

6th Floor
65 Gresham Street
London
EC2V 7NQ
info@UKOOG.org.uk

Ms V Perkin,
Minerals and Waste Joint Plan,
Planning Services,
North Yorkshire County Council,
County Hall,
Northallerton,
North Yorkshire, DL7 8AH
mwjointplan@northyorks.gov.uk

Friday 18th May 2018

Dear Ms Perkin,

RE: Joint Minerals and Waste Plan - EIP

I am writing to you in respect of the current Examination in Public (the Hearing) of the North Yorkshire Joint Minerals and Waste Plan, and most particularly matters relating to hydrocarbons and the proposed policy to provide a 500m buffer zone to residential and other sensitive properties.

Elizabeth Ord, the Planning Inspector reviewing the soundness of the Plan indicated at the Hearing on 13th April that the industry and the local authorities should agree wording that allows the industry to develop if it can demonstrate robustly that impacts would be acceptable.

Additionally, the Inspector asked the industry to present further details behind the map presented by UKOOG at the Hearing, which demonstrates the restrictive implications of the proposed 500m buffer zone.

On 25th April, via email to the case officer, we requested a meeting to discuss the wording as required at the Hearing by the Inspector. Our request has not been supported and we have been asked that we express our views and proposed wording in writing.

We are therefore writing specifically on the issue of the proposed 500m buffer zone. We reserve our right to make further comment on other issues that we disagree with, including the definition of hydraulic fracturing and the split between conventional and unconventional oil and gas exploration. The current wording proposed by the Joint Authorities as per the Hearing on 13th April is:

"Hydrocarbon development will be permitted in locations where it would not give rise to unacceptable impact on local communities or public health. Adequate separation distances should be maintained between hydrocarbons development and residential buildings and other sensitive receptors in order to ensure a high level of protection from adverse impacts from noise, light pollution, emissions to air or ground and surface water and induced seismicity, including in line with the requirements of Policy D02. Proposals for surface hydrocarbon development, particularly those

involving hydraulic fracturing, within 500m of residential buildings and other sensitive receptors, will be only permitted where it can be clearly demonstrated in site specific circumstances that a high level protection will be provided ~~are unlikely to be consistent with this requirement and will only be permitted in exceptional circumstances.~~

In addition to the detailed points made in our various previous submissions UKOOG would wish to make the following points which leads us to a proposed revised wording as requested.

1. New Written Ministerial Statement (WMS)

During the completion of this letter a new WMS has been laid before parliament. We think it is important that the joint plan ensures account has been made of the following points in the WMS:

- "This Statement is a material consideration in plan-making and decision-taking".
- "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."
- "Mineral 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".
- "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."
- "Consistent with this Planning Practice Guidance, policies should avoid undue sterilisation of mineral resources (including shale gas)."

As a result of this WMS we believe a number of aspects of the joint plan are not in keeping with this WMS and should therefore be reviewed.

2. Sterilisation of PEDL Licences

As Nathalie Lieven QC explained in her opinion "[t]he effect of the buffer zone policy is to sterilise a very large proportion of the PEDL licence areas in North Yorkshire. In its representations at appendix 9 UKOOG produced a plan of the effect of the residential buffer within the licence areas. This is only illustrative but has not been challenged by any party at the hearing. It is clear from this plan that if the 500m policy is upheld there will only be a very small proportion of the licence area where extraction will be possible. The effect of the policy is therefore wholly inconsistent with national policy. It is notable that the Council have not sought to refute the impact of the policy."

As requested by the Inspector, we have now developed a more detailed, interactive model demonstrating the impact the imposition of a 500m buffer zone policy would have in reducing the extent of the licensed area available for site selection. The model confirms that Ms Lieven QC's

advice in her opinion letter is correct. Over 70 % of the PEDL areas covered by the Plan would be affected by this buffer constraint.

We are of the view that such an exercise should have been carried out by the Joint Authorities in the first place to provide evidence and justification for their proposed policy in accordance with guidelines for the preparation of local plans

The position is potentially a lot worse because it is inevitable that parts of the areas that are shown to lie more than 500m from "sensitive receptors" will be affected by other constraints such as proximity to protected ground water zones, protected species and habitats, areas at risk of flooding, locations with poor access, etc.

Our conclusion therefore is that specific reference to 500m should be excluded.

3. Definitions

Included in the current proposed amended wording there is a phrase "a high level of protection". However, this has not been defined by the Joint Authorities to date. Our view, consistently expressed throughout our submissions and representations and which remains, is that the National Planning Policy Framework and the Planning Practise Guidelines already provide an acceptable level of protection and that 'a high level of protection' is unnecessary and cannot be justified. We would invite, at the earliest opportunity the Joint Authorities definition.

This is outlined in our various previous submissions and in particular the opinion of Nathalie Lieven QC, "On the facts of hydrocarbon development, residential amenity can and will be protected to an acceptable degree without any buffer zone requirement, through the normal imposition of appropriate conditions."

The need to mitigate adverse impacts is enshrined in the planning and environmental impact assessment processes. As part of the EIA process in particular the need or otherwise for an appropriate set off distance is one of a number of mitigation measures which is considered. Everything ultimately will depend on site specific circumstances. Noise impact is an obvious example. With appropriate mitigation in place, drilling operations can be carried out close to sensitive receptors so that no significant noise impact arises. Similarly, the visual impact of a site can be completely screened from a nearby residential property by surrounding topography.

Finally, in terms of wording we have also made clear, with respect to hydraulic fracturing – it would be ambiguous and confusing to have different definitions being used by different regulators. In land use planning terms, the potential surface impacts associated with the development of conventional and unconventional geologies are already clearly handled within the current planning framework.

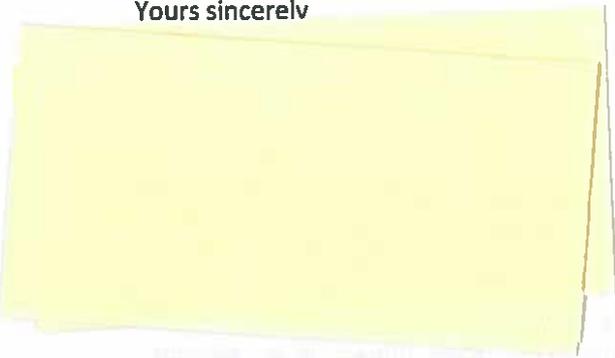
The policy wording also makes no distinction between exploration drilling (where no hydraulic fracturing is involved) and the appraisal and production stages.

In the light of the industry's concerns concerning the soundness of the proposed policy in its current form we therefore propose that the wording is modified as follows:

Hydrocarbon development will be permitted in locations where it would not give rise to unacceptable impact on local communities or public health. Applicants should demonstrate in their submissions or by adherence to other regulatory regimes how residential properties (and other sensitive receptors) close to proposed sites will be protected. ~~Adequate separation distances should be maintained between hydrocarbons development and residential buildings and other sensitive receptors in order to ensure a high level of protection~~ from adverse impacts from noise, light pollution, emissions to air or ground and surface water and induced seismicity, including in line with the requirements of Policy D02. ~~Proposals for surface hydrocarbon development, particularly those involving hydraulic fracturing, within 500m of residential buildings and other sensitive receptors, will be only permitted where it can be clearly demonstrated in site specific circumstances that a high level protection will be provided are unlikely to be consistent with this requirement and will only be permitted in exceptional circumstances.~~

Given the outstanding issues associated with the buffer zone, definitions, the new WMS and the need to demonstrate the interactive model, we are strongly of the view that these matters should be the subject of further discussion at a hearing in the presence of all parties and before the Inspector. We respectfully ask for this to be arranged before the Joint Authorities publish the main modifications thereby providing them with the opportunity to look at the interactive model and reconsider their position on the 500 metres buffer, as we believe this will expedite the overall process of the Local Plan.

Yours sincerely



CC: Carmel Edward – case officer - via email.