



HOUSE OF COMMONS

LONDON SW1A 0AA

Rt Hon James Brokenshire MP  
Secretary of State for Housing, Communities  
and Local Government  
MHCLG  
2 Marsham Street  
London  
SW1P 4DF

Ref: LR/LP

25 October 2018

Dear James,

I write with regards to the consultation for proposed changes to Permitted Development for shale gas exploration, as per the written ministerial statement on 17<sup>th</sup> May 2018 (HCWS690).

My constituency has extensive experience in shale gas applications and, as a result, has strong views on both the current processes and any attempt to loosen them. In early 2017, an application to conduct exploratory drilling for shale gas was made in North East Derbyshire; this was rejected by Derbyshire County Council in early 2018 and then was overturned by the Planning Inspectorate in August 2018. You are already aware of my strong views on this matter – borne of experience rather than theory and of the reality of thousands of worried residents concerned about these proposals and the prospect of fracking in general.

Having reviewed the overall proposal in the consultation, I would like to confirm my complete opposition to the proposals to loosening planning rules around fracking – both in principle and in practice. In particular, the proposal to allow Permitted Development rights to support exploratory for shale gas would be an entirely inappropriate and regressive measure which, in my view, should not be pursued in any form by the Government.

Fracking is a highly controversial and, as yet, unproven technology within the United Kingdom. The Government's proposal to utilise Permitted Development for exploration is, according to the consultation document, to address "*uncertainty caused by delay*" and to "*ensure every planning application is dealt with as quickly as possible.*" The document itself, however, fails to outline its specific issues with the process, other than the length of time taken. From our experience in North East Derbyshire, the length of time taken was a product of a multitude of issues – the applicant not immediately starting an application after a decision was made by the Council on an EIA, the sheer weight of information provided by the applicant initially, the applicant continuing to submit information throughout the planning process which arguably could have been available earlier and the largest amount of opposition to a single planning application which anyone can remember in North Derbyshire. Each of these reasons have individual contexts beneath them and, potentially, different public policy approaches if one was to try to mitigate. Failure to establish the reason for the proposals behind this consultation means that interested parties such as myself and my constituents are unable to engage with it meaningfully.



HOUSE OF COMMONS

LONDON SW1A 0AA

Secondly, the consultation document is extremely high-level, non-specific and fails to address any of the technical issues which, even as a non-expert, are clearly visible. A whole element of the proposition – pre-application residential involvement – is omitted and no details have been published prior to the Permitted Development consultation closing. Again, meaningful engagement is impossible in such circumstances.

I also have a number of more detailed comments on the consultation which I wish to outline for your consideration:

**Unclear definition of shale exploration**

Current planning policy and guidance defines three distinct stages of shale development: exploration, appraisal and production, which all require planning permission. The consultation itself decides to devote its first question to the definition of “testing”, for example. Quite apart from this being a faintly ludicrous question to ask (given that the separation of the stages in the National Planning Policy Framework must mean that the Government already has such a definition), it is for Government to propose in detail if it is seeking to change the established definition (whatever that might be), rather than pose an extremely high-level question such as this one.

Secondly, the difficulty of an adequate definition comes to the fore in the event where planning processes are being changed around it. A ‘grey area’ already exists around fracking and other forms of activity such as acidisation. Using different processes to determine exploration and fracking, means that there will be an absolute incentive for the industry to play in the margins of what activity falls into which stage. An extremely tight definition of “testing”, therefore, would be required – and, as far I can see, would be extremely difficult, if impossible, to define adequately to support this.

**Large-scale minerals developments, such as exploratory shale drilling, are not appropriate for Permitted Development and the consultation does not explain the proposal limits**

As Government guidance states, Permitted Development is only currently relevant where the work is not considered “development” which is defined, under Section 55 of The Town and Country Planning Act (1990), as “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”

By every measure, shale gas exploration constitutes development:

- The building of a well pad, fencing, acoustic screens and cabins, as well as other large items;
- The use of drilling equipment, pressure controls, generators and ventilation systems to support engineering activities to explore;
- The boring of a well and mining of minerals for exploratory purposes, and;
- Often a material change in use of agricultural land to commercial land.

As I understand it, the defined intention of Permitted Development rights is to make it easier for the construction of smaller developments, such as extensions to current buildings, antennas and loft conversions. These types of developments are less contentious and often have negligible cumulative impacts. The ability to use Permitted Development for minerals activity is small. As the Government is fully aware, the legislation and the policy behind Permitted Development was not created for major developments such as major minerals workings. The activity behind even exploration is such



**HOUSE OF COMMONS**

LONDON SW1A 0AA

that it simply is incomparable to the overwhelming amount of work which is currently approved through Permitted Development today.

The application for exploratory drilling in North East Derbyshire requires the construction of a large concrete base on greenbelt land. My constituency alone would require 274 HGV traffic movements a day for a substantial period of time and up to 17 large and bulky objects for up to five years, including:

- A 60m drilling rig;
- A perimeter 2.0m high fence;
- An additional 4.8m high combination of bunding and further fencing;
- 2 – 3 cabins of up to 3.0m height;
- Acoustic screening of up to 5.0m height;
- Up to 4 security cameras of up to 5.5m height;
- A lighting rig of up to 9.0m high;
- A 2.9m high power generator;
- 2 water tanks of up to 3.0m height;
- A 10m high emergency vent;
- A 4.5m high Kooney pressure control, and;
- A 4.0m high blow out preventor and skid and choke manifold.

Effectively, the site for any future production of shale gas is built as part of the exploration process – we are permitting the creation of a location which will allow production to happen through the same planning process as a kitchen extension. Trying to retrofit fracking exploration into Permitted Development is, quite frankly, nuts.

From a technical perspective, the consultation document is not clear what the limit is of the Permitted Development rights. One assumes that it would cover all of the bulk and inconvenience stated above otherwise further planning applications would likely be required to ensure the whole operation could be pursued – otherwise there is little point in this proposal coming forward. Further questions around traffic movements, changes to nearby roads to allow massive HGVs to transport the above equipment (as is going to be required in Bramley Moor Lane) and site restoration requirements are unanswered.

The consultation also fails to set any clear rules around precedents that might be set if this proposal was pursued. It could be that allowing such large-scale developments through Permitted Development creates a precedent for allowing certain non-Permitted Developments to gain planning permission in the future. This undermines local and mineral planning authorities and minimizes their ability to refuse planning permission on legitimate grounds.

Finally, on top of this, there is also the question about how Minerals Plans can be adequately put together by local authorities against a backdrop of Permitted Development being used for fracking exploration. The Government needs to think through how Minerals Plans could be put together in the detail that would be required when they are signing off the ability to pepper county landscapes with exploration sites via a process completely outside of such plans.



**HOUSE OF COMMONS**

LONDON SW1A 0AA

**Local influence in the planning process would be diminished**

Most fundamentally, I simply do not understand how the proposals put forward in this consultation reconcile with the Government's localist credentials. The Localism Act (2011) awards great weight to the empowerment of local communities to shape development. The proposals to include shale gas exploration within Permitted Development rights would appear to contravene the Government's localism ambitions - taking power away from local Councils and Councillors to determine planning applications for unspecified reasons.

Furthermore, the consultation document itself includes apparently contradictory stances regarding public involvement. Paragraph 10 states that Government will "*ensure that local communities are fully involved in planning decisions that affect them.*" By definition, Permitted Development seeks to speed up and reduce involvement in a decision. Much as we might try, these assertions are irreconcilable.

In the case of North East Derbyshire, the application for exploratory drilling was the most contested and high-profile planning application in our area in living memory with over 3,000 letters of objection alone. Reducing the ability of people to highlight their concerns in the process does not eliminate those concerns; it simply breeds cynicism that the process is not listening and acknowledging the issues that local residents have.

Fundamentally, we either believe in localism or we do not. The National Planning Policy Framework is already massively and ridiculously weighted in favour of shale gas exploration and production and that is something which, in my view, we would do well to address quickly. Yet, for now and at the very least, we should not seek to diminish local involvement further in decisions which profoundly affect those areas and minimise the voices of those who will have to live with the daily lorry movements and inconvenience that fracking brings to rural areas.

**The Permitted Development consultation document lacks detail and the questions are leading**

As I have outlined so far in this letter, there are various examples of where the Permitted Development proposals have not contained necessary details for interested parties to be able to respond comprehensively to the consultation. Further information is required to clarify: what exactly will be included within the Permitted Development right; the level of proposed public consultation and its weight in the proposed Permitted Development process; the extent to which the proposals will apply (i.e what parts of the shale exploration development will be included), and; the projected end goal for the proposals and purpose of the two-year limit.

Moreover, the questions asked in the consultation document do not allow for comprehensive feedback on the proposals. The questions are framed with a supportive bias towards the proposals. Question 1, for example, makes the assumption that the respondent agrees with including a form of shale gas development within Permitted Development – rather than beginning with the fundamental question of whether the respondent agrees with the principle in the first instance.

I realise that the Government has difficult decisions in energy policy and that it is seeking, rightly, to do the right thing by analysing all opportunities to ensure we heat our homes, power our cars and enable our businesses. That does not mean, however, that every single possibility should be pursued. In my year and a half in Parliament I am yet to find someone in Government and the civil

**LEE ROWLEY MP**

North East Derbyshire



**HOUSE OF COMMONS**

**LONDON SW1A 0AA**

service who will clearly outline to me what the ultimate, specific objective is to the current fracking policy – and to acknowledge what it will mean for communities who are affected. Loosening of the planning rules as proposed only will engender further confusion about the policy being pursued here whilst, at the same time, breeding contempt with the overall process and, technically, most likely setting precedents and ‘bear traps’ in planning policy which the Government will have to unpick in the years ahead. I cannot express to you how strongly that I, and many of my constituents, do not want these proposals to go ahead.

As always, I would be happy to discuss in person if helpful.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Lee Rowley'.

Lee Rowley  
Member of Parliament for North East Derbyshire