

## STATEMENT BY SOMERSET COUNTY COUNCIL

September 2014




### **MATTER 9: ENERGY MINERALS**

#### **Background Documents referred to within Statement**

- Schedule of Proposed Changes, v2 (Doc Ref SD6c)
- Schedule of Proposed Changes (Doc Ref SD6b)
- National Planning Policy Framework (Doc Ref NE3)
- Energy Minerals Topic Paper (Doc Ref SD8d)
- Energy Minerals Topic Paper (SD8h)
- SCC quarrying in Somerset supplement no 1 hydrology and rock stability 1973 (Doc Ref TD35)
- Representations Received (Doc Ref SD7)
- DECC's Regulatory Roadmap (Doc Ref NE39)
- Memorandum of Understanding (Doc Ref SD13b)
- UK Onshore Shale Gas Well Guidelines (Doc Ref TD77)

**Document Control Sheet**

	<b><u>Position</u></b>	<b><u>Name</u></b>	<b><u>Date</u></b>
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Approved by:	Service Manager: Planning Policy		04/09/2014

For the forthcoming Hearing, the Inspector has requested that Somerset County Council briefly summarise their position on each discussion topic. The following is a brief summary of Somerset County Council's response to Matter 9: Energy Minerals, examining the **Issue: Whether the strategy for producing onshore energy minerals is sufficiently comprehensive, and whether it provides adequate opportunities for mineral extraction whilst appropriately protecting sensitive receptors.**

**1. The evidence indicates that the Petroleum and Exploration Development Licences (PEDLs) were due to expire in June 2014. What is the current position?**

**SCC Response**

- 1.1. Focusing on PEDL areas in the 13<sup>th</sup> licence round, the Department of Energy and Climate Change (DECC) has recently confirmed that three of the licences have been relinquished by the holders (PEDLs 225, 226, 228). The holder of PEDL 227, however, has been given a twelve-month extension of time to carry out the work programme.
- 1.2. Accordingly, related changes to the Plan are proposed in the appendix to this statement and in the **Schedule of Proposed Changes, v2 (Doc Ref SD6c)** – see Change No 113, as well as changes to the PEDL areas shown in maps 1 and 7 (see Change Nos. 102 and 104a, respectively).
- 1.3. A call by DECC for industry to apply for PEDL areas within the 14<sup>th</sup> licence round was launched on 28 July 2014.

**2. Are the constraints on production and processing of oil and gas within the PEDL areas adequately addressed so as to guide planning applications?**

**SCC Response**

- 2.1. The Development Management policies in the Somerset Minerals Plan provide broad ranging protection of different aspects of the county's natural and historical environment.
- 2.2. Paragraph 9.22 in the Minerals Plan highlights the nature of constraints due to formal designations. This has been amended in the **Schedule of Proposed Changes (Doc Ref SD6b)** – see Change no 59.
- 2.3. Given PEDLs will change over the duration of the Plan period, it is important to strike the right balance between the identification of detailed constraints linked with a particular location and the need for flexibility over time.
- 2.4. Paragraph 9.23 emphasises the importance of protecting Bath Hot Springs, and paragraph 9.24 emphasises the need to consider any impact on proposals for oil and gas development that could affect an international or European site for nature conservation.
- 2.5. Paragraphs 9.30 and 9.31 as revised in the Schedule of Proposed Changes (SD6b) emphasise the geological complexity of the Mendip Hills, which also has the potential to constrain production of oil and gas.
- 2.6. In a two tier area such as Somerset, it is also important to refer to the Development Plan as a whole to take on board all possible constraints, with particular reference also to the relevant District Local Plan, as well as noting the protection afforded by the **National Planning Policy Framework (Doc Ref NE3)**.

**3. In particular, noting the complex geology of the Mendip Hills, is sufficient guidance and protection provided to a) the geological structure of the area, and b) groundwater?**

**SCC Response**

- 3.1. Somerset County Council has prepared an **Energy Minerals Topic Paper (Doc Ref SD8d)** which has recently been updated (**Doc Ref SD8h**). This Topic Paper includes a section on geology, thus strengthening the County Council's geological evidence base.
- 3.2. The Energy Minerals Topic Paper is one part of a larger evidence base, which (for example) also includes a detailed review hydrology and rock stability undertaken in 1973 (as noted in footnote 77 on page 85 of the Minerals Plan) – see **SCC quarrying in Somerset supplement no 1 hydrology and rock stability 1973 (Doc Ref TD35)**.
- 3.3. The County Council has engaged with the British Geological Survey (BGS) and the caving community to better understand the karst systems of the Mendip Hills.

- 3.4. Representatives of the caving community responded to the pre-submission Minerals Plan (see **Representations Received – Doc Ref SD7**, in particular R306 and R307).
- 3.5. Informed by further dialogue, the geological structure of the area has been given additional protection via proposed changes in the **Schedule of Proposed Changes (Doc Ref SD6b)** – see Change no 61. The new paragraph 9.30 provides significant additional clarity on the proposed approach taken by the County Council, including a commitment to seek expert advice to verify that all geological data bearing on the application has been considered and that sufficient data are available to make an informed decision. The revised wording informed by the Habitat Regulations Assessment highlights the potential link between underground cave systems and habitats (e.g. for bats), thus the need to liaise with Natural England.
- 3.6. Reference to a Planning Performance Agreement (PPA) in the Plan provides a framework for considering such matters in an appropriate level of detail, and the Plan makes clear that it will seek to sign a PPA with the applicant (see the text box on page 58).
- 3.7. Regarding groundwater, it is important to read the energy minerals chapter (chapter 9) alongside the water resources and flood risk section (chapter 16).
- 3.8. Chapter 16 deals with different aspects of water resources and flood risk management relevant to the County Council, and includes two policies – DM4: Water Resources and Flood Risk; and DM5: mineral extraction below the water table.
- 3.9. Chapter 16 – in paragraph 16.4 – also notes that the Environment Agency is the lead authority for safeguarding the water environment. As stated in the Environment Agency’s response to the pre-submission consultation (see R8.1 in the **Representations Received – Doc Ref SD7**) “*We are essentially satisfied that the plan’s policy provisions and supporting text provide clear and comprehensive coverage in respect issues pertinent to the Agency’s interests*”.
- 3.10. DECC’s **regulatory roadmap (Doc Ref NE39)** provides additional clarity on the different areas of regulatory responsibility for the regulation of hydrocarbon development proposals. On page 22 it highlights the stage when the operator applies for permits from the Environment Agency, stating in a list of 8 points that a permit may be required for “*1. Groundwater activity (unless the EA is satisfied that there is no risk of inputs to groundwater)...*”
- 3.11. The Environment Agency has been an important participating member of an officer working group that has signed a **Memorandum of Understanding (MoU) (Doc Ref SD13b)**. Members of this working group are co-authors of the above-mentioned Topic Paper (Doc Ref SD8h).
- 3.12. Acknowledging this input and the coverage provided by chapter 16 of the Minerals Plan, it is considered that groundwater is adequately protected.

**4. Should Policy SMP7 include a requirement for the process of Environmental Impact Assessment (EIA) to be undertaken and submission of an Environmental Statement (ES)?**

**SCC Response**

- 4.1. The Planning Practice Guidance includes clear guidance on the process for undertaking EIA, including reference to the EIA Regulations 2011 (Paragraph: 119 Reference ID: 27-119-20140306 of the PPG).
- 4.2. Paragraph 9.37 includes a commitment from Somerset County Council that all applications will be screened for Environmental Impact Assessment.
- 4.3. It is not considered that a separate statement on EIA requirements is needed in policy SMP7.

**5. If so, should all applications for oil and gas exploration, appraisal and production be supported by EIA and an ES or should there be exceptions? Please give reasons.**

**SCC Response**

- 5.1. It is not considered necessary for all applications for oil and gas development to be supported by EIA and an ES. As stated in answer to question 4 above, the Planning Practice Guidance includes clear guidance on the process for undertaking EIA. This states (in Paragraph: 119 Reference ID: 27-119-20140306) that all applications must be assessed on a case-by-case basis and that "*it is unlikely that an Environmental Impact Assessment will be required for exploratory drilling operations which do not involve hydraulic fracturing*".
- 5.2. Also it is noted in **UK Onshore Shale Gas Well Guidelines (Doc Ref TD77)** that the regulations [the Town and Country Planning (Environmental Impact Assessment) Regulations 2011] apply to two separate lists of development projects:
  1. Schedule 1 development, for which EIA is compulsory.
  2. Schedule 2 development, for which EIA is required if the particular project is considered likely to give rise to significant effects on the environment by virtue of factors such as its nature, size, or location or to development located wholly or partly in a 'sensitive area'.
- 5.3. The Somerset Minerals Plan makes a point of encouraging early engagement for any proposal linked with fracking for shale gas or coal bed methane extraction (see text box on community engagement on page 58 of the Minerals Plan).

## **6. Has sufficient account been taken of viability?**

### **SCC Response**

- 6.1. It is important to acknowledge the important role of the market in assessing the viability of operations linked with a particular site.
- 6.2. The Minerals Plan does not propose sites for hydrocarbon extraction, but does provide strategic guidance on how any proposals that come forward will be handled.
- 6.3. It is noted that the Planning Practice Guidance defines the appraisal phase of hydrocarbon as follows: *“The appraisal phase takes place following exploration when the existence of oil or gas has been proved, but the operator needs further information about the extent of the deposit or its production characteristics to establish whether it can be economically exploited”*. Consequently it is noted that viability assessment is embedded within a multi-stage process that is covered by the approach (and policy SMP7) in the Somerset Minerals Plan.

## **7. Should exploration and appraisal permissions be temporary and, if so, should this be made clear?**

### **SCC Response**

- 7.1. Proposed change number 60 in the Schedule of Proposed Changes (Doc Ref SD6b) includes reference to this point.

## **8. Should there be a specific policy for shale gas Hydraulic fracturing (fracking)? If so, what should this be?**

### **SCC Response**

- 8.1. No, it is not considered that a separate policy for shale gas fracking is needed, because it is covered by the oil and gas policy in particular, alongside other relevant policies in the Development Plan.
- 8.2. Policy SMP7 provides a detailed approach that will lead to a rigorous assessment of any applications, regardless of the technology involved. Policy SMP7 covers the points that the County Council believe are relevant to the consideration of a proposal for shale gas fracking.
- 8.3. It is important to acknowledge that this remains a fast-moving field, in terms of technology as well as policy and guidance, and policy SMP7 needs to be flexible to take this into account.

**9. Should the Plan indicate areas where coal extraction and the disposal of colliery spoil may be acceptable?**

**SCC Response**

- 9.1. It is noted that the Coal Authority (R84.1) in its response to the pre-submission Minerals Plan (Doc Ref SD7) supports the proposed approach and does not suggest that the Plan should indicate areas where coal extraction and the disposal of colliery spoil may be acceptable.
- 9.2. Not only is Coal Authority supportive of SCC's approach, also it notes that "*The Coal Authority does acknowledge that coal resources are limited within Somerset, and has no additional evidence to demonstrate future demand*" – see SD7 (R84.1).
- 9.3. The approach taken by the County Council toward the safeguarding of surface coal (see R84.1 – Doc Ref SD7) stating that "*The Coal Authority supports the overall approach to mineral safeguarding ...*"

**10. Should there be a separate policy on coal mining covering potential effects of subsidence, potential hazards of old mine workings, the treatment and pumping of underground water, monitoring and preventative measures for potential gas emissions, and the method of disposal of colliery spoil? (see PPG ID 27-148-20140306)**

**SCC Response**

- 10.1. See the answer to question 9 above.
- 10.2. Furthermore, it is important to acknowledge the power of more generic, flexible Development Management policies in the unlikely event that a proposal does come forward. The Plan must be read as a whole.

**11. Does transport of energy minerals need to be addressed separately and in addition to the general Development Management policy on Transport?**

**SCC Response**

- 11.1. No. To include a separate transport policy for energy minerals would undermine and potentially conflict with the proposed transport policy. DM9 includes coverage of proposals that would generate significant transport movements and covers the considerations that would arise when assessing the transport impacts of energy minerals.
- 11.2. Paragraph 9.20 (as worded in the revised wording – see Change no 57 in Doc Ref SD6b) provides a clear cross-reference to policy DM9.

**12. Overall, does Policy SMP7 provide sufficient scope, direction and flexibility for applicants of energy minerals permissions?**

**SCC Response**

- 12.1. Yes, policy SMP7 does provide sufficient scope, direction and flexibility for applicants of energy minerals permissions.
- 12.2. The County Council has worked hard to address the issues raised by stakeholders and provide a robust yet flexible approach in this fast-changing field.
- 12.3. Policy SMP7 has been developed with input from a range of stakeholders, including a high degree of co-operation as evidenced by the Memorandum of Understanding (SD13b) and the County Council's engagement with related discussions (for example, its participation in a cross party working group run by Mendip District Council).
- 12.4. It is acknowledged that a significant number of concerns have been raised about unconventional oil and gas development, in particular residents concerning by the potential impacts of fracking. This County Council has worked and will continue to work to address the concerns raised, not least through maintaining an up-to-date evidence base, alongside the proposed robust policy approach.

END

**APPENDIX – PROPOSED CHANGES ON ENERGY MINERALS  
(integrated within Doc Ref SD6c)**

**PARAGRAPH 9.9**

Following changes announced in mid 2014, there are currently one three-PEDL areas in Somerset, which crosses into comprising one wholly in the county and two that cross into North Somerset and Bath & North East Somerset (see map 7 for more information). Further changes to the PEDL areas are expected as part of the licensing rounds administered by DECC.

**Maps in Appendix B**

Also update PEDL areas shown on Map 1 and Map7

END