Select Committees within the political process.

Select Committees prepare reports to Parliament on topical issues and advise on the future direction of legislation. Ministers deal with the law as it currently stands. Select Committees are only advisory and it is not certain that their conclusions in full or in part will form part of future Government policy or legislation. The findings of this Select Committee have not even been discussed by Parliament and so very little weight can be given to it at present. Therefore, Written Ministerial Statements (WMS) should take precedence over the findings of the Select Committee.

Our reading of the Select Committee Report is that some of the findings of the Select Committee appear to be at odds with the most recent WMS on Onshore Oil and Gas dated 18th May 2018, which has already

been subject of submissions to this Examination. Given the advisory status of the Select Committee the WMS should take precedence over the Select Committee findings in determining the content of the MWJP.

We have already made a submission to the Examination on the most recent WMS dated 13th June 2018. In that submission we stated that the Minerals Plan should be amended to incorporate the following points, contained within the Written Ministerial Statement of May 2018:

- “1. Shale gas development is of national importance. The Government expects Mineral Planning Authorities to give great weight to the benefits of mineral extraction, including to the economy. This includes shale gas exploration and extraction.
2. Minerals Plans should reflect that minerals resources can only be worked where they are found, and applications must be assessed on a site by site basis and having regard to their context. Plans should not set restrictions or thresholds across their plan area that limit shale development without proper justification.
3. We expect Mineral Planning Authorities to recognise the fact that Parliament has set out in statute the relevant definitions of hydrocarbon, natural gas and associated hydraulic fracturing. In addition, these matters are described in Planning Practice Guidance, which Plans must have due regard to.
4. Consistent with this Planning Practice Guidance, policies should avoid undue sterilisation of mineral resources (including shale gas)”

There are a number of areas highlighted by the Report which the INEOS has some sympathy with, in part, funding of local authorities and the need to have a forum where the general public can access relevant guidance.

However, INEOS does not support the Committee's recommendations opposing Government proposals on permitted development rights and national planning. The report fails to address a main concern of both the industry and local communities, which is the fact that planning applications for even the simplest of wells now take up to 18 months to conclude and that many of the professional planning officer recommendations are ignored. This leaves communities with uncertainty and local taxpayers with a huge bill to foot, and is against the experience of the previous ten years where most applications were decided in less than four months and against a statutory timescale of three months.

On national planning, the Government's recent WMS reiterated its position that 'shale gas development is of national importance'. With gas providing half of British electricity, over 80% of our heating and vital feedstocks to industry, we find it concerning that the Committee would seek restrict the opportunity for homegrown production to replace our rapidly increasing dependency on imported gas and oil

The Report also questions a number of the current definitions within statute but fails to give any land-use planning reason why they should be changed. The Report as a result fails to consider one of the key reasons why there are so many delays in the planning process, which is that many of the issues raised during the review of a planning application are, in fact, the responsibility of other regulators.

Therefore, notwithstanding the current advisory status of the Select Committee Report INEOS' position is that there are a number of flaws in its assessment and that it contradicts the WMS, which should take precedence.

If the MWJP is produced on the basis of the Select Committee findings it will be unsound because it will not be based on current legislation and policy and it does not accord with the most recent WMS.

In conclusion, the Inspector should not take into account the findings of the Select Committee Report because:

1. it is advisory;

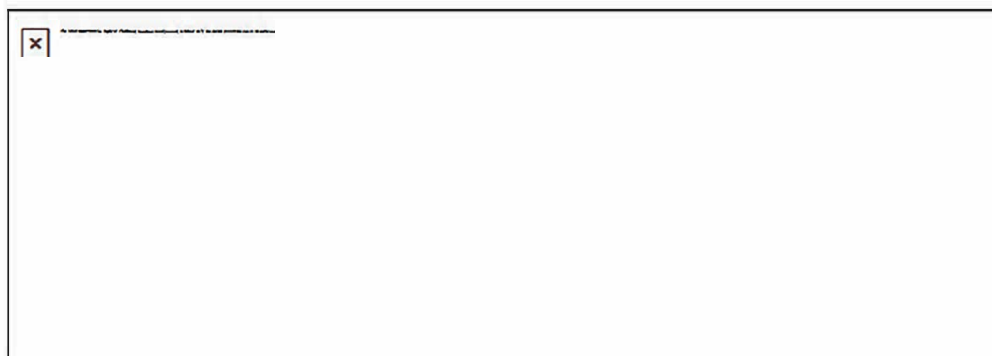
2. it contradicts current legislation and the WMS which clarifies how that legislation should be interpreted;
3. any reliance on the Select Committee findings, which have not been debated by Parliament, would make the Minerals Plan unsound because the Minerals Plan would not be produced in accordance with current legislation or the Ministerial Statements clarifying how that legislation should be interpreted.

For these reasons, the Minerals Plan should not be modified to take account of the Select Committee Report.

Yours sincerely

Philip Neaves
Director
Felsham Planning and Development

1 Westgate Terrace



VAT Registration No 152 7435 14
Company Registration Number SC267721

The information in this e-mail is confidential and may be legally privileged. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorised. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. When addressed to our clients any opinions or advice contained in this e-mail are subject to Felsham Planning and Development terms and conditions of business.

Sent from my iPad

On 6 Jul 2018, at 12:34, Carmel Edwards <Carmel.Edwards@northyorks.gov.uk> wrote:

Dear participant

Consultation on Select Committee on Planning Guidance on fracking— Report

The Select Committee on planning guidance on fracking published its report on 5th July. The Inspector has requested that a consultation on this be undertaken and interested participants are requested to provide a brief statement on

- whether the Report affects the Plan, and if so how;
- whether the Plan should be modified and if so how to reflect the Report.

The Report is attached here but will also be available on the Examination webpage at www.northyorks.gov.uk/examination under Examination Documents as INS/10.

Please can any statements be sent for the attention of the Inspector to carmel.edwards@northyorks.gov.uk or by post c/o Planning Services, North Yorkshire County Council, County Hall, Northallerton, North Yorkshire, DL7 8AH. The deadline for statements is **Friday 20 July 2018**. All statements will be forwarded to the Inspector for her consideration. The planning authorities will also be asked to consider the implications of the Report.

Please don't hesitate to get in touch if you have any queries.

Kind regards

Carmel Edwards

Carmel Edwards
Programme Officer

Access your county council services online 24 hours a day, 7 days a week at www.northyorks.gov.uk.

WARNING

Any opinions or statements expressed in this e-mail are those of the individual and not necessarily those of North Yorkshire County Council.

This e-mail and any files transmitted with it are confidential and solely for the use of the intended recipient. If you receive this in error, please do not disclose any information to anyone, notify the sender at the above address and then destroy all copies.

North Yorkshire County Council's computer systems and communications may be monitored to ensure effective operation of the system and for other lawful purposes. All GCSX traffic may be subject to recording and/or monitoring in accordance with relevant legislation.

Although we have endeavoured to ensure that this e-mail and any attachments are free from any virus we would advise you to take any necessary steps to ensure that they are actually virus free.

If you receive an automatic response stating that the recipient is away from the office and you wish to request information under either the Freedom of Information Act, the Data Protection Act or the Environmental Information Regulations please forward your request by e-mail to the Information Governance Team (infogov@northyorks.gov.uk) who will process your request.

North Yorkshire County Council.

<INS10_Report relating to Planning Guidance on Fracking.pdf>