



PINS NOTE 06/2018

To: All Inspectors (England)

Relevancy: Planning appeals and Secretary of State casework; Local and Minerals Plan casework. National Infrastructure and the Environmental Services Team

Date of Issue: 31 May 2018

Currency: review at 6 months after issue

WMS: ENERGY POLICY – ONSHORE SHALE GAS RESOURCES

Action

1. Inspectors and Case Managers will need to be aware that the Government has published a Written Ministerial Statement (WMS) to Parliament which sets out measures to speed up and streamline onshore shale gas¹ applications and appeals, as well as other announcements including the creation of an environmental regulator for the industry and strengthening community benefits.
2. The WMS made on 17 May 2018² is a material consideration in plan-making and decision-taking³ and therefore needs to be treated as such in casework. Inspectors will need to consider the effect of the WMS on the proposal or Plan they are involved in and the necessity to go back to the parties and obtain comments on the potential effect on the WMS, on a case by case basis.
3. The WMS states (and in some cases re-iterates)⁴ that:
 - Shale gas development is of national importance and Minerals Planning Authorities should:
 - Give great weight to the benefits of mineral extraction;
 - should not set restrictions or thresholds in Minerals Plans across their plan area that limit shale development without proper justification;

¹ Includes unconventional drilling techniques, i.e. hydraulic fracturing ('fracking').

² WMS – Energy Policy [HCWS690], (BEIS/MHCLG, 17 May 2018)

³ Alongside relevant policies in the NPPF.

⁴ Statements made in the 2015 WMS and the 2017 manifesto.

- When considering planning applications (and appeals), decision makers should:
 - Make sure that applications are assessed on a site by site basis and have regard to their context;
 - Must have due regard to the relevant parts of the NPPF and [Minerals PPG](#)⁵.
4. Other measures announced in order to speed up the application and appeals process include:
- i) continuing to treat appeals against any refusal of planning permission for exploring and developing shale gas, or against any non-determination, as a priority for urgent determination by PINS, making additional resources available where necessary.
 - ii) under the WMS in 2015⁶ the criteria for recovering planning appeals were amended to include proposals for exploring and developing shale gas. The criteria for considering the recovery of planning appeals will continue for a further two years, i.e. until 17 May 2020.
 - iii) the SoS for HCLG will consider calling in shale applications particularly where statutory deadlines have been exceeded. Priority timeframes for urgent determination will be given to any called-in applications.
 - iv) the Government continues to commit to identifying underperforming LPAs that repeatedly fail to determine oil and gas applications within statutory timeframes. When any future applications are made to underperforming authorities, the SoS will consider whether he should determine the application instead.

Background

- 5. The Government's view is that *"there are potentially substantial benefits from the safe and sustainable exploration and development of onshore shale gas resources"* and has set out in this statement to Parliament the actions it will be taking to support this position.
- 6. The Government believes *"that further development of onshore gas resources has the potential to deliver substantial economic benefits to the UK economy and for local communities where supplies are*

⁵ The [Minerals PPG](#) will be revised once the updated NPPF has been published to provide clarity on cumulative impact, local plan making and the use of expert advice.

⁶ [Shale Gas and Oil Policy Statement](#), [DECC/DCLG, 13 August 2015]

located by creating thousands of new jobs directly in extraction, local support services, and the rest of the supply chain.”

7. To ensure that the planning and regulatory regimes work appropriately whilst assisting local councils in making informed and appropriate planning decisions, the Government has set out proposals for:
 - the launch of a new £1.6 million shale support fund over the next two years to help LPAs to deal with shale applications.
 - the creation of a new planning brokerage service for shale applications to provide guidance to developers and local authorities on the planning process to help facilitate timely decision making. The service would focus on the process and will have no role in the merits of the case or determination of applications or appeals.
 - the setting up a Shale Environmental Regulator which will bring the regulators together to act as one coherent single face for the public, mineral planning authorities and industry. The intention is to establish the regulator from summer 2018.
 - improving the community benefits offer from the industry and the implementation of the Shale Wealth Fund announced in the Autumn Statement 2016, which will provide additional resources to local communities, over and above industry schemes and other sources of government funding. Local communities will benefit first and determine how the money is spent in their area.
8. In order to support a decision-making regime that meets the future needs of the sector Government will progress its manifesto commitments by:
 - consulting, in summer 2018, on the principle of whether non-hydraulic fracturing shale exploration development should be treated as permitted development, and the circumstances in which this might be appropriate;
 - consulting, in summer 2018, on the criteria required to trigger the inclusion of shale production projects into the NSIP regime;
 - consulting on the potential to make pre-application consultation a statutory requirement.

9. Further information on the background, policy and process relating to shale gas proposals may be found in the Inspector Training Manual⁷ which will be updated in due course.
10. Please contact XXXX if you have any general queries on this Note. Inspectors should contact their respective Group Manager for queries on Local Plans or Planning casework.

⁷ Unconventional Oil and Gas ITM Chapter, [PINS Version 3, 24 Feb 2017]