

FULL COUNCIL – WEDNESDAY, 22 FEBRUARY 2017

**Written question from Councillor Bob Seely to Councillor Daryll Pitcher,
Executive Member for Planning, Housing and Homelessness**

Q: Provide an update on the current situation regarding oil exploration and fracking on the Isle of Wight and the coast immediately around it.

A: **The council is not aware of any proposed activity in relation to either conventional oil and gas development, or hydraulic fracturing (or ‘fracking’) on the Island. To date the council has not received a planning application in relation to oil and gas development.**

However, oil and gas licences are issued periodically, by Government, through the Oil and Gas Authority. This gives a company or group of companies’ exclusive rights to explore for, and develop, the resource in a particular geographic location. Licences allow a company to pursue a range of activities for conventional or unconventional oil or gas. Therefore the issuing of a licence does not automatically infer that the process of hydraulic fracturing will be used.

New Petroleum Exploration and Development Licences (PEDL) for the Isle of Wight have been awarded by the Oil and Gas Authority (December 2015). This roughly covers half the Island, from Brook through to Brading and most of the Island south of this Island. It should be noted that the licence type is ‘*Conventional*’, in other words the primary prospectivity identified in the application is of a conventional nature (as opposed to the other types including shale), but the licence covers any hydrocarbon and is not limited to this classification.

Further information on oil and gas development and the licences covering the Island can be found on the council’s planning web pages, ‘[Oil and Gas development on the Isle of Wight](#)’.

Q: Outline what powers the IoW Council has to either support or oppose oil exploration, including fracking.

A: **The primary decision-making role that a local authority has in an oil and gas development proposal is through the planning regime and planning permission is required for each phase of hydrocarbon extraction (exploration, testing and production).**

However this is just one of a multiple consenting processes in relation to this activity, administered by a range of organisations, in the first instance please refer to [Government's guidance](#) on this matter.

There are 3 phases of onshore hydrocarbon extraction: exploration, testing (appraisal) and production. Planning permission is required for each phase of hydrocarbon extraction, although some initial seismic work may have deemed planning consent under [Part 17 of Schedule 2 to the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#). While applications are able to cover more than one phase of extraction. The operator will need to provide all relevant information, including environmental information, to support the full extent of the application.

Planning permission is one of the main regulatory requirements that operators must meet before drilling a well, for both conventional and unconventional hydrocarbons. how these regulatory regimes interact, is explained in more detail through the [Regulatory Roadmap: Onshore oil and gas exploration in the UK regulation and best practice](#) guidance published by the Department of Energy and Climate Change in December 2013.

The key regulators for hydrocarbon extraction are:

- a. Department of Energy and Climate Change – issues Petroleum Licences, gives consent to drill under the Licence once other permissions and approvals are in place, and have responsibility for assessing risk of and monitoring seismic activity, as well as granting consent to flaring or venting;
- b. Mineral planning authorities (such as the Isle of Wight Council) – grant permission for the location of any wells and wellpads, and impose conditions to ensure that the impact on the use of the land is acceptable;
- c. Environment Agency – protect water resources (including groundwater aquifers), ensure appropriate treatment and disposal of mining waste, emissions to air, and suitable treatment and manage any naturally occurring radioactive materials; and
- d. Health and Safety Executive – regulates the safety aspects of all phases of extraction, in particular responsibility for ensuring the appropriate design and construction of a well casing for any borehole.

There may also be additional consents and orders, for which the council is responsible for, such as stopping up rights of way or temporary road orders and hazardous substances consents as a Hazardous Substances Authority (sites which want to hold certain quantities of hazardous substances at or above defined limits must obtain hazardous substance consent, in accordance with the Planning (Hazardous Substances) Regulations 2015).

Q: Inform Councillors what geological surveys will be undertaken to understand any potential impact that exploration/fracking may have on sensitive geological areas, such as the cliffs which run parallel the Military Road, especially between the village of Brook and the town of Freshwater

A: **Government's national planning guidance states that it is a matter for individual operators to determine how much preliminary data is necessary before undertaking exploratory drilling.**

However, as part of the pre-application process it is likely that any operator would seek to agree with the local authority the necessary information to support a planning application and address legitimate environmental considerations through the screening (identifying potential significant impacts) and scoping (agreeing the required information to determine likely significant effects) processes of the Environmental Impact Assessment.

Preliminary data which the operator might obtain to consider the most appropriate locations for exploratory drilling include:

- existing geological and other relevant data to gather information about rock formations under the earth's surface;
- information from earlier drilling for oil, water, coal or other minerals and mining or quarrying activities;
- information on aquifers and groundwater resources; seismic reflection, gravity and magnetic surveys and remote sensing data e.g. satellite photographs, and results of previous seismic surveys.

Seismic surveys are essential to understand the structure under the earth's surface and be able to predict the depths of the key target formations. Operators will often wish to conduct new surveys with the latest technology, even where previous survey data exists. Among other things, this helps to determine the most promising target for drilling.

For conventional hydrocarbons, exploration drilling onshore is a short-term, but intensive, activity. Typically, site construction, drilling and site clearance will take between 12 to 25 weeks. For unconventional hydrocarbons exploratory drilling may take considerably longer, especially if there is going to be hydraulic fracturing.

Q: Explain what planning responsibilities and powers the Island has in relation to oil/fracking exploration.

A: **The council, as the Local Planning Authority, has a duty to determine any planning application submitted to it, but any individual or party can submit an application to the authority for any activity that will require planning permission.**

Each application is determined on its own merits, or otherwise, taking into consideration all relevant plans and policies at both the national (i.e. [guidance on the planning for mineral extraction in plan making and the application process](#), as set out in DCLG's National Planning Practice Guidance) and local level. The current adopted local plan, the [Island Plan Core Strategy](#) (PDF, 7.11Mb, 266 pages) has a range of policies to ensure all applications take into account all relevant material considerations.

In addition to this, certain applications for planning permission may be subject to further scrutiny and decision-making through the application of Environmental Impact Assessment, as required by the [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2011](#) (PDF, 248.73KB, 60 pages).

Q: Detail what consultation process will take place prior to any fracking or oil exploration, and potential statutory timelines linked to that consultation process.

A: **The formal consultation period for any scale of planning application would be 21 days. This is done in the form of an advertisement in the County Press and a site notice, which would be erected near to the site (multiple notices will be used for sites which have a number of frontages or access through them). All Parish/Town Councils also receive notification of planning applications.**

No consultation is undertaken by the Council/LPA prior to an application being submitted.

Local planning authorities are required to undertake a formal period of public consultation, prior to deciding a planning application. This is prescribed in [article 15 of the Development Management Procedure Order](#).

After a local planning authority has received a planning application, it will undertake a period of consultation where views on the proposed development can be expressed. The formal consultation period would last for 21 days, and the local planning authority will identify and consult a number of different groups. The main types of local planning authority consultation are:

- [Public consultation](#) – including consultation with neighbouring residents and community groups.
- [Statutory consultees](#) – where there is a requirement set out in law to consult a specific body, who are then under a duty to respond providing advice on the proposal in question.
- Any consultation required by a [direction](#) – where there are further, locally specific, statutory consultation requirements as set out in a consultation direction.
- [Non statutory consultees](#) where there are planning policy reasons to engage other consultees who – whilst not designated in law – are likely to have an interest in a proposed development.

Following the initial period of consultation, it may be that further additional consultation on [changes submitted by an applicant, prior to any decision being made](#), is considered necessary. Finally, once consultation has concluded, the local planning authority will consider the representations made by consultees, and proceed to decide the application.

Although the formal consultation period runs for 21 days any comments received after this time but before a recommendation is made would be taken into consideration in the determination process.

Anyone can respond to a planning consultation. In addition to individuals who might be directly affected by a planning application, community groups and specific interest groups (national as well as local in some cases) may wish to provide representations on planning applications.

Local Authorities have discretion about how they inform communities and other interested parties about planning applications. [Article 15 of the Development Management Procedure Order](#) sets out minimum statutory requirements.

Planning law prescribes circumstances where consultation must take place between a local planning authority and certain organisations, prior to a decision being made on an application. The organisations in question are under a duty to respond to the local planning authority within a set deadline and must provide a substantive response to the application in question.

Statutory consultees for planning applications play an important role at the pre-application stage of hydrocarbon extraction since they will be involved in providing advice to the mineral planning authority on a formal planning application. In the case of hydrocarbon extraction, relevant non-statutory consultees such as the Health and Safety Executive also play an important role. Pre-application discussions with statutory and relevant non-statutory consultees may also provide prospective operators with an opportunity to share information that may be relevant to obtain other permits and licences. The Environment Agency strongly recommends that prospective operators undertake pre-planning and pre-permitting discussions with them.

Where statutory consultation is required, statutory consultees are under a duty to respond to consultations within 21 days ([article 22 of the Development Management Procedure Order](#)), or such longer period as may be specified in other legislation. The 21 day period does not begin until the statutory consultee in question has such information as will enable it to provide a substantive response.