

Application for test-fracking, KM8 wellsite, Kirby Misperton

The AONB Unit has received a number of queries about the response submitted to North Yorkshire County Council as regards the proposals submitted for the KM8 wellsite.

The bullet points below will hopefully explain the process by which we assess all planning applications against AONB Management Plan policies, and also help to dispel some myths about what the AONB Committee can and can't do in relation to the planning process:

1. In legal terms, the Howardian Hills AONB management structure is part of North Yorkshire County Council. It is funded principally by the Government's Department for Environment, Food and Rural Affairs (Defra), as are the UK's National Parks too. Full details of our annual funding are available by looking at the Annual Reports in the Library section of our website – www.howardianhills.org.uk
2. The AONB Management Plan is a Statutory document but it doesn't 'belong' to the AONB Committee. The Committee prepares it on behalf of the constituent Local Authorities that cover the AONB – North Yorkshire County Council, Hambleton District Council and Ryedale District Council. They all have to Adopt the Management Plan as the document that formulates their policies in relation to matters affecting the AONB, and it then informs/complements their respective Local Plan policies.
3. The Howardian Hills AONB Committee only has a remit that extends to the AONB and its setting. It doesn't have a remit to cover a wider area.
4. Because the AONB Committee is an important part of the planning process it can only comment on things that are directly relevant to the AONB and which are covered by policies in the AONB Management Plan. If it starts commenting on matters that are outside its remit then its influence is weakened, not least because AONB Unit staff may not have the relevant technical expertise.
5. Because the AONB is not a private or third-sector organisation like for example Greenpeace or Friends of the Earth (funded by subscriptions and campaign fund-raising), the AONB Committee cannot 'campaign' generically in opposition to anything otherwise again it will have considerably weakened its influence in the planning system. What it must specifically NOT do is 'fetter its discretion' by appearing to pre-determine any specific planning matter before any formal planning application is actually submitted to the relevant Local Planning Authority. This applies as much to a small extension to a house as it does to major minerals extraction such as fracking.
6. All planning applications in or potentially affecting the AONB, no matter what they're for, are assessed by AONB Unit staff against national planning policy guidance, Local Plan policies and AONB Management Plan Objectives. The current AONB Management Plan is available in the Library section of the AONB website, with Objective D4.1 being the relevant policy in relation to planning applications for minerals extraction.

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7. All planning applications are scrutinised based on their particular details and circumstances, both by us and the relevant Local Planning Authority charged with making the Decision. The concept of 'precedent' doesn't really exist – just because one application for a particular type of development is approved doesn't automatically mean that every other application (with differing sets of circumstances) will be approved. This applies as much to, for example, a series of extensions to a row of terraced houses as it does to significant minerals extraction proposals.
8. The comments submitted by the AONB Committee in relation to the KM8 wellsite therefore only apply to the proposal as submitted for KM8. It isn't possible to give a definitive answer as to what the AONB's response would be to any other applications that might come forward in other locations, because they don't currently exist in the planning system. When/if they *do* come forward, they will be assessed against AONB Management Plan policies based on their particular circumstances. We believe that the Management Plan policies are robust enough to protect the AONB and its setting, but it must be remembered that major planning applications are assessed against a large number of criteria, only one of which will be 'potential impact on the Howardian Hills AONB'. It is the responsibility of the relevant Local Planning Authority to weigh all the factors in 'the planning balance' and make a Decision based on that assessment.
9. As the AONB Committee's response to the KM8 application makes clear, it hasn't commented in this instance on issues that are covered by other regulatory bodies. If there are other applications in the future then it might comment on, for example, traffic issues, but it would depend on the specifics of the actual planning application submitted and would be informed by AONB Management Plan policies.
10. We would not necessarily object to a development (of any sort) simply because it could be *seen* from the AONB – York Minster and the three power stations south of Selby can be *seen* from the southern edge of the AONB but they don't have a significant adverse visual impact on the setting of the AONB. Likewise, the rollercoaster towers at Flamingo Land and two wind turbines are already present in the Kirby Misperton area and can clearly be seen from the AONB. These applications were also scrutinised by AONB Unit staff when they were going through the planning process and were not felt to have an unacceptable adverse visual impact on the setting of the AONB. Again, as outlined above, it should not be assumed that we would consider additional wind turbines or Flamingo Land developments to be either acceptable or unacceptable. 'Cumulative impact' is an important consideration when clusters of large developments start forming, but all applications are assessed on their own particular merits.
11. Should the planning application for the KM8 wellsite be approved then AONB Unit staff will evaluate the various impacts of the development, including requesting to visit the site at various stages of operation, and will use that information when formulating responses to any future planning applications.

We have prepared a new information leaflet on the process of PEDL Licensing and its connection to fracking and this has been uploaded to the AONB website. Information Note 2, together with Information Note 1 from September 2014, can be found by clicking on the following link:

<http://www.howardianhills.org.uk/library/guidance-and-information-notes/>

The legislative and policy situations can change very quickly. Legislative documents have been passing through the parliamentary process in October 2015, and the Draft Minerals & Waste Joint Plan for North Yorkshire, York and the North York Moors National Park will be moving to its public consultation phase soon. That will mean that Information Note 2 is likely to need updating shortly.

Although the Draft Onshore Hydraulic Fracturing (Protected Areas) Regulations 2015 recently discussed and passed in the parliamentary Committee don't specifically prohibit fracking from well pads within an AONB, the Shale Gas and Oil Policy Statement published by DECC and DCLG on 13th August 2015 re-stated Ministers' commitment to ensure that fracking cannot be conducted from wells that are drilled at the surface of AONBs and other protected areas. This commitment was re-iterated again by the Minister of State (Department of Energy and Climate Change) Andrea Leadsom in her final summing-up statement in Committee on 27th October – "*I confirm that we will make clear, as soon as possible, the specific policy on banning surface drilling [in relation to hydraulic fracturing] in our most valuable and precious areas, and that will include national parks and areas of outstanding natural beauty*".

The AONB and National Park authorities wait to see how this will be enacted in legislation and/or planning policy guidance. We expect however that drilling from within an AONB *will* formally be banned and therefore that the issue will potentially be wells drilled outside the AONB but extending underneath it at a depth greater than 1200m. As indicated above, any planning applications would be assessed against AONB Management Plan and relevant national/local plan policies.

Paul Jackson, 9th November 2015