

SHALE GAS IN THE HOWARDIAN HILLS AONB - INFORMATION NOTE 2

This Information Note builds on Information Note 1 prepared in September 2014 (and updated in October 2015) and should be read in conjunction with it.

It covers the process of Licencing for exploration, testing and production of 'petroleum' (which also covers oil and gas), with the Government preparing to offer more Petroleum Exploration and Development (PEDL) Licences to oil and gas companies in December 2015. As such it therefore covers the process prior to a 3D seismic survey, which is where Information Note 1 commences.

For full information on what the current PEDL Licensing round entails please visit:

<https://www.gov.uk/government/news/new-onshore-oil-and-gas-blocks-to-be-offered>

The public consultation conducted in September 2015 asks members of the public to submit information to help prepare the Habitats Regulations Assessment (HRA) for each block proposed for Licensing. The HRA process is part of EU law and must be applied to any 'plan' likely to affect a site that has European protection for nature conservation purposes. Even the AONB Management Plan has to follow the HRA process, because it covers the River Derwent Special Area of Conservation (SAC). It is theoretically possible, although probably highly unlikely, that a PEDL Licence would be withheld because of serious environmental limitations identified during the HRA process.

The public consultation is not therefore about whether fracking should take place or not, nor is any Licence that might be issued a 'fracking Licence'.

Should a PEDL Licence be issued then companies wishing to explore and potentially test for and then produce unconventional (fracked) shale gas would need to follow the process outlined in Information Note 1. The second bullet point in Notes to Editors on the www.gov.uk weblink above confirms what a PEDL Licence permits and confirms that testing and production would require further planning and environmental consents and permissions.

The most significant change since the preparation of Information Note 1 has been the passing of the Infrastructure Act 2015. Significant safeguards for AONBs contained in a House of Commons Amendment were modified during the passage of the Bill through the House of Lords. The House of Lords amendment to allow fracking *under* 'protected areas' but not *within* them has still to be fully incorporated into legislation or licence regulations, following the passing of the Act in February 2015.

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The Infrastructure Act 2015

Provision 50 of the Infrastructure Act 2015 prohibits fracking in 'protected areas' and a Draft Statutory Instrument laid on 16th July 2015 defines 'protected areas' as including land at a depth of less than 1,200m below an AONB. Ministers also set out their clear commitment to ensure that fracking cannot be conducted from wells that are drilled in the surface of AONBs and other protected areas, with further details to follow.

<http://www.legislation.gov.uk/ukpga/2015/7/section/50/enacted>

<http://www.legislation.gov.uk/ukdsi/2015/9780111137932/regulation/3>

The Shale Gas and Oil Policy Statement published by DECC and DCLG on 13th August 2015 re-stated the commitment to ensure that fracking cannot be conducted from wells that are drilled at the surface of AONBs and other protected areas. This is not intended to impact on conventional drilling operations.

<https://www.gov.uk/government/publications/shale-gas-and-oil-policy-statement-by-decc-and-dclg/shale-gas-and-oil-policy-statement-by-decc-and-dclg>

National Planning policy

- All minerals-related developments in the AONB are likely to be considered as Major Development.
- The National Planning Policy Framework (NPPF) says that Major Development in AONBs should not be permitted except in exceptional circumstances and where it is in the public interest.
- A Government announcement has confirmed this guidance.

AONB Management Plan

- Objective D4.1 of the 2014-19 Plan states that any large scale minerals-working operations should be resisted if they are not compatible with AONB objectives.
- All planning applications will be assessed on a case-by-case basis, against national planning policy guidance and AONB Management Plan Objectives.

More information

A significant amount of information on shale gas and fracking is available on the internet, and is increasing all the time. Sources include:

- The British Geological Survey Report on shale gas in the North of England - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226874/BGS_DECC_BowlandShaleGasReport_MAIN_REPORT.pdf
- Further information on the fracking process – https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268017/About_shale_gas_and_hydraulic_fracturing_Dec_2013.pdf
- The Minerals & Waste Joint Plan policies that apply to the AONB – <http://www.northyorks.gov.uk/article/26218/Minerals-and-waste-joint-plan>
- The website of Third Energy, the holder of the Petroleum Exploration and Development Licence for the Ryedale area – <http://www.third-energy.com/>
- Frack Free Ryedale – <http://frackfreeryedale.org/>
- Other information available on the AONB website – <http://www.howardianhills.org.uk/library/guidance-and-information-notes/>
- Searching 'shale gas' on www.gov.uk brings up a significant number of links to reports and policy statements.