

Joint Advisory Committee for Strategic Planning

Meeting to be held on 24 September 2014

Electoral Division affected: All

Onshore Oil and Gas Supplementary Planning Document – Draft Document for Consultation

(Appendices 'A' and 'B' refer)

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Executive Summary

The report sets out the progress made in the preparation of the supplementary planning document on onshore oil and gas. It describes the completion of the first stage in production, the scoping consultation and drafting of a draft supplementary planning document, and sets out the next stage in production, the consultation on a draft supplementary planning document (Appendix 'A' refers).

Recommendation

That the Joint Advisory Committee for Strategic Planning recommends to the Executive Members of each of the three authorities to approve the draft Supplementary Planning Document set out at Appendix 'A' for consultation purposes.

Background and Advice

Purpose

To report progress on the preparation of the supplementary planning document on onshore oil and gas, and to seek approval to consult on the draft supplementary planning document set out at Appendix 'A'.

Background

The Joint Advisory Committee for Strategic Planning met on 1 May 2014 to discuss the preparation of planning guidance on onshore oil and gas developments. The Executive Members subsequently agreed to progress the development of the onshore oil and gas supplementary planning document. The first step in its production was the scoping consultation, which took place between 25 June and 27 July 2014.

The scoping consultation was targeted at key stakeholders, with notification emails or letters sent out to the Environment Agency, the Health and Safety Executive, English Nature, Council for the Protection of Rural England (CPRE), onshore oil and gas operators, local action groups, Friends of the Earth, Greenpeace, and Parish, District and Unitary/County Councils within and adjacent to Lancashire. The consultation was also publicised on the Joint Authorities web pages to ensure that other interested parties could make representations. The methods undertaken in this consultation, and the representations received, are presented in the Consultation Statement at Appendix 'B'.

Rationale

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. A supplementary planning document 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.

Supplementary planning documents are subject to statutory preparation procedures under Part 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012. In accordance with section 12 of these regulations, before adopting a supplementary planning document the three authorities must undertake a consultation on the supplementary planning document.

Key Issues

Scoping consultation outcomes

A scoping consultation was carried out between 25 June and 27 July 2014, targeted at key stakeholders on the scope and level of detail that should be included in the Supplementary Planning Document. The purpose of the scoping consultation was to advise stakeholders of the issues that the Joint Authorities consider should be addressed by the Supplementary Planning Document. This provides the opportunity for key stakeholders to comment and to contribute any further issues and information that may be relevant for inclusion. Twenty two representations were received. These are presented in the Consultation Statement (Appendix 'B' refers). The issues raised include:

- Supporting the proposed contents of the SPD
- Include reference to cross boundary impacts
- Include reference to the economic benefits, and include reference to local economic strategies
- Must cover every aspect of the subject in great detail
- Clearly explain the relevant policies, how they will be applied, and the range of planning controls that can be used
- Specify minimum allowable separation distances between well pads
- Biodiversity should be extended to incorporate measures to avoid harm to international, national and locally designated sites of importance

- The policy should be extended and refer to the importance of avoiding harm to the character of protected landscapes
- The assessment of potential sites should be informed by the landscape approach
- Reference documents and further guidance must be in plain English, and the links must be up to date
- The principal issues the SPD should address include (this is not an exhaustive list): water use; waste; groundwater contamination; surface water contamination; soil; emissions; air quality; flood risk; traffic; noise; landscape; visual; heritage; nature conservation designations; ecology; infrastructure; site aftercare and restoration; land stability and physical integrity of buildings; community infrastructure within 5km; adverse socio economic impacts
- It is unclear whether it will contain reference to coal related unconventional gas.
- Must make clear that it is to provide guidance on existing policy, and cannot introduce new policy or conflict with approved policy or guidance.
- The SPD should not consider the principle of oil and gas
- An additional objective should be added – provide an overview of government policy and objectives to bring forward new sources of supply for onshore oil and gas
- The SPD should describe the variety of consents and permits that will be required in addition to obtaining planning permissions.
- The SPD needs to clearly and accurately reflect the Environment Agency's role in onshore oil and gas proposals
- The SPD should make clear why it is appropriate for these forms of development to be an exception to policies restricting development in the open countryside etc.
- The document should contain prominent sections on safety implications and environmental aspects
- Temporary needs to be defined
- Should include the NPPF's definition of sustainable development
- Recommendations on documents to reference.

In response to these the supplementary planning document (Appendix 'A' refers) has been drafted to include reference to, amongst other things:

- Cross boundary impacts
- Economic benefits
- Agricultural impacts
- Describing the development plan
- Describing the planning application process
- Describing the division of responsibilities between the regulators
- The principal environmental issues referred to
- The Coal Authority's involvement

Further information is available in the Consultation Statement (Appendix 'B' refers), which contains a summary of the comments received, how these comments have been taken into account in drafting the document, together with a list of consultees and the method of consultation.

Supplementary Planning Document Content

The supplementary planning document at Appendix 'A' is being prepared to provide guidance on the interpretation and application of the policies in the adopted Joint Lancashire Minerals and Waste Core Strategy and Site Allocation and Development Management Local Plan, describing how these policies can be applied to developments for onshore oil and gas exploration, production and distribution.

In order to best provide this guidance it contains the following sections:

- Introduction
 - Useful documents
 - Planning application process
 - Monitoring
 - Phases of development
- Phases of Development – Pre application
- Phases of Development – Exploration
- Phases of Development – Appraisal
- Phases of Development – Production and Distribution
- Principal Issues for the Industry in Lancashire
 - High operating standards
 - Landscape and visual impacts
 - Traffic and transport
 - Site restoration and aftercare
 - Flood risk
 - Heritage assets
 - Nature conservation
 - Seismic movement prediction and mitigation and geological assessment
 - Soil resources and agriculture
- Appendix 1: Licenced Exploration areas in 2013, 13th Licencing Round
- Appendix 2: Regulatory Bodies
 - Mineral Planning Authority
 - Department of Energy and Climate Change
 - Health and Safety Executive
- Appendix 3: Development Plan
- Appendix 4: Unconventional Reservoirs
- Appendix 5: Contact Details

Recommended consultation for next stage

Consultation will be undertaken, in accordance with the three authorities adopted Statements of Community Involvement, for a period of 8 weeks as recommended by the Joint Advisory Committee for Strategic Planning at its previous meeting on 1 May 2014 (the statutory minimum period for consultation is 4 weeks). The following approaches are suggested:

- Advanced notification to councillors by email and on the CFirst webpage
- Issue press release
- Send letters/emails to stakeholders¹ (members of the consultation database, operators, and statutory consultees) informing them of the consultation

- Advertised on the three authorities websites, with online consultation at the Lancashire County Council 'Have your say' consultation portal, and the Joint Lancashire Minerals and Waste Objective Online consultation portal
- Place hard copies for inspection at deposit points (libraries, county hall, district town halls, county information centres)
- Electronic versions of documents available to view on the Joint Lancashire Minerals and Waste homepage, and the consultation portals
- Make hard copies available to the public on request

Once the responses to the consultation described above have been received and assessed an adoption version of the supplementary planning document will be prepared and brought to the Joint Advisory Committee for Strategic Planning for scrutiny, with a view to recommending adoption to the Executive Members of the three authorities.

Policy Implications

None, the supplementary planning document is subordinate to the policy in the Development Plan. It will not change the adopted policies contained in the Joint Lancashire Minerals and Waste Core Strategy, and Site Allocation and Development Management Policies Local Plan.

Recommendation

That the Joint Advisory Committee for Strategic Planning recommends to the Executive Members of each of the three authorities to approve the draft supplementary planning document (Appendix 'A' refers) for consultation purposes.

Consultations

A scoping consultation was carried out between 25 June and 27 July 2014. Further information is available in the Consultation Statement (Appendix 'B' refers), which contains a summary of the comments received, how these comments have been taken into account in drafting the document, together with a list of consultees and the method of consultation.

Implications:

This item has the following implications, as indicated:

Financial Implications

¹ It is recommended that all statutory consultees are notified of the consultation; these include parish and town councils, district councils, neighbouring councils, Natural England, and the Environment Agency. In addition all individuals and groups held on the consultation database will be notified (which includes all those contacted during the scoping consultation). Individuals or organisations submitting representations to the scoping consultation have been added to the consultation database.

The small financial cost of undertaking the consultation will be contained within existing revenue budgets.

Risk management

This item has the potential to cause controversy.

Supplementary planning documents are subject to statutory preparation procedures under Part 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Failure to consult on the supplementary planning document prior to adoption, or an inadequate consultation, could result in the adoption being subject to judicial review, and an inability to attach any weight to the supplementary planning document in planning decisions. In carrying out the consultation regard must be had to regulation 12(b) of the Town and Country Planning (Local Planning) (England) Regulations 2012, section 35 of the Planning and Compulsory Act 2004, and the three authorities adopted Statements of Community Involvement.

The Planning and Compulsory Purchase Act 2004 does not require the production of a sustainability appraisal to accompany the production of a supplementary planning document. However, in some exceptional cases a strategic environmental assessment may be required under the Environmental Assessment of Plans and Programmes Regulations 2004.

Section 5 of the Environmental Assessment of Plans and Programmes Regulations 2004 requires an environmental assessment to be carried out on "*a plan or programme which is prepared for...town and country planning or land use...and sets the framework for future development consents of projects listed in Annex 1 or 2 to Council Directive 85/337/EEC (as amended)*".

Onshore oil and gas developments that may be covered by the Supplementary Planning Document have the potential to fall within either Annex 1 (gas extraction of over 50,000m³ per day) or Annex 2 (deep drilling).

However, as the Supplementary Planning Document presents guidance and information to the public and applicants on adopted policies, and it does not introduce new policies, or place requirements on developers that are not covered by adopted policies, it is not felt that the Supplementary Planning Document "*sets a framework for future development consent*".

Given this it is recommended that the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 do not apply to the production of the SPD.

Finance

The costs of the production of the supplementary planning document can be contained within the agreed existing budgetary provisions, following the decision to begin production.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Joint Lancashire Minerals and Waste Development Framework: Supplementary Planning Document on Onshore Oil and Gas Exploration, Production and Distribution	1 May 2014	Richard Sharples, Environment Directorate, (01772) 534294

Reason for inclusion in Part II, if appropriate

N/A