

Joint Advisory Committee for Strategic Planning

Meeting to be held on 28th February 2014

Electoral Division affected: All

Joint Lancashire Minerals and Waste Development Framework: Supplementary Planning Document on Onshore Oil and Gas Exploration, Production and Distribution

(Appendix 'A' refers)

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Executive Summary

This report sets out the justification for, and the processes of, producing a supplementary planning document to assist developers and the public in interpreting existing planning policy contained in the Joint Lancashire Minerals and Waste Local Plan, as it would apply to onshore oil and gas developments, including those using hydraulic fracturing (fracking).

Recommendation

That the Joint Advisory Committee recommend to the joint authorities that officers commence the preparation of an onshore oil and gas supplementary planning document.

Background and Advice

As members are aware in recent years there have been considerable developments in the onshore oil and gas industry, specifically in connection with the proposal for the exploitation of shale gas.

Lancashire is at the forefront of the national commercial interest for onshore oil and gas exploration, particularly for the shale gases found in the Bowland shales. Appendix 'A' provides further detail.

At a national level the Government has produced a planning practice guidance document, and commenced the production of secondary legislation, on on-shore oil and gas exploration appraisal and production.

At a local level when a local planning authority considers a planning application the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the criteria-based policies in the Joint Lancashire Minerals and Waste Local Plan¹ which set out a comprehensive list of development management criteria for consideration when determining planning applications; these policies are generic and do not generally refer to specific types of development or uses of land.

Given the complexity and controversial nature of onshore oil and gas developments, and the fact that Lancashire is likely to receive further applications for both exploration and exploitation it is considered that there would be benefits, to both developers, residents, and other stakeholders, from the production of guidance on the existing policy as it relates to the emerging area of onshore oil and gas developments in the plan area, in particular the exploration for shale gas.

There is an opportunity under the planning system to provide further guidance on particular issues through the production of a Supplementary Planning Document (SPD).

Supplementary planning documents add further detail to the policies in the development plan. They can be used to provide guidance for development on specific sites or on particular issues. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan. The proposal is that the guidance would provide clarity as to the information required to accompany a planning application, how to present it so that those consulted can have confidence in the process, and the main issues and considerations necessary to satisfy the policy tests contained in the local plan. It would be a material consideration².

An SPD cannot provide development management or site allocation policies and so cannot state whether developments are acceptable or not, and the National Planning Policy Framework states that it should not be used to add unnecessarily to the financial burdens on development. As set out in the separate report to Members referring to the proposed review of the Local Plan, the opportunity to formulate a policy position on onshore oil and gas exploration, appraisal and exploitation can only be undertaken through the development of planning policy in a local plan.

Timeline

It is anticipated that an SPD will be presented for a decision on adoption in November 2014. The decision to report to the Joint Advisory Committee for Strategic Planning recommending the production of an SPD has been delayed until the content of the national planning and legislative changes, which began to emerge in early 2013, became clear.

Supplementary planning documents are subject to statutory preparation procedures under Part 5 of the Town and Country Planning (Local Planning) (England)

¹ The Joint Lancashire Minerals and Waste Core Strategy (2009) and the Joint Lancashire Minerals and Waste Site Allocation and Development Management Policies Local Plan (2013)

² A factor to be taken into account when a decision on a planning application is reached.

Regulations 2012. The Regulations specify that the consultation on SPDs should last for at least 4 weeks: however given the degree of public interest in current onshore gas activities within the Plan area it is suggested that the consultation on this SPD last for 6 weeks.

A proposed production programme is described below.

- March- April: A targeted consultation with key stakeholders on the proposed scope of the SPD, to assist in its preparation
- During the drafting of the SPD it may be necessary to consult statutory consultees when screening the SPD as part of the Environmental Assessment of Plans and Programmes Regulations 2004 and the Conservation of Habitats and Species Regulations 2010.
- July: Report to JAC/cabinet members for approval to consult on the draft SPD
- July-August: Public consultation on the draft SPD itself and on the consultation statement (containing a summary of the main issues raised in the previous consultation, and how those issues have been addressed in the SPD)
- November: Report to JAC for decision to recommend adoption

Scoping consultation

It is considered good practice to consult on the scope of documents, and that these consultations are targeted to groups whom the planning authority considers to be most relevant. Given the complex and controversial nature of this subject it is proposed that the Environment Agency, English Nature, onshore oil and gas operators, local action groups, Friends of the Earth, Greenpeace, Parish and District Councils will be defined as key stakeholders and contacted directly as part of the scoping consultation. In addition the scoping consultation will be publicised on the Joint Authorities web pages to ensure that other interested parties can be involved.

Once the responses to the proposed scoping consultation described above have been received and assessed a draft version of the SPD will be brought to the Joint Advisory Committee for Strategic Planning for approval.

Recommendations

That the Joint Advisory Committee recommend to the Joint Committee for Strategic Planning that officers commence the preparation of an onshore oil and gas supplementary planning document.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Given the growing public interest in onshore oil and gas developments (particularly hydraulic fracturing activities) it would be very useful for the Joint Authorities to have published pre-application advice and guidance, in the form of an SPD.

A delay in commencing work on the supplementary planning document would result in a potential lack of clarity for operators and the public and may mean that Local Plan policies (as they apply to onshore oil and gas) may be interpreted inconsistently.

Government has published planning practice guidance for onshore oil and gas, and consulted on secondary legislation to amend planning regulations as they relate to onshore oil and gas during 2013. These have delayed the production of a Joint Authorities response, which was initially planned for early 2013. There may be further publications which could affect the content of an SPD, and the timetable for production.

Financial

The costs of the production of the SPD can be contained within existing budgetary provisions.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
N/A	N/A	N/A

Reason for inclusion in Part II, if appropriate

N/A