APPENDIX 4

The questions and draft responses to the Consultation paper "Inclusion of shale gas production projects in the nationally significant infrastructure project regime"

Question 1.

Do you agree with the proposal to include major shale gas production projects in the Nationally Significant Infrastructure Project regime?

The response to this question is based upon the County Council's response provided in April this year to the questions posed on this matter by the Housing, Communities and Local Government Committee and the evidence given by the Group Manager Planning at the subsequent Select Committee.

i) Nottinghamshire County Council can see a strong argument for decisions on fracking applications remaining at a local level, i.e. by members of the Council's Planning and Licensing Committee following consideration of committee reports compiled by planning officers. This would seem to be the most democratic method of decision making, i.e. determination by members who represent local communities within the county. As with many planning decisions, particularly those unpopular with local people, the County Council has frequently been reassured that even if the local residents are not happy with the decision/outcome they are generally content with the fair and transparent process that led to that decision. Objectors and supporters alike are given the opportunity to speak at planning committee meetings and if decisions were not made at the local level this opportunity may be lost.

ii) In the light of the Written Ministerial Statement of the 16th September 2015 the County Council can see some benefits in the applications for all shale gas proposals, not just those involving fracking, being classified as national infrastructure allowing shale gas companies to apply directly to the Planning Inspectorate. Planning applications for shale gas proposals (Nottinghamshire has dealt with planning applications on two sites, both for ground water monitoring and exploratory boreholes) are extremely demanding on Council resources, particularly staffing. This is the case, both during the determination stage and after the decisions are made, including intensive monitoring of the sites and dealing with complaints/enquiries from the local community. The planning fees accompanying the planning applications were wholly inadequate to cover the additional costs incurred but, in mitigation, the County Council applied for, and received, shale gas funding made available to Minerals Planning Authorities by the then DCLG. This enabled the County Council to employ staff to cover the extra development management workload, implement necessary upgrades to IT systems and meet legal costs etc. This extra financial burden on the County Council was to some degree mitigated by this Government funding. However, shale gas proposals will continue to be extremely demanding on Council resources and the proposed removal of this extra workload created by shale gas proposals could be advantageous for some minerals planning authorities. In particular, employing additional staff with the necessary yet specialist minerals and waste planning experience at such short notice could be problematic given the specialist nature of this type of planning work. Also, given that Minerals Planning Authorities are usually given

little to no notice of when an application is going to be submitted, recruiting additional resources through standard recruitment procedures is not a speedy process and can quite easily take as long as the statutory determination period for a shale gas application (13 to 16 weeks).

iii) Nottinghamshire has little experience in dealing with proposals for national infrastructure under the 2008 Planning Act. From published guidance available on the matter it appears that the County Council would continue to have a significant role in the process from the pre-application stage right through to the monitoring and enforcement of the Development Consent Order, along with the conditions attached, as well as the agreeing the terms of any S106 agreement. This involvement would be welcomed and would allow local specialist knowledge to feed into the process, for instance in the scope of the Environmental Impact Assessment. Additionally, elected members are able to present their views, and those of their constituents at the hearing stage, as well as providing officers with a clear policy steer. However, as the planning fee for these proposals is paid to the Planning Inspectorate local planning authorities would need to resource the work without receiving a fee. Having accepted that there is significant input by the authority this could only reasonably be achieved if funding were made available to the authority, perhaps through the continuation of the shale gas grants. As described in the paragraph above shale gas proposals, even at the early stages, are extremely demanding on resources, particularly professional planning, legal and support staff.

iv) One considerable disadvantage of classifying planning applications for fracking as national infrastructure projects is that it does fuel the perception held by many communities that the Government considers fracking to be a “special case” which needs to be treated as such. This perception is further fuelled by the Government’s overarching support for the exploration of the UK’s potential shale gas reserves. Following the Written Ministerial Statement on 16/9/2015 in Nottinghamshire the County Council has tried to reassure local people that shale gas applications are potentially no more controversial than other types of hydrocarbon extraction or large scale quarries which typically have lifespans of 30 to 40 years. Nottinghamshire has a long history of coal, gas and oil extraction and still has nine active oilfields, which have been granted permission and have operated for many years without controversy. Understandably local communities are concerned about fracking as a new technology and the topic has become one of national debate. Alarmist headlines have been published by the press which provide local communities with misleading information rather than factual advice. The County Council has endeavoured to counter any such misleading information through dedicated shale gas pages on its website. Removing the decision making process from the local level is likely to further increase this suspicion, held by some local people, that central government is looking to force through the exploration and production of any shale gas reserves. It will be important for the Government to reassure the population as to why this needs to be the case to avoid raising levels of concern further.

v) In conclusion, Nottinghamshire County Council has recognised that there are both advantages and disadvantages to classifying fracking proposals as national infrastructure under the 2008 Planning Act. This proposal could be supported, provided

that reassurances can be given that the County Council will be fully involved throughout the various stages of the decision making process. This needs to include both local professional and specialist input, as well as opportunities for elected members to represent their communities. The views of local people must be given the same level of consideration as is currently the case. It must remain a fair and transparent process and one with which local people feel able to engage. As an authority who has had experience of dealing with shale gas proposals it is important that Local Authorities receive adequate financial resources to enable them to fully participate in the process. Extending the shale gas grants available to local authorities may be one method of doing this. Inclusion in the NSIP regime should apply only where the shale gas production is truly of 'national significance', the exploratory and appraisal phases should provide the operators with sufficient information to know how much gas they are likely to be able to extract from a well site, or how much per annum, and therefore confirm whether it is nationally significant or not. We would not want to see smaller shale gas production development included because there is political frustration that the planning application process is problematic or taking too long.

Question 2.

Please provide any relevant evidence to support your response to Q.1

Please see comments made above.

Question 3.

If you consider that major shale gas production projects should be brought into the Nationally Significant Infrastructure Project regime, which criteria should be used to indicate a nationally significant project with regards to shale gas production?

Please select from the list below:

a. The number of individual wells per well-site (or 'pad')

b. The total number of well-sites within the development

a/b It is unlikely that an individual site (or pad) would be of national significance, irrespective of the number of wells. However, where there are a number of sites (or pads) which are obviously part of the same development (e.g. targeting the same reservoir) this is moving towards being more significant. However, the point at which a multi-pad scheme would be nationally significant would differ from site to site, so we would expect this to be one criterion among many. There would also need to be some kind of preventative measure to stop individual applications being submitted to an MPA separately to avoid the NSIP process, and conversely to stop sites over a wide geographical area being bundled together as one NSIP application when they are not actually part of the same development.

c. The estimated volume of recoverable gas from the site(s)

d. The estimated production rate from the site(s), and how frequently (e.g. daily, monthly, annually or well lifetime)

c/d– It is considered that the volume of resource/production is the best indicator as to whether a scheme is of national significance. However, there are serious concerns given the inherent uncertainty with 'estimated' volumes, be it recoverable volumes or production rates, which could be manipulated to be in/out of the NSIP process.

e. Whether the well-site has/will require a connection to the local and/or national gas distribution grid

e – A well site, or sites, not connected to the grid may well have greater impacts, particularly in respect to ongoing traffic movements, although these would be local impacts. However, connection to the grid may indicate a larger and more significant scheme. On the other hand, it might just be because there is a grid connection near to the proposed development site. It is considered that this would not be a useful criteria for determining national significance.

f. Requirement for associated equipment on-site, such as (but not limited to) water treatment facilities and micro-generation plants

f – If a site, or group of sites, is of a scale where there is associated equipment such as water treatment and generation facilities, this is indicative of a larger operation and may be more likely to be of national significance. With regard to generation, there are plenty of natural gas sites (coal mine methane) within Nottinghamshire that include micro-generation 1-2MW per engine and up to three engines at some sites. These sites are clearly not nationally significant, so it is suggested that there would need to be a MW threshold set reasonably high, such as 50MW (although this would trigger the NSIP process itself anyway).

g. Whether multiple well-sites will be linked via shared infrastructure, such as gas pipelines, water pipelines, transport links, communications, etc

g – Multiple sites linked together with associated infrastructure would be more indicative of a scheme that is of national significance than a single site/pad. This could be useful as one of the criteria.

h. A combination of the above criteria – if so please specify which

i. Other – if so please specify

h/i – no further comments.

Question 4.

Please provide any relevant evidence to support your response(s) to Question 3.

See above answers

Question 5.

At what stage should this change be introduced? (For example, as soon as possible, ahead of the first anticipated production site, or when a critical mass of shale gas exploration and appraisal sites has been reached).

It seems pointless implementing such changes when it is unknown whether there is economically recoverable shale gas available. On the other hand, once this has been established it would be useful to have the system in place to deal with major, interconnected schemes which recover significant quantities of gas and/or have a large generating capacity and have potentially significant amenity and environmental impacts.

Question 6. Please provide any relevant evidence to support your response to Question 5.

No further comments