

Overview and Scrutiny Committee

20 June 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Final report of the Hydrocarbon Fracturing Policy Position Task and Finish Group

Final Decision-Maker	Overview and Scrutiny Committee
Portfolio Holder	Leader of the Council, Councillor David Jukes
Lead Director	Lee Colyer, Director of Finance and Corporate Services
Head of Service	Jane Clarke, Head of Policy and Governance
Lead Officer/Report Author	Nick Peeters, Scrutiny and Performance Officer
Classification	Non-exempt
Wards affected	`

This report makes the following recommendations to the final decision-maker:

1. That the Overview and Scrutiny Committee recommends the following draft Hydrocarbon Fracturing Policy Position Statement to Cabinet for approval.

1.1 Subject to the regulatory regime and local geological reports, Tunbridge Wells Borough Council, as a statutory consultee to the local minerals and waste planning authority, Kent County Council, would apply its existing land use policies to oil and gas extraction sites, whether conventionally or by fracturing, when making comments on applications in the borough.

This report relates to the following Five Year Plan Key Objectives:

- A Prosperous Borough
- A Green Borough
- A Confident Borough

The extraction of unconventional Hydrocarbons, through hydraulic fracturing, has the potential to bring economic prosperity to local communities but also raises serious environmental concerns for those same areas. Developing a policy position statement ensures the Council addresses these issues and ensures all areas of the Five Year Plan have been considered and in particular, 7.3 of the Plan... *'Fracking, the Council notes that the planning authority for drilling applications is Kent County Council, with Tunbridge Wells Borough council as a consultee. The Council will develop a policy position on shale gas extraction (fracking) in line with countywide policies and government guidance.'*

Timetable

Meeting	Date
Overview and Scrutiny Committee	20 June 2016

Hydrocarbon Fracturing Policy Position Task and Finish Group

1. Executive Summary

- 1.1 At its 30 November 2015 meeting, the Overview and Scrutiny Committee considered a report which outlined the issues involved in the extraction of unconventional hydrocarbon resources through hydraulic fracturing (commonly known as fracking) and the Council's desire to produce a policy position statement, as a statutory consultee to the Mineral Planning Authority (MPA), Kent County Council. The Committee was requested to look at the issue in more detail and assist the Council, as a statutory consultee, in forming a policy position statement.
 - 1.2 Councillors Gray, Hills and Hannam were appointed to a task and finish group with the purpose of gathering data, talking to witnesses and identifying the key issues that a local authority would need to take into account when responding to an application received by the MPA.
 - 1.3 The Final report updates Members on the work undertaken to date by the Task and Finish Group and proposes a draft policy position statement.
-

The Task and Finish Group met on four occasions and looked at the following issues:

2. Background

- 2.1 Internationally, governments have been looking at alternative, natural energy resources to meet global needs and to reduce reliance on imported, low grade fossil fuels such as oil. Hydraulic fracturing has been used, on a small scale, for several decades in the United Kingdom as means of extracting oil and gas from conventional deposits, such as sandstone. However, in more recent times, through advances in technology, onshore oil and gas companies have explored fracturing as a method of extracting oil and gas resources from shale beds, on a wider scale. The process used to extract the oil and gas, which is trapped deep beneath the earth's surface, is to drill vertical wells several thousand feet down and turn horizontally, at depth, in order to access the rock formations within which the shale deposits sit. Water at pressure, sand (proppant) and small amounts of chemicals are then used to open up fractures within the shale bed, allowing the oil or gas to be extracted under pressure to the well-head.
- 2.2 The current scene, domestically, is that a number of tranches of Petroleum Exploration and Development Licences (PEDLs) have been awarded to onshore oil and gas developers (the most recent round of licences, awarded in December 2015, was the 14th). Those sites that have been set up to drill for shale gas using hydraulic fracturing, are still at the exploratory stage and to date, there has been no commercial extraction of shale gas or oil through this method. In Scotland, in January 2015, a moratorium was placed on all planning consents for unconventional oil and gas extraction, including fracking and drilling. In Fylde, Lancashire, rejection of planning applications by Cuadrilla for two new sites, led to a public enquiry (the results of the appeal will not be available until 4 July 2016). This can be compared to the scene in the United States, for example, where, although an equally contentious issue, hydraulic fracturing is used in ninety percent of operational wells.
- 2.3 There are other, significant differences between the current picture in the US and in the UK. Licenses in the UK are awarded by the Crown and there is a strict regulatory framework involving the Department of Energy and Climate Change (DECC), the

Health and Safety Executive (HSE) and the Environment Agency. On 1 December 2015, the DECC passed certain functions to its newly created executive body – the Oil and Gas Authority. Following the award of a licence, a developer would also need to submit a planning application to the MPA. There are also geological and environmental differences that affect the approach taken in the UK.

3. Information gathering

3.1 From the outset, the Task and Finish Group noted the large amount of information available on this issue and Members were already aware of the level of opposition nationally and internationally to hydraulic fracturing, resulting from genuine concerns about its environmental impact. However, the Group was keen to look at scientific and evidence-based data and considered the following areas as key to producing an informed statement.

- I. That the findings and recommendations, provided by nationally and internationally recognised and respected organisations, should be given due weight.
- II. That the impact of the extraction stage of drilling, nationally, is not yet known. A number of studies and papers have looked at experiences internationally for information, particularly in North America. However, it should be noted that different regulatory regimes operate from country to country.
- III. That a statement should not, in any way, fetter the Council's discretion when commenting on applications in the future.

3.2 The information and recommendations produced by the following organisations were considered as valuable research:

- I. A report produced in 2012 by the Royal Society and Royal Academy of Engineering - *Shale gas extraction in the UK: a review of hydraulic fracturing*, which included twelve recommendations on operational best practice, regulation and environmental monitoring.
- II. In January 2014, The Chartered Institute of Water and Environmental Management (CIWEM) produced an independent review of shale gas exploration and exploitation in the UK with a particular focus on the implications for the water environment. CIWEM also produced its own policy position statement.

These reports concluded that the risks from fracking were manageable if all the stipulated regulatory requirements were properly implemented.

3.3 Information provided by a number of other organisations was considered by the Task and Finish group.

- I. The Campaign to Protect Rural England Kent (CPRE Kent) produced a policy position statement
- II. Responses received by DECC to a number of questions asked by the Group, about the operational and regulatory framework for wells, including proposals for a Shale Wealth Fund (appendix A to the report)

3.4 On 4 June 2016, the Task and Finish Group, along with other members of the Council, undertook a site visit to an operational well, at Palmers Wood near Godstone Village, Surrey. The well is owned and operated by IGas Energy PLC, the largest independent producer of oil and gas onshore, in Britain. The operation at Palmers Wood is

conventional, with production at the lower level (approximately 100 barrels a week) and does not use fracturing as a means of extraction. However, the visit provided an opportunity for the Group to see, at first hand, the visual impact on the environment. It was considered that the impact is comparable to light industrial use. The Group were also able to note the noise and odour levels, which it felt were negligible.

3.5 Members noted the following additional points following the visit:

- I. There is increased activity at sites during the drilling stage, in terms of traffic movement, which lasts, on average, for three weeks. Noise levels from traffic movement and in particular drilling, will also increase during this period.
 - II. Once operational, there is a significant reduction in manpower – the Palmers Wood site is operated on a daily basis by one person, on 12 hour shifts, with other members of the team attending periodically to carry out inspections, monitor the machinery and carry out safety checks.
 - III. Best practice in the UK requires the installation of cemented triple casing wells through aquifers.
 - IV. Overall, there is a very high degree of monitoring of the site, both through inspections and alarm systems. Some of the inspections are carried out by external companies in order to maintain integrity.
-

4. Local issues

4.1 The Task and Finish Group noted the following issues that, as well as being of national interest, were of particular importance to Tunbridge Wells borough.

- I. The Group discussed the benefits to local communities, particularly financial, where planning permission for exploratory wells is granted. There are industry driven incentives which indicate that community groups would receive £20,000 for a vertically drilled well and £100,000 for a horizontal well, as well as one percent of any subsequent production revenue. Additionally, the government announced during its 2015 Autumn Statement, that it would commit up to 10% of shale gas tax revenues to a Shale Wealth Fund, with the potential to provide up to £1 billion of investment in local communities hosting shale gas developments, both in the North of England and other shale-producing areas. The Group felt the detail for these incentives had not been fully worked out and it was not clear who would be responsible for distribution of the monies and what constituted a community group.
- II. Environmental concerns, particularly in relation to water resources and how flow-back from well-heads is dealt with were discussed. Potentially, a large volume of water is required as part of the process and as well as concerns about where the water is sourced from, the Group was interested to find out about the impact of seismic activity on aquifers. At the Groups' March meeting, Graham Taylor from CPRE Kent advised members that the main aquifers in and around Tunbridge Wells provided the borough with 70-90% of its public water and the maintaining of this water quality was the organisation's main concern.
- III. There were concerns about the types of chemicals added into the process, with the water. Steve Thompsett, the representative from UKOOG, advised Members at the March meeting that the regulatory system in the UK meant the chemicals used had to be environmentally friendly and non-hazardous. The process for their use was controlled by the Joint Agencies Groundwater Directive Advisory Group (JAGDAG).

- IV. The Group was keen to find out how oil or gas, that was suitable for use, would be processed and whether this would be done locally. At the Group's most recent meeting, Mr Thompsett advised that a developer would not invest in any additional infrastructure at the exploratory stage. However, if an extractable resource was found, it could be transported by trucks, or through pipework (which would require treatment but have less environmental impact). Alternatively, with the appropriate infrastructure, it could be turned into power at the site.
 - V. The introduction of a drilling operation into a rural environment would require additional roads and even at the exploratory stage, would increase traffic movement. The traffic movement would increase significantly should the site move to extraction. The Group noted a study by Newcastle University that modelled a well in order to predict traffic movement. The study indicated that traffic would increase by thirty percent.
 - VI. The Group looked at the legacy of exploratory wells and of those that go on to extract resources. The length of time that wells are able to produce shale oil or gas varies greatly and is dependent on the richness and size of the deposit.
 - VII. The Group noted that a number of reports and studies have indicated that there is very little, if any, extractable shale gas in the Weald Basin. However, there are deposits of shale oil which have potential for extraction.
-

5. Witnesses

5.1 The following individuals were contacted and invited to attend one of the Group's meetings:

United Kingdom Onshore Oil and Gas (UKOOG) – attended a meeting on 7 March 2016

Campaign to Protect Rural Kent (CPRE) – attended a meeting on 7 March 2016

The Secretary of State for Communities and Local Government, Rt Hon Gregg Clark – Mr Clark was unable to attend but the Group's questions were passed on to the DECC for comment and the responses can be found at appendix A to the report.

6. Work undertaken by other local authorities

6.1 An email was sent to neighbouring authorities and to a number of other authorities, via the Rural Services Network, asking the following questions:

- Has your authority looked at fracking, either through scrutiny or some other route? If not, are their plans to look at the issue in the future?
- If you have looked at the issue, has your authority adopted a position, either through development of a policy position statement, a press release, or some other means?

NOTE: The figures relate to responses from district councils (DC) or borough councils (BC) only.

6.2 Responses were received from 24 authorities and of those, 18 have not looked at, or are not planning to look at hydraulic fracturing. Several of the authorities who responded and who have no plans to consider the issue cite the geography of their areas as not being suitable for hydrocarbon extraction. Rother District Council have not considered the issue but provided a fact sheet to members as part of an update in 2014 and prior to the 14th round of licences. The borough and district councils who responded and have looked at the issue in one form or another are listed below:

6.3

	Outcome
Dover DC	<i>'Whilst not anti-energy and accepting that there are risks inherent in the extraction of any natural resource, there are a number primary concerns in the absence of sufficient independent peer reviewed data to reassure the Council'.</i>
Fylde BC	There are exploratory wells within Fylde's boundaries with Lancashire County Council as the MPA. An appeal, resulting from refusal to allow planning permission for wells at two sites, by Lancashire County Council is coming to an end. Fylde has looked at the issue for over a year with a number of reports to its Cabinet. Lancashire County Council produced an Onshore Oil and Gas Supplementary Planning Document (Scoping Consultation Outcomes report) in 2014
Rydale DC	Rydale DC's Members asked for a five-year moratorium to be placed on fracking via its Planning Committee but received the following advice on the Council's position from its Legal team -... <i>' the District Council cannot fetter its discretion by the adoption of a blanket policy of a moratorium when considering consultation responses'.</i>
North Norfolk DC	The Overview and Scrutiny Committee briefly looked at the issue in May 2014 (via a petition). The issue was due to be covered in an Energy Strategy, which has been put on hold. The overall opinion was that, geographically, N Norfolk was not suitable for fracking.
Scarborough B C	Scarborough adopted a position on fracking through the Planning and Development Committee (responding to the county council's Minerals and Waste Joint Plan Preferred Options Consultation). The Committee Resolved that <i>'The Borough Council, in noting the recent Government support for, and commercial interest in, new technologies for oil and gas extraction (including hydraulic fracturing – 'fracking') in the Plan area, supports a precautionary approach towards the use of these evolving extraction technologies, reserving the right to comment on individual proposals should they arise'.</i>
Forest of Dean DC	Forest of Dean Will be setting up a Fracking Task Group to look at the issue.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 The final report provides an update on further work undertaken by the Task and Finish Group and recommends the policy position statement below, for approval by the Overview and Scrutiny Committee, to Cabinet.

8. POLICY POSITION STATEMENT

8.1 As a result of the work undertaken by the Task and Finish Group, the following statement has been produced:

- i. TWBC has no position on the extent to which hydrocarbons extracted in the UK (whether from fracking or conventionally) should form a part of the UK's energy mix. This is an issue for central Government.
- ii. The UK regulatory regime is stricter than in the US. For example, wells must be triple-lined in the UK and any chemicals used to frack must be 'non-hazardous'. This also makes drilling much more expensive in the UK. However, professional bodies (note reports) have concluded that the risks associated with fracking are manageable or low where the correct regulations are properly implemented.
- iii. In terms of local impact, extraction sites are comparable to light industrial usage and are likely to be of limited extent. Landscaping can be used to further reduce the local visual impact. Site traffic volume and routing would have to be managed but there are no special considerations beyond those from other industrial/agricultural uses.
- iv. TWBC would expect that drilling applications would be accompanied by a full geological report concluding that the specific geology of the drill site is such that risks to ground water and other forms of contamination are kept as low as reasonably practicable.
- v. It should be noted that, following the most recent round of issued Petroleum Exploration and Development Licences, there are no applications, either in the borough, or within a ten mile radius of the borough boundary. It is likely to be several years before the next round of licenses are issued and should a licence be awarded within the borough or within the ten mile radius, the Council will review its position.

* NOTE There is one site existing site in Cowden, owned by Cuadrilla (Licence EXL 189), Cuadrilla's media office confirmed that their intention is to plug and abandon (P&A) the exploratory well.

- **In summary, Subject to the regulatory regime and local geological reports, Tunbridge Wells Borough Council, as a statutory consultee to the local minerals and waste planning authority, Kent County Council, would apply its existing land use policies to oil and gas extraction sites, whether conventionally or by fracturing, when making comments on applications in the borough.**
-

9. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	There are no legal implications resulting directly from the recommendations in the report	John Scarborough Head of Mid-Kent Legal Partnership – 08/06/16
Finance and other resources	There are no financial implications resulting from the recommendation in the report	Jane Fineman, Financial Services Manager
Staffing establishment	There is no impact on staffing levels as a result of the recommendations in the report.	Nicki Carter, Human Resources Manager
Environment and sustainability	Although there are broader issues involved when considering the environmental impact of hydrocarbon extraction, the report is for members to note and there is no direct impact from the recommendations.	Karin Gray, Sustainability Manager
Equalities	There is no apparent equality impact on end users resulting from the recommendation in the report.	Sarah Lavallie, Equalities Officer

10. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Responses from DECC to the Group's questions on operational and regulatory questions.
- Appendix B: Response from DECC to request for further information on the Shale Wealth Fund.

11. BACKGROUND PAPERS

None.