



planning advisory service



Shale Gas Exploration Planning Workshop

www.pas.gov.uk

Housekeeping

- Start / Finish
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- Phones
- Toilets
- Fire
- Q&A
- Evaluation



What is Planning Advisory Service for?

“The Planning Advisory Service (PAS) is part of the Local Government Association. The purpose of PAS is to **support local planning authorities to provide effective and efficient planning services, to drive improvement in those services and to respond to and deliver changes in the planning system**”

(Grant offer letter for 2014-15)

Update from Government (1)

Current progress with Infrastructure Bill – provisions on the right to use deep-level land

Objective: Simplify existing procedure for obtaining the right to use underground land for onshore oil & gas and deep geothermal industries at depths so low it will not impact the landowner's enjoyment of their land

- For new lateral drilling methods existing procedures to obtain the right can be disproportionately costly and time-consuming
- The provisions will not will not change any of the existing regulatory regime managing the potential risks of hydraulic fracturing.
- Operators will not be able to commence drilling until they have obtained all the necessary regulatory permits and permissions.

Bill timeline:

- 19th November - 3rd Reading in Lords followed by introduction into Commons.
 - Date of 2nd Reading in the Commons TBC.
 - January – Commons Committee.
-

Update from Government (2)

Infrastructure Bill: the right to use deep-level land for petroleum and geothermal exploitation

Three elements:

1. Right to use deep-level land

Granting of the right to use deep-level land for the purpose of exploiting oil, gas and geothermal energy at depth of at least 300 metres below the surface.

2. Payment in return for the right of use

Payment from operator in return for the right of use. Industry have put forward a voluntary offer: £20,000 one-off payment for each unique horizontal well that extends by more than 200 metres laterally. Payment to the community living above the horizontal well.

3. Notification system for the community

Community notified via public notification, outlining the area of underground land and details of the payment in return for the right of use. This is part of the same voluntary industry agreement as payment.

Update from Government (3)

Government support for Mineral Planning Authorities

- Published planning guidance in July 2013 on onshore oil and gas - became part of the online guidance suite in March 2014.
 - Set out model planning conditions in planning guidance.
 - Published standard application form for onshore oil and gas earlier this year.
 - OUGO proactively engaging with MPAs – regional contact covering Notts and the East Midlands: Chris Guelff (email: dobbieguelff.jobshare@decc.gsi.gov.uk)
 - Supporting HSE and EA to increase visibility as strong regulators of the shale industry including:
 - HSE to provide comprehensive response to planning applications.
 - EA visible during construction/ operation of sites + undertaking joint EA/ HSE site inspections.
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Shale Gas Exploration & Development



Background and Environmental Impacts

Dr Ian Campbell CGeol FGS

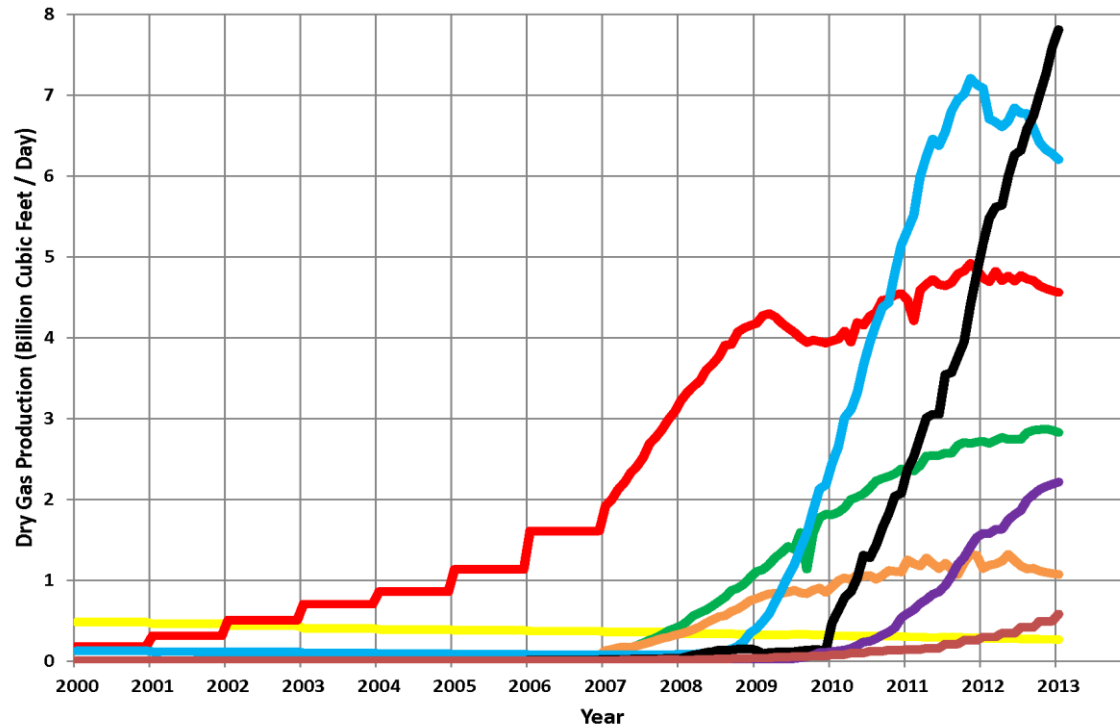


Key Issues



Shale Gas in the US

Natural Gas Production from US Shales, 2000-2013



- Massive increase in shale gas production in US in last decade
- In 2005 less than 5% of natural gas produced in US was Shale Gas
- In 2010 nearly ¼ natural gas produced in US was Shale Gas
- US now a net exporter of natural gas
- US gas prices halved

UK Government Policy

- Potential shale gas resource in UK
- Mindful of US experience, the Government is strongly supportive of shale gas development
- The UK Government considers that shale gas development should be part of the future energy mix subject to continued environmental assessment and controls
- Shale gas included in Planning Practice Guidance 2014

Planning Practice Guidance

Guidance

Planning for Hydrocarbon extraction

The Phases of onshore hydrocarbon extraction

Paragraph: 091 Reference ID: 27-091-20140306

What are conventional and unconventional hydrocarbons?

Hydrocarbon extraction covers both conventional and unconventional hydrocarbons.

Conventional hydrocarbons are oil and gas where the reservoir is sandstone or limestone.

Unconventional hydrocarbons refers to oil and gas which comes from sources such as shale or coal seams which act as the reservoirs.

As an emerging form of energy supply, there is a pressing need to establish – through exploratory drilling – whether or not there are sufficient recoverable quantities of unconventional hydrocarbons such as shale gas and coalbed methane present to facilitate economically viable full scale production.

 Revision date: 06 03 2014

Public Concerns



PUBLIC PERCEPTION OF SHALE GAS EXTRACTION IN THE UK: THE IMPACT OF THE BALCOMBE PROTESTS IN JULY- AUGUST 2013

Sarah O'Hara,* Matthew Humphrey, Russ Isopod, Brigitte Herflich and Will Knight

University of Nottingham

*Corresponding author: Sarah.O'Hara@nottingham.ac.uk

1st October 2013

- Climate change
- Earthquakes
- Drinking water contamination
- Air Quality
- Public Health
- Effects on countryside



What is Shale Gas?



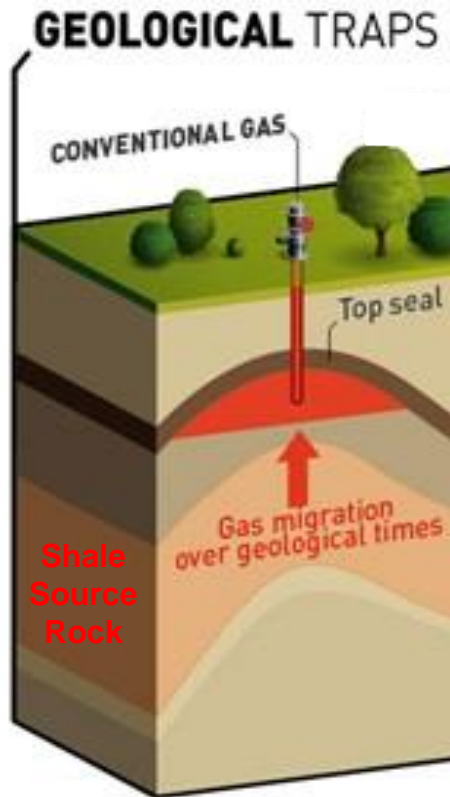
Background: What is Shale Gas and Shale Oil?



Organic rich shale at the ground surface

- Shale is formed from muddy sediments rich in organic matter deposited in seas millions of years ago
- As these sediments were buried, they were heated and turned into rock and the organic matter was converted into oil or gas
- These rocks are often the source rocks for conventional oil and gas fields but have low permeability so it is difficult to extract oil or gas from them directly

Background: Conventional Oil and Gas



- Free oil and gas trapped in porous reservoirs (usually sandstone or limestone)
- Relatively easy to extract

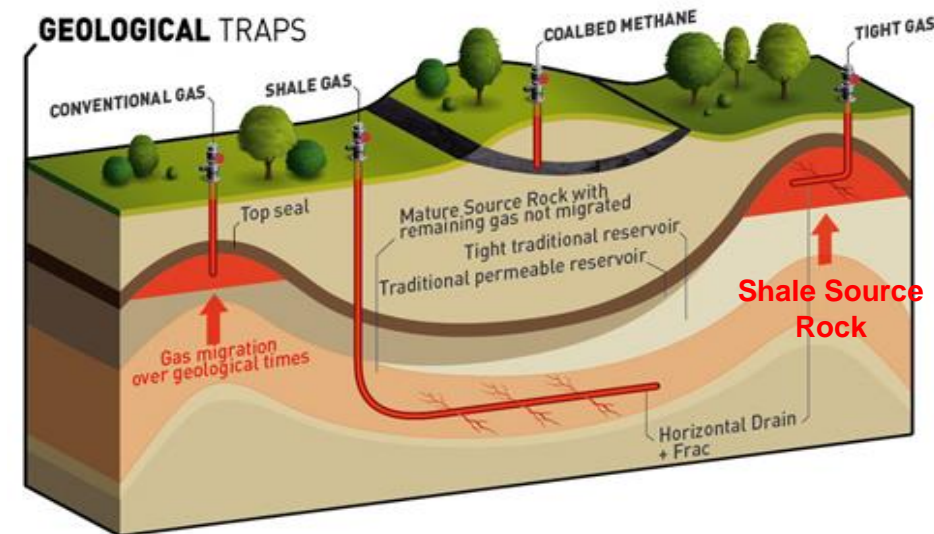
Background: Unconventional Gas

Unconventional gas:

- Gas trapped in rocks which are more difficult to produce from – e.g. Shale gas, but also:
 - Tight gas in sandstone
 - Coal bed methane

Why extract unconventional oil and gas now?

- Developments in drilling technology over the last 20 years have made it economic to extract

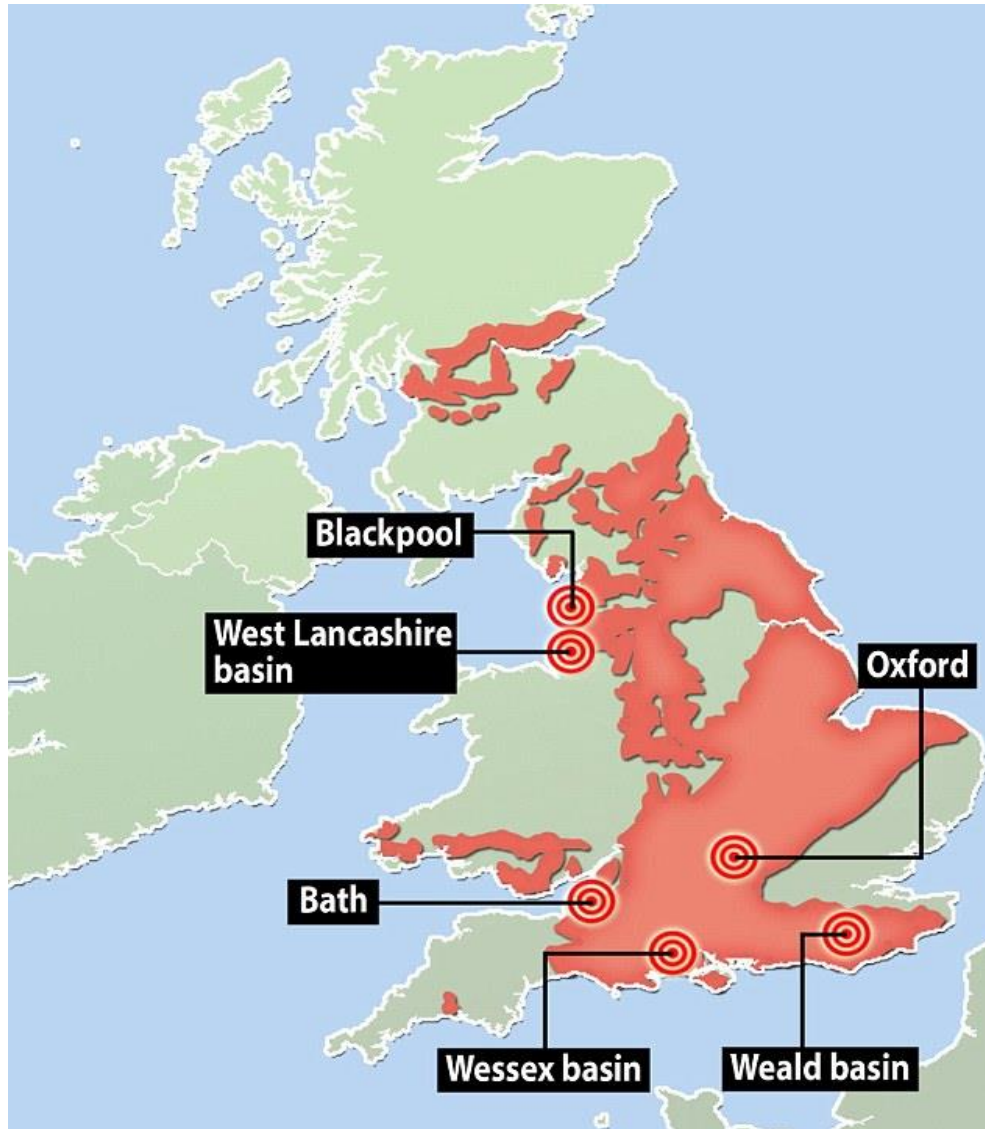




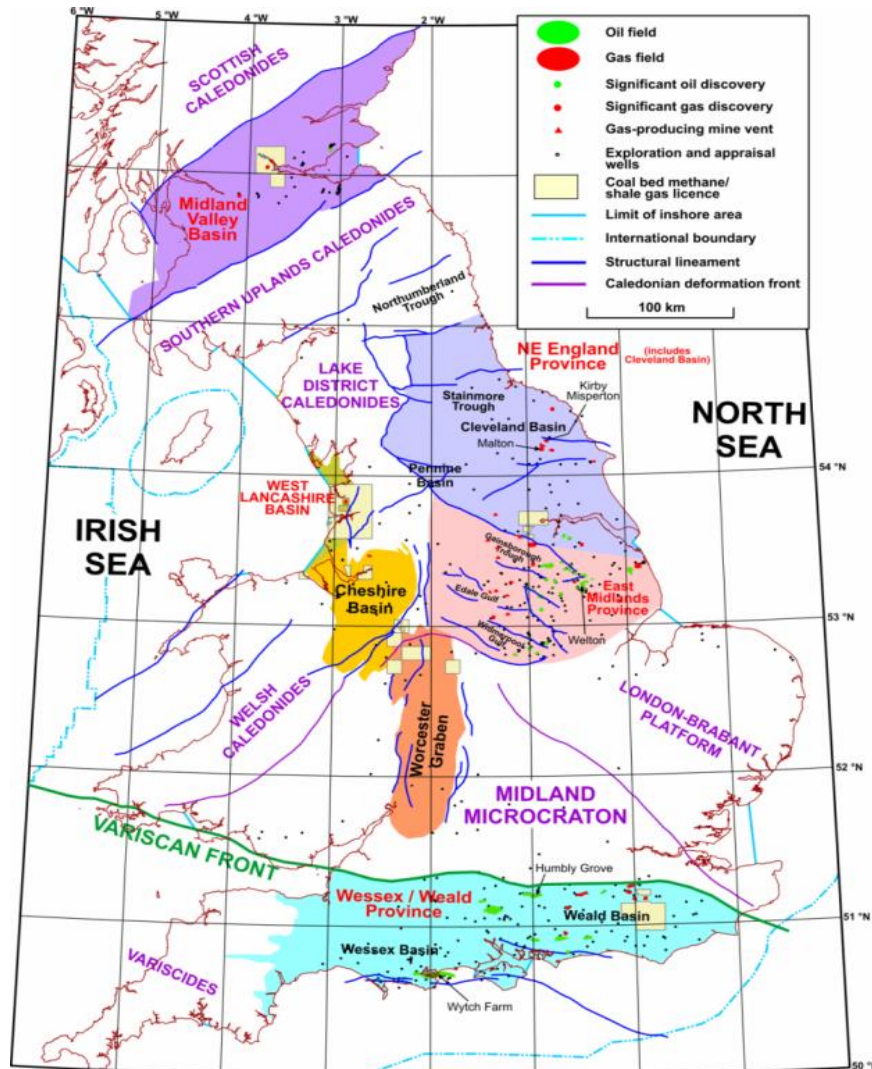
Shale Gas in the UK



Shales in the UK?

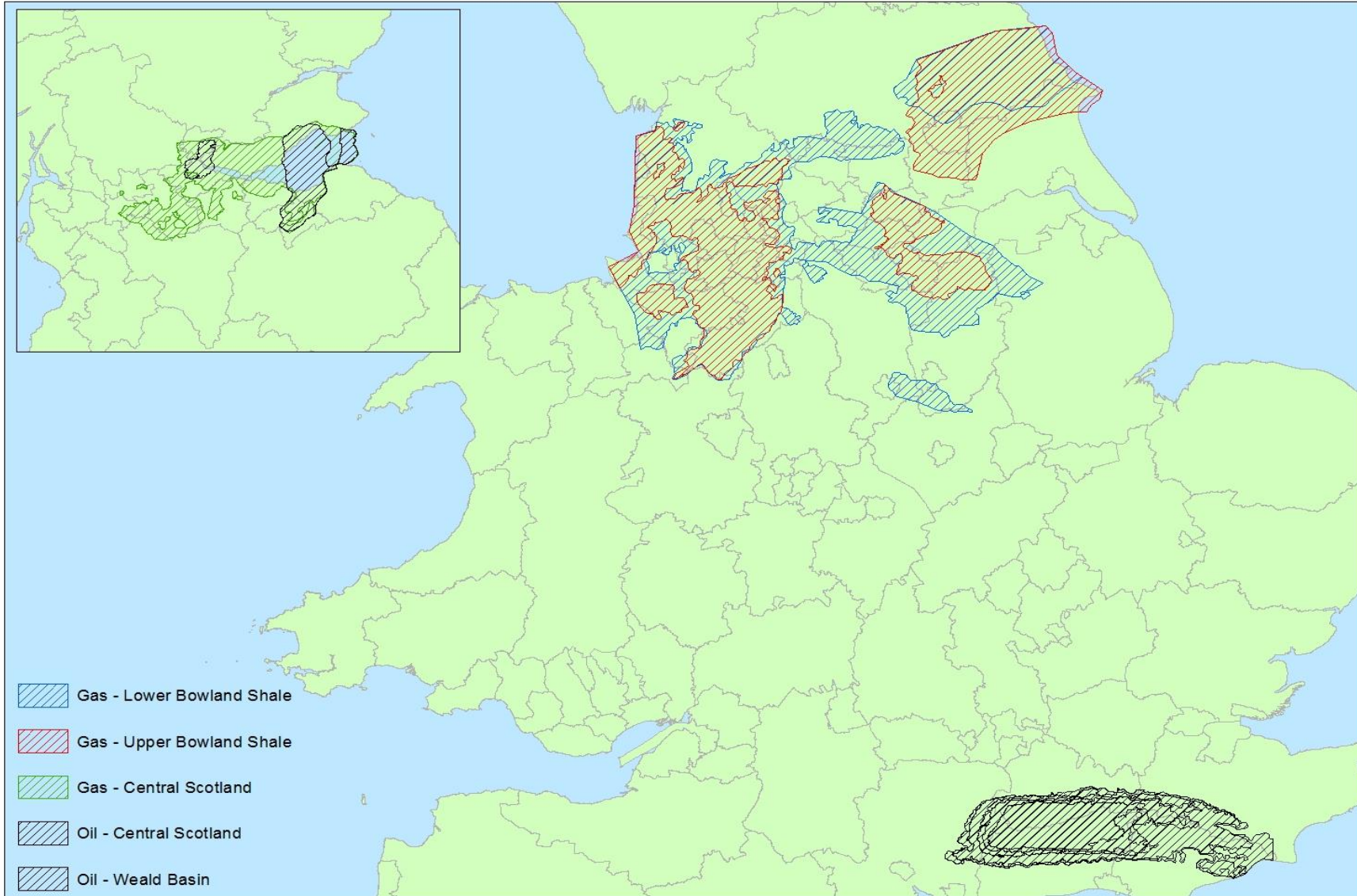


UK On-shore Hydrocarbon Provinces



- In the UK shales potentially containing gas are present in:
 - Northern and Central England
 - Southern England
 - Midland Valley of Scotland
- The British Geological Survey has produced assessments of the amount of gas in each area.
- Northern and Central England assessment produced in 2013.
- Weald Basin and Midland Valley reports 2014
- Other areas?

British Geological Survey Assessments

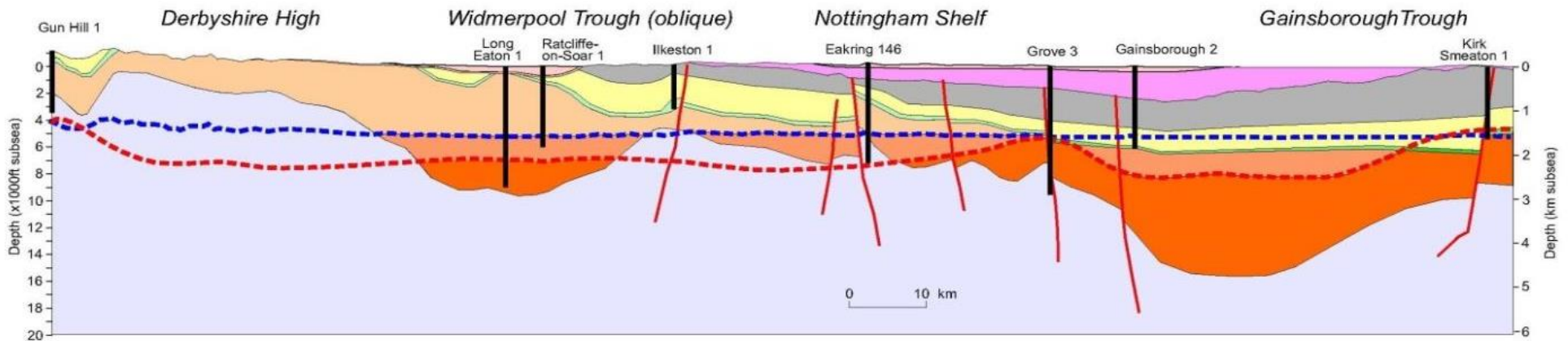
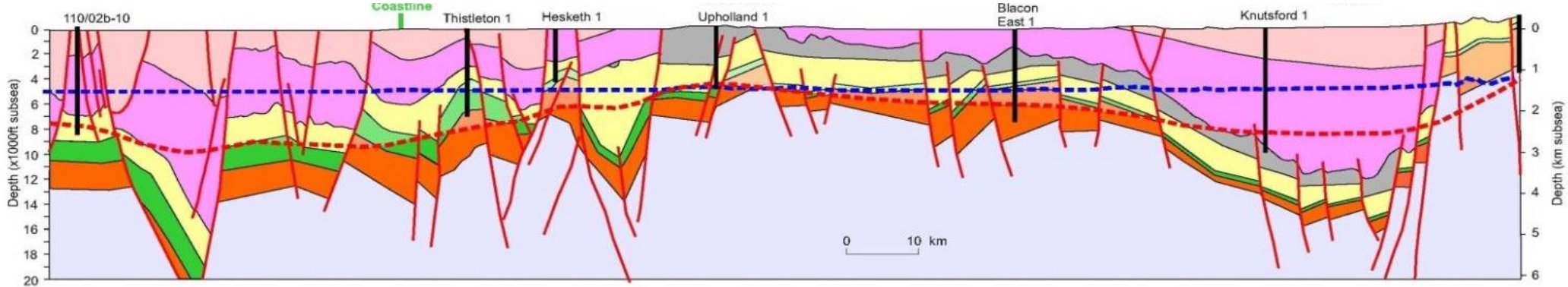


BGS Assessments: Resources and Reserves

Hydrocarbon Province	Shale Gas Resource (Billions of cubic metres)	Shale Oil Resource (Billions of tonnes)
Northern & Central England (Bowland Shale)	23,300 – 64,600	-
Central Scotland	1,400 – 3,800	0.4 – 1.5
Weald Basin	-	290 – 1,100

- **Resource** - estimate prepared using a 3D model based on geophysics and a limited number of boreholes – significant uncertainties
- **Reserve** - the amount of gas which may be extracted cannot be estimated at present without further exploration
- Up to 50 years gas supply in UK from Bowland Shale? However could be much lower.

BGS Assessments - Uncertainties

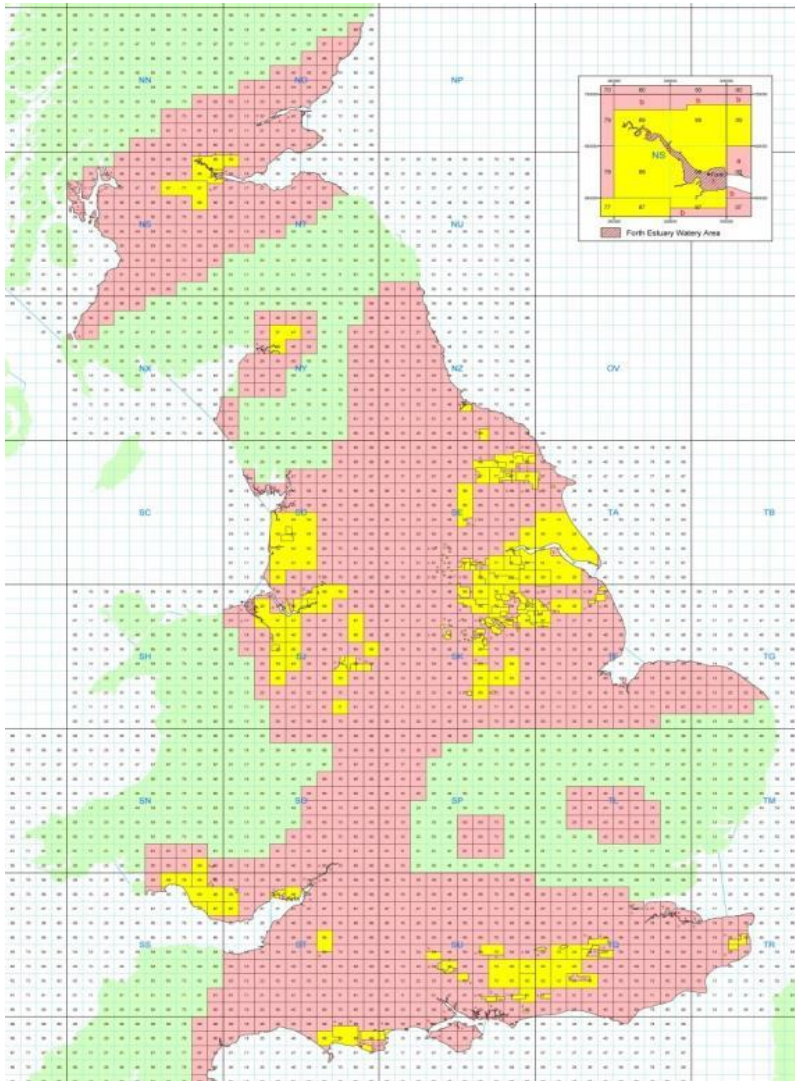


Upper Bowland Shale: More data - higher confidence



Lower Bowland Shale: Less data - lower confidence

Petroleum Exploration & Development Licensing

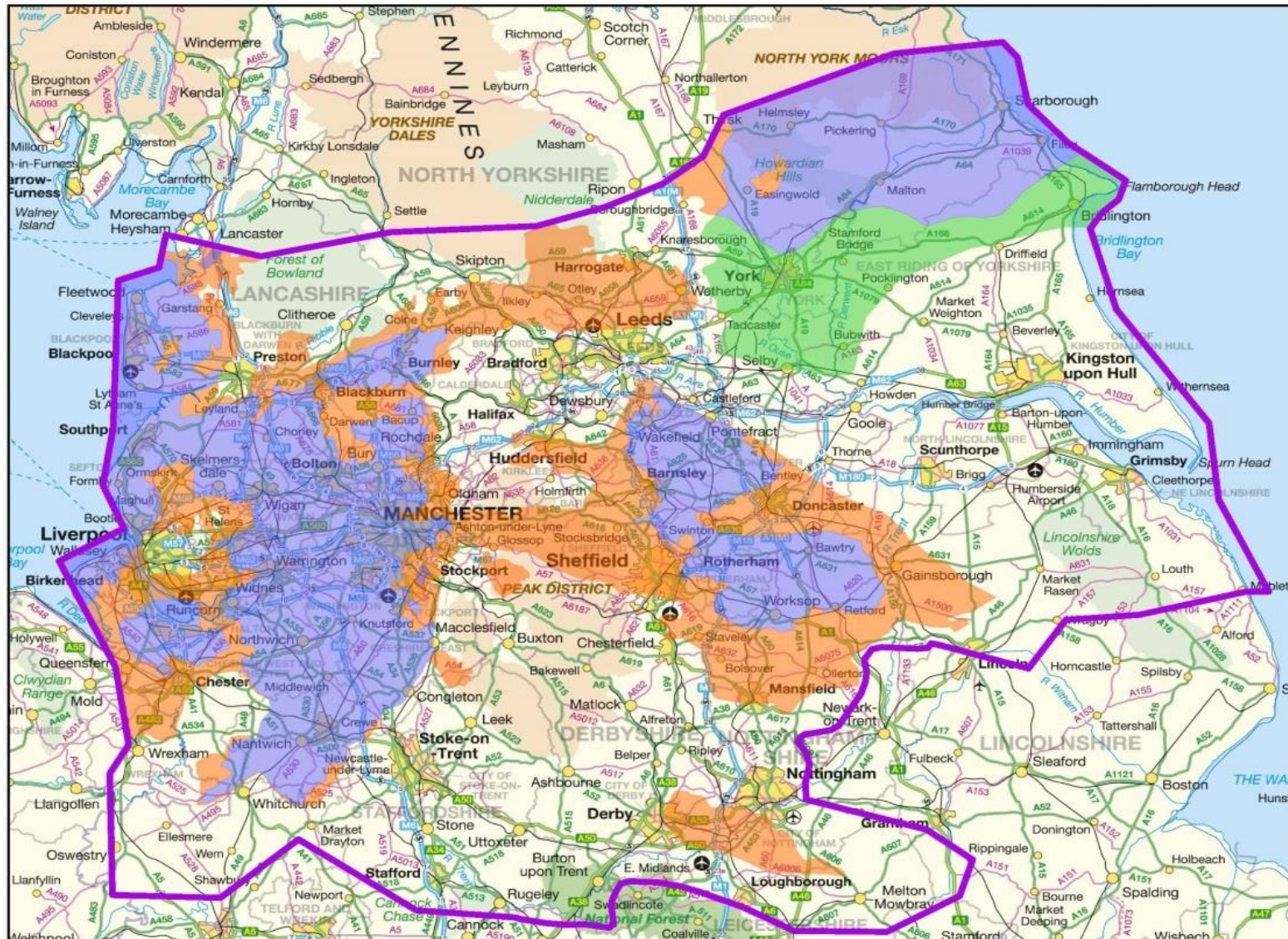


Existing and 14th Round Licence Blocks

DECC 14th Landward Licensing Round:

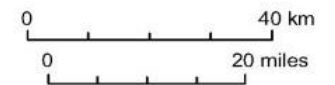
- Invitation – end July 2014
- Submissions – end October 2014
- Award – expected “early” in New Year 2015
- As part of the licensing process DECC have required operators to prepare an Environmental Awareness Statement for each application area

Northern England - Which areas are prospective?

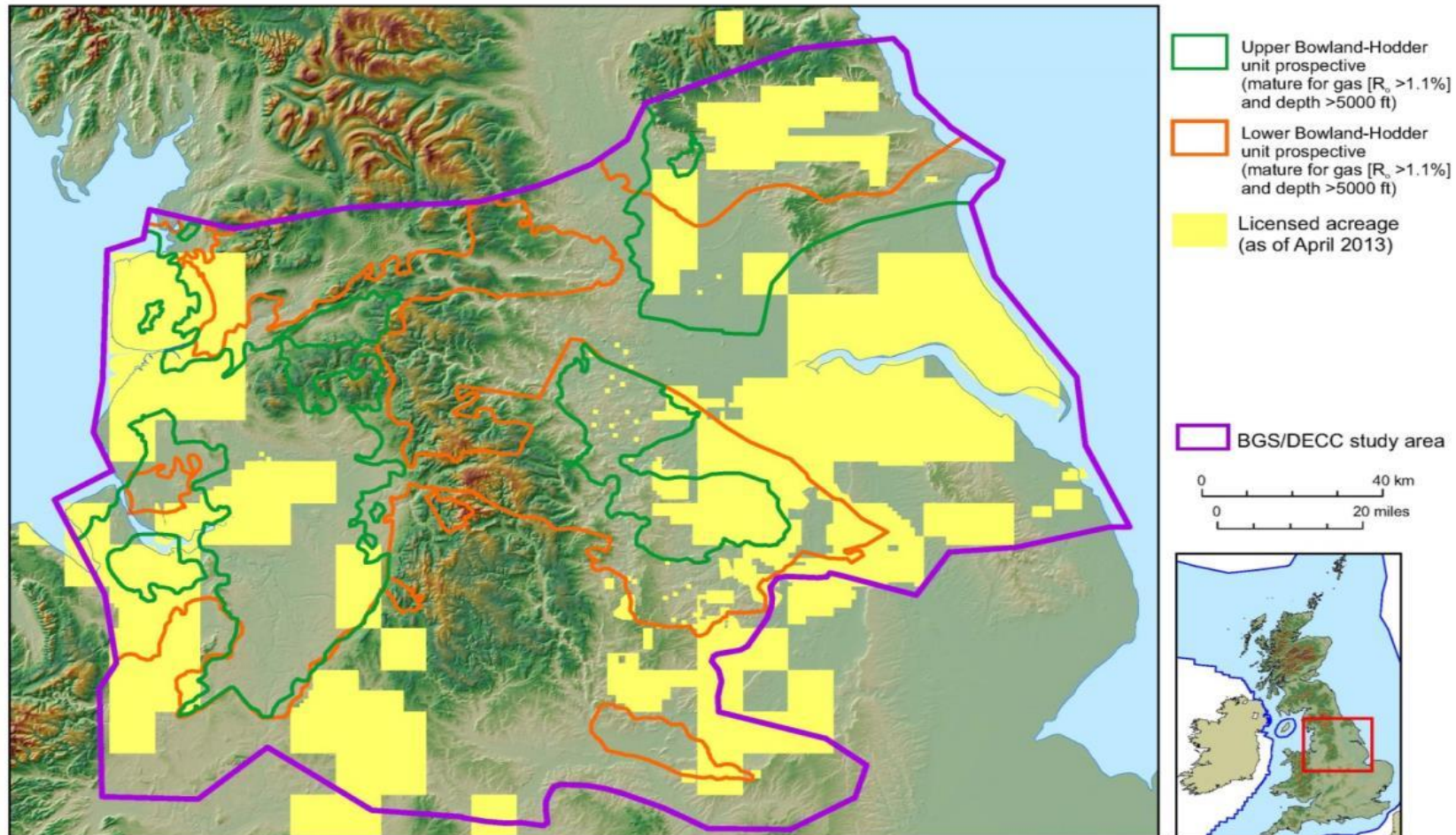


- Upper Bowland unit prospective
- Lower Bowland unit prospective
- Both units prospective

BGS/DECC study area



Licensing in Northern and Central England



Location of Current PEDLs in Northern and Central England compared to Bowland Shale Resource



Shale Gas Operations



Exploration, Appraisal and Development

There are three phases in the development of a Shale Gas field

1. Exploration – **how much shale is there?**

Does not typically involve fracking

2. Appraisal – **how much gas will it produce?**

Involves fracking

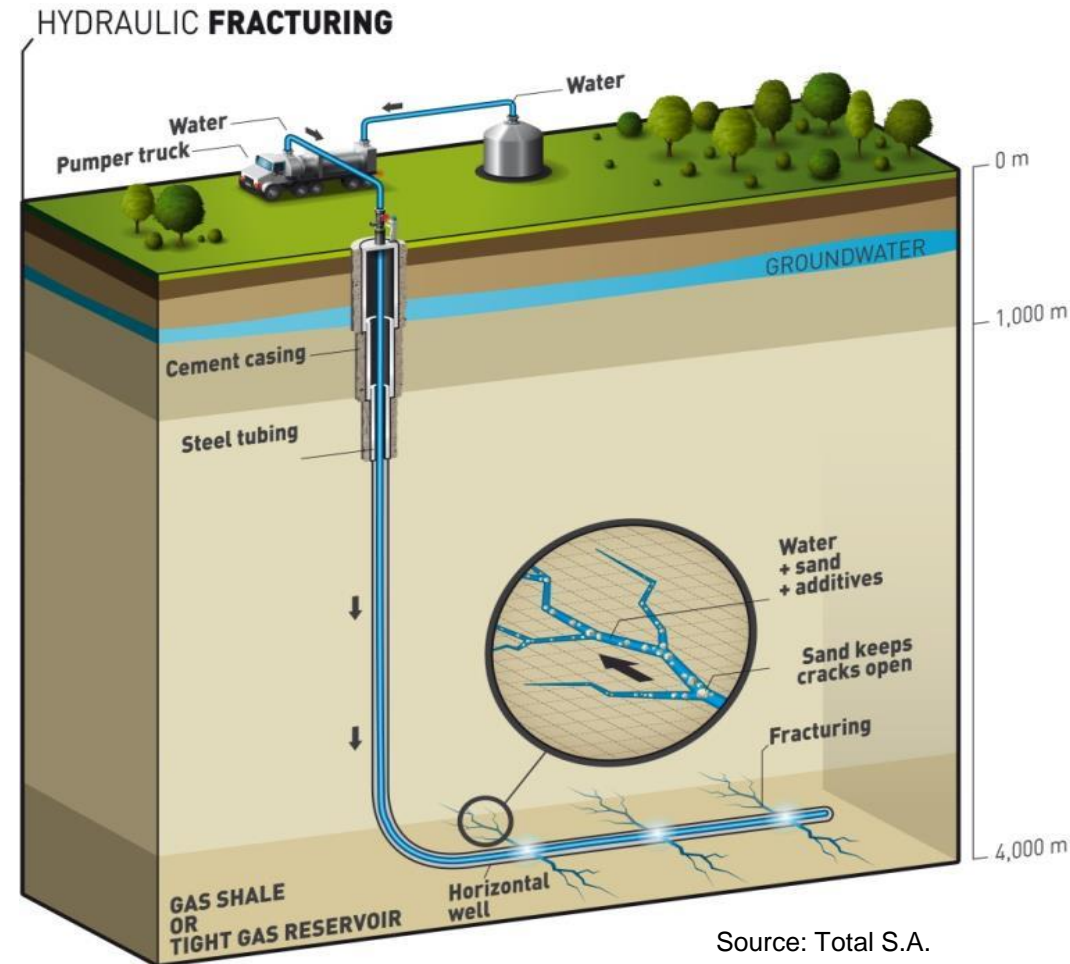
3. Development – **commercial production of shale gas**

Involves fracking



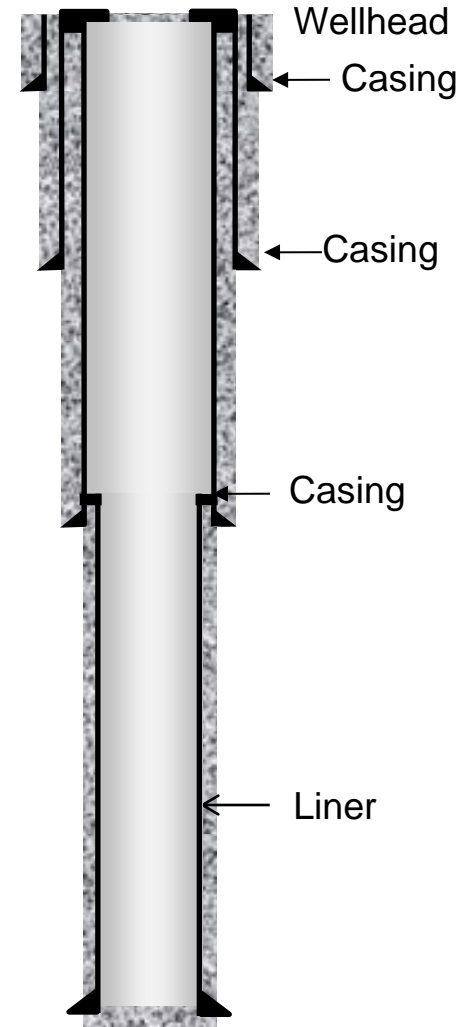
Drilling for Shale Gas

- Rocks containing shale gas in the UK are typically 2,000 m to 3,000 m below the ground surface
- Accessing the gas uses established oil and gas drilling technologies, in particular:
 - Horizontal Drilling – *to maximise the amount of shale available for fracking*
 - Hydraulic fracturing (“fracking”)– *to maximise the amount of gas which can be extracted from the shale*



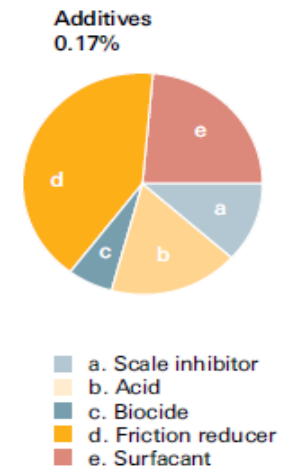
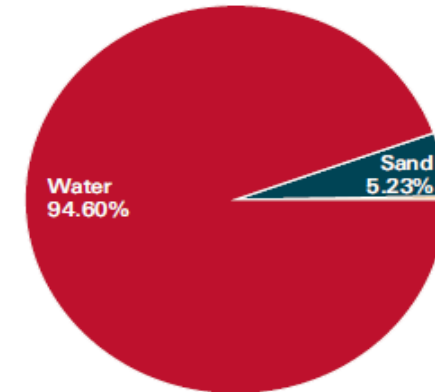
Well Completion

- Wells cased with steel tubes cemented in place progressively during well construction
- Productive horizons isolated using steel liner – again cemented in place



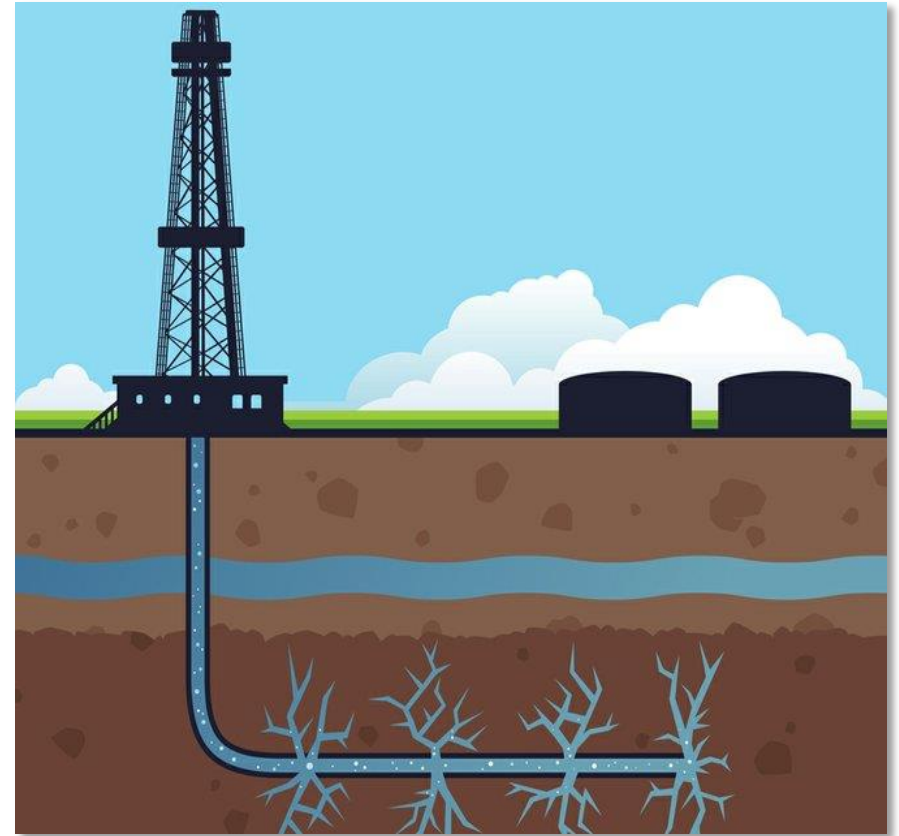
Hydraulic Fracturing

- Liner perforated within the shale using explosive guns
- Water, sand and additives are pumped at pressure into the shale
- Fracking opens up hairline fractures that allow the gas to flow from the shale
- All chemical additives used will require pre-approval by the Environment Agency and are required to be non-hazardous (non-carcinogenic)



Hydraulic Fracturing

- Gas is allowed to flow from the well.
- Some fracking fluid will return with the gas (“flow back” fluid)
- The gas will either be:
 - flared – during exploration or appraisal; or
 - piped off-site to the gas transmission network - during production



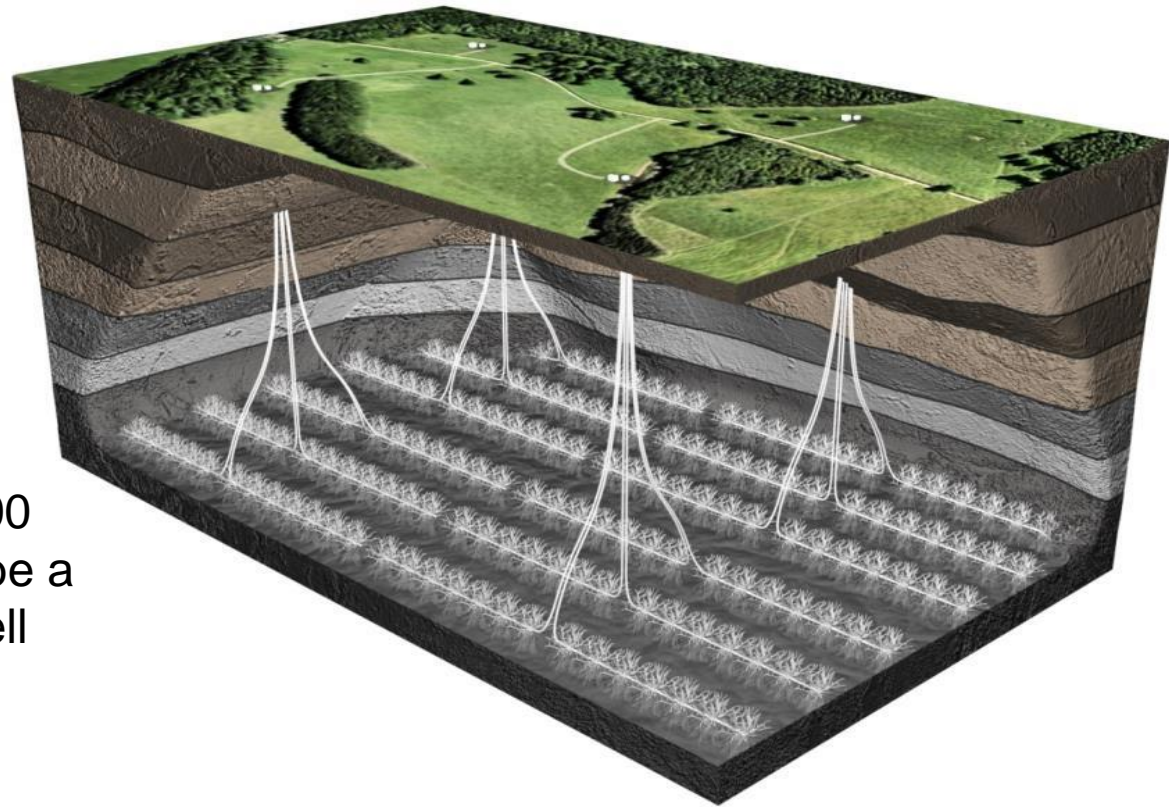
What might Shale Gas Exploration look like?

- Wellpad ca. 1 ha in size
- very widely spaced
 - 4 to 6 wells per licence block (which may be hundreds of km² in area)
- 2 - 4 months duration for exploration well
- 4 – 6 months duration for appraisal well (includes testing)



What might Shale Gas Development look like?

- Wellpad ca. 2 ha in size
- single well pad can develop 5 – 10 square kilometres
- Multi-well development pads - 8 to 20 individual wells
- Individual wells can reach over 2,000 metres horizontally and there may be a number of horizontal laterals per well
- Drilling phase – several years per wellpad?



What might Shale Gas Production Look Like?

- After drilling a small well pad remains
- Drilling rig and associated structures removed from site.
- Gas production infrastructure only
- Site can be screened
- Off-site gas collection and transmission infrastructure will be required to service a number of pads. Pipework is likely to be underground.
- Each well pad operational for up to 20 years?



Development in Sensitive Areas



- Wytch Farm – Europe’s largest on-shore oilfield
- Located adjacent to Poole Harbour – AONB, SSSI & NNR, SPA
- Sandbanks peninsular - 4th most expensive real estate in the world

What UK Development won't look like



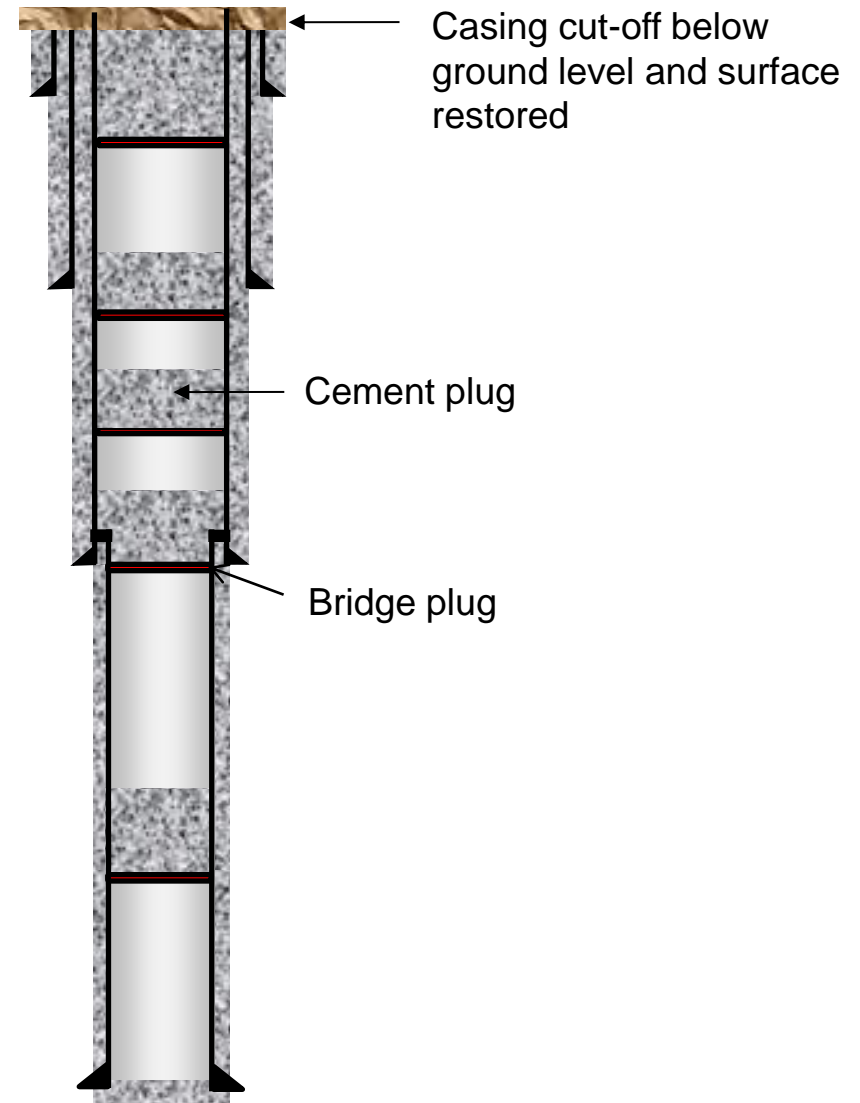
Jonah gas field, Wyoming

Why not?

- Improvements in technology
- Landownership and mineral rights in UK are different to US
- More robust planning and regulatory systems

Restoration

- All wells will ultimately be plugged and abandoned with well heads removed and the sites restored





Environmental Impacts



Water Use

- Typical shale gas well uses between 10,000 to 20,000 cubic metres (4 to 8 swimming pools) of water for hydraulic fracturing
- Sources
 - Mains water – water company agreement
 - Surface water – abstraction licence
 - Groundwater – abstraction licence
- Potential competition for water supplies in south east England – less of an issue elsewhere in UK



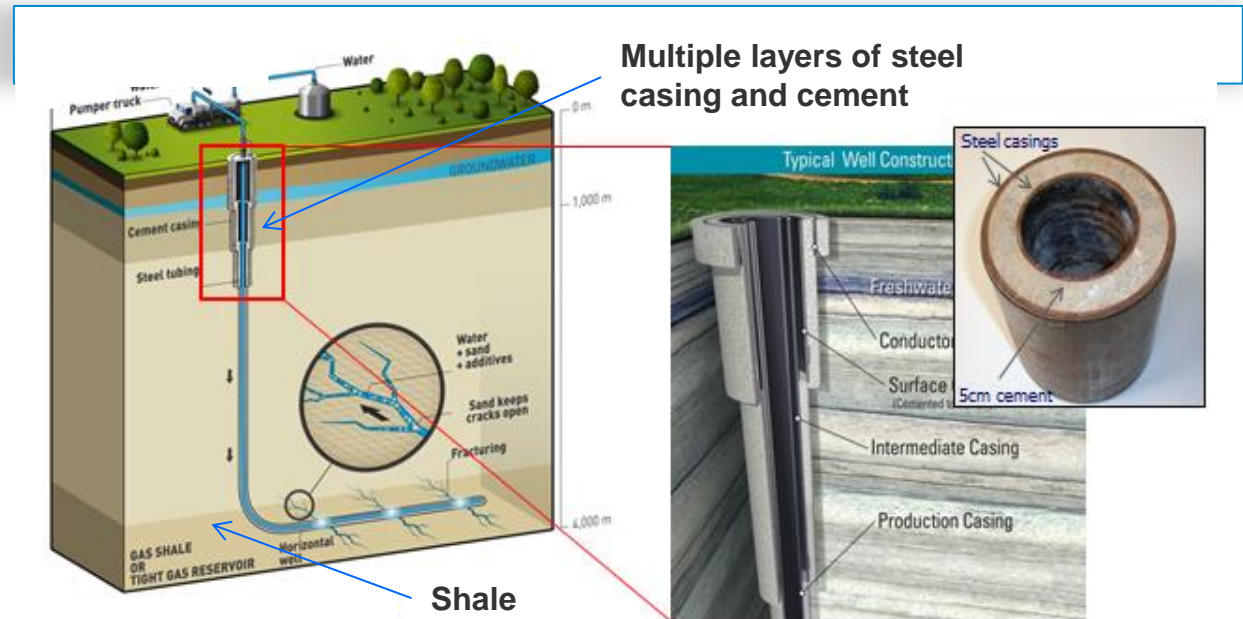
Waste Management

- Drill cuttings (rock fragments and drilling mud) – disposed of to landfill
- Flowback water from well
 - Contains natural minerals (some of which may be naturally radioactive)
 - Collected and contained on-site in closed tanks (not open ponds)
 - Pre-treat on-site and treat at water treatment works
 - Recycle and re-use – for multi-well developments



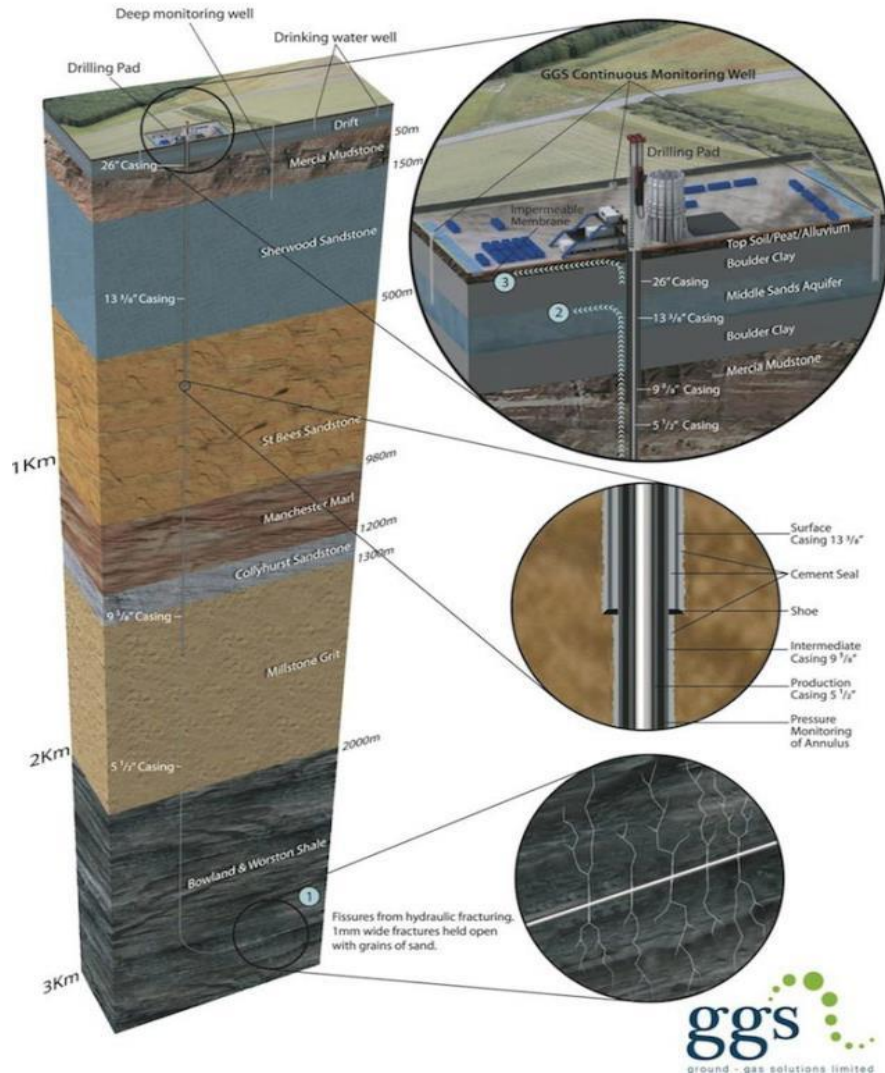
Groundwater Contamination

- Fracturing takes place at 2,000 to 3,000 m. Freshwater aquifers are at shallow depths (typically less than 100 m from surface).
- Thousands of metres of impermeable rock separate fractures from drinking water supplies (aquifers). Fractures are typically < 350m long.
- Aquifers protected from leakages by multiple casing and cement
- Contamination of aquifers very unlikely if best practice followed



Groundwater Contamination - Scale

SHALE GAS DRILLING, FRACGING AND ENVIRONMENTAL MONITORING



Surface Contamination

- Sources - leakage and uncontrolled discharges at the ground surface
- Can potentially contaminate:
 - Groundwater
 - Surface Water
 - Soil
- Controls:
 - Impermeable banded well pads
 - Flowback water containment
 - Good working practices
 - Monitoring



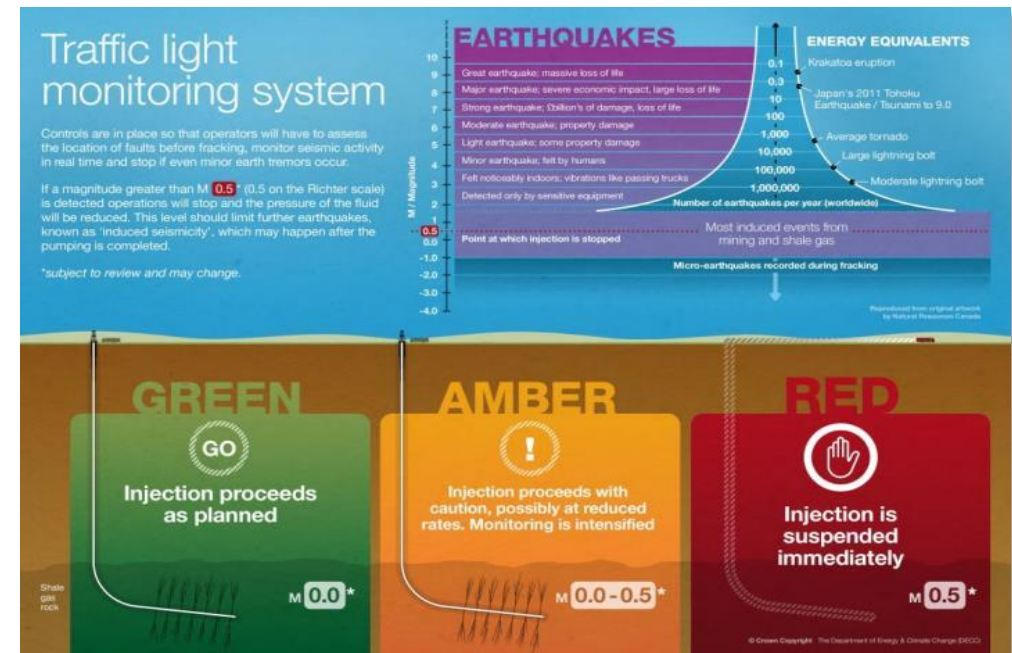
Aerial Emissions

- Sources:
 - Dust – wellpad and access road construction
 - Particulates and NOx – HGVs and generators
 - Fugitive gas (methane) - flowback, flaring
- Controls:
 - UK and EU legislation on emissions
 - Best practice backed up by monitoring
 - Controlled emissions –flares
 - Not in operator's interest to flare but to capture and maximise gas production/sale



Seismicity

- Earthquakes felt at surface induced by hydraulic fracturing are a very rare occurrence
- Of over 35,000 hydraulically fractured wells - only four noticeable earthquakes
- Magnitude of induced earthquakes very small
- DECC Traffic Light System:
 - Monitor
 - Assess
 - Stop work if tremors above (very low) threshold level



Community Issues

- Traffic –HGVs associated with:
 - Well pad construction
 - Drilling and fracking operations
 - Management of wastes – particularly flow back fluid and drilling wastes
- Noise – mainly during:
 - Wellpad construction
 - Drilling and fracking operations
- Ecology:
 - Impacts on protected species
 - Impacts on habitats
- Landscape:
 - restricted to the drilling phase – 50 m high drilling rig on site



Potential Greenhouse Gas Emissions Associated with Shale Gas Extraction and Use (DECC 2013)

- *"shale gas, if properly regulated, is likely to have a greenhouse gas footprint no worse than the other fossil fuels that society currently depends on. To ensure that shale gas exploitation doesn't increase cumulative greenhouse gas emissions it is crucial that society maintains efforts to drive down the costs of low- carbon technologies, including carbon capture and storage."*

International Panel on Climate Change (AR5, 2014):

- Greenhouse gas emissions from energy supply can be reduced significantly by replacing current world average coal-fired power plants with modern, highly efficient natural gas combined-cycle power plants or combined heat and power plants, provided that natural gas is available and the fugitive emissions associated with extraction and supply are low or mitigated.
- Natural gas power generation without carbon capture and storage acts as a bridge technology [to renewables].



Assessment and Regulation



Environmental Impact Assessment

- Planning Application - Environmental Impact Assessment required if:
 - Site > 0.5 ha in size - or likely to have significant effects on the environment by virtue of factors such as its nature, size or location
 - Can be submitted on a voluntary basis e.g. for exploration well on small site
 - Screening and Scoping agreed with Mineral Planning Authority
- Requires baseline monitoring:
 - Groundwater and Surface water
 - Air and Noise
 - Seismicity
- Identifies mitigation and specifies monitoring
- Assessment of cumulative effects of field development very important at the development stage



Environment Agency:

- Intention to drill under Water Resources Act
- Environmental Permit – mining waste, radioactive substances, discharges to water
- Water abstraction licence(s)



Health and Safety Executive

- Assess well design and monitor well construction
- Independent inspections by competent person



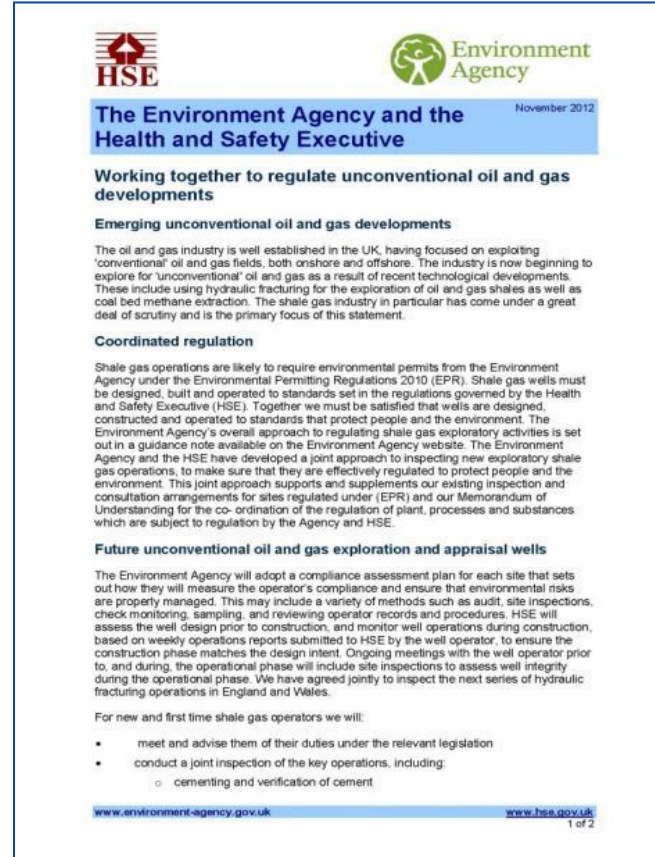
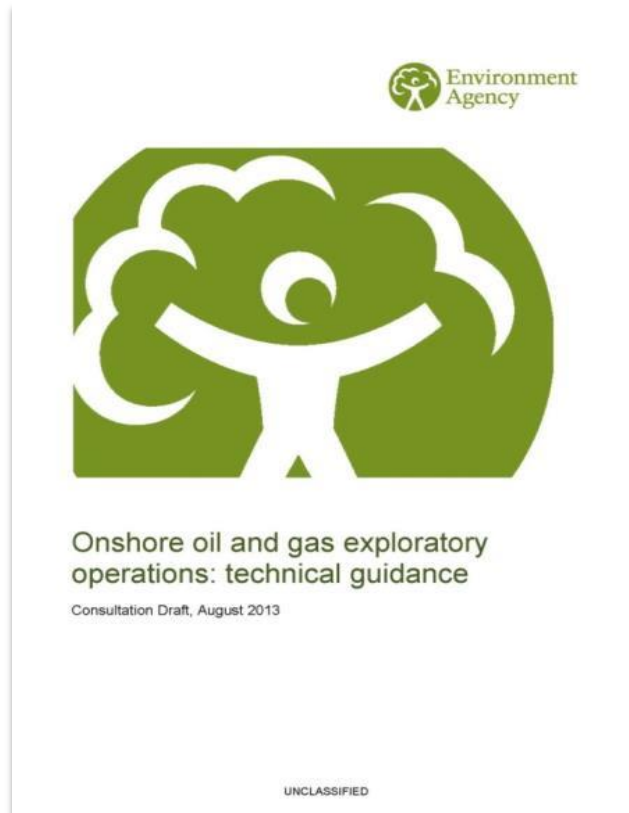
Coal Authority – notify if drilling through coal seams



DECC

- Environmental Risk Assessment – whole life cycle
- Seismic Assessment
- Go/no go decision





HSE

Environment Agency

November 2012

The Environment Agency and the Health and Safety Executive

Working together to regulate unconventional oil and gas developments

Emerging unconventional oil and gas developments

The oil and gas industry is well established in the UK, having focused on exploiting 'conventional' oil and gas fields, both onshore and offshore. The industry is now beginning to explore for 'unconventional' oil and gas as a result of recent technological developments. These include using hydraulic fracturing for the exploration of oil and gas shales as well as coal bed methane extraction. The shale gas industry in particular has come under a great deal of scrutiny and is the primary focus of this statement.

Coordinated regulation

Shale gas operations are likely to require environmental permits from the Environment Agency under the Environmental Permitting Regulations 2010 (EPR). Shale gas wells must be designed, built and operated to standards set in the regulations governed by the Health and Safety Executive (HSE). Together we must be satisfied that wells are designed, constructed and operated to standards that protect people and the environment. The Environment Agency's overall approach to regulating shale gas exploratory activities is set out in a guidance note available on the Environment Agency website. The Environment Agency and the HSE have developed a joint approach to inspecting new exploratory shale gas operations, to make sure that they are effectively regulated to protect people and the environment. This joint approach supports and supplements our existing inspection and consultation arrangements for sites regulated under (EPR) and our Memorandum of Understanding for the co-ordination of the regulation of plant, processes and substances which are subject to regulation by the Agency and HSE.

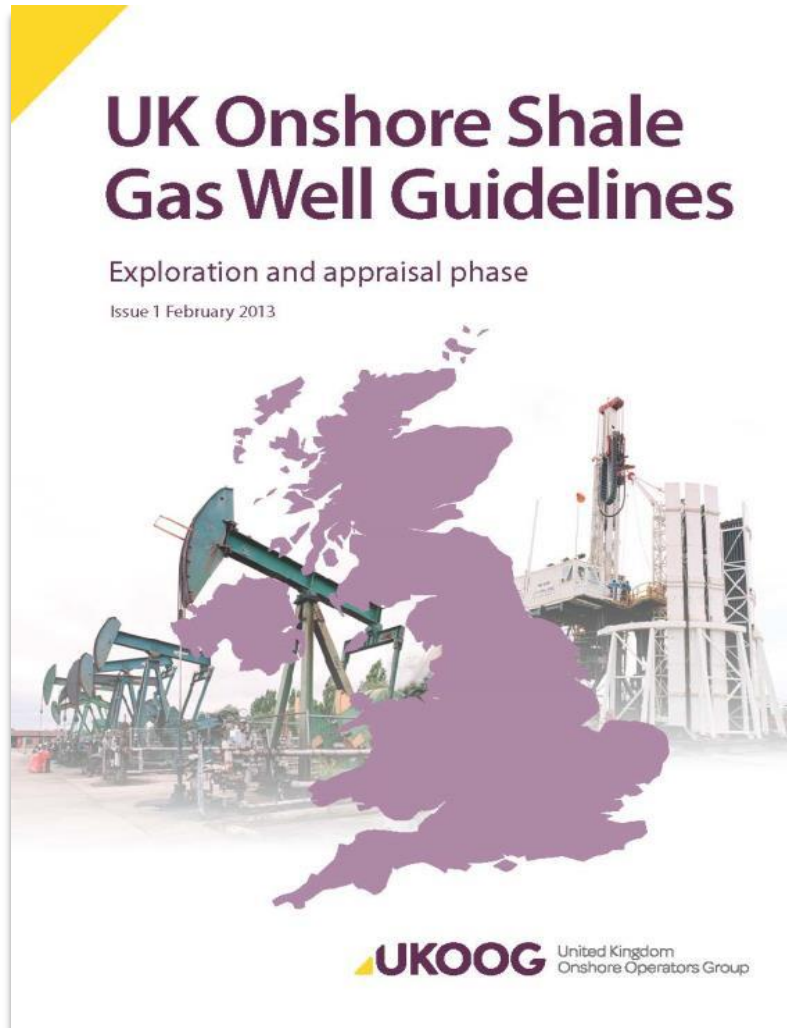
Future unconventional oil and gas exploration and appraisal wells

The Environment Agency will adopt a compliance assessment plan for each site that sets out how they will measure the operator's compliance and ensure that environmental risks are properly managed. This may include a variety of methods such as audit, site inspections, check monitoring, sampling, and reviewing operator records and procedures. HSE will assess the well design prior to construction, and monitor well operations during construction, based on weekly operations reports submitted to HSE by the well operator, to ensure the construction phase matches the design intent. Ongoing meetings with the well operator prior to, and during, the operational phase will include site inspections to assess well integrity during the operational phase. We have agreed jointly to inspect the next series of hydraulic fracturing operations in England and Wales.

For new and first time shale gas operators we will:

- meet and advise them of their duties under the relevant legislation
- conduct a joint inspection of the key operations, including:
 - cementing and verification of cement

www.environment-agency.gov.uk www.hse.gov.uk
1 of 2



Public Health England –Review of Public Health Impacts 2014



“The currently available evidence indicates that the potential risks to public health from exposure to the emissions associated with shale gas extraction are low if operations are properly run and regulated.”

The Royal Society/Royal Academy of Engineering – Shale Gas Extraction in the UK: A Review of Hydraulic Fracturing 2012



“Shale gas extraction in the UK is presently at a very small scale. [...] Uncertainties can be addressed through robust monitoring systems and research [...] Co-ordination of the [regulators] must be maintained. Regulatory capacity may need to be increased.”



Summary



- The UK has a potentially significant shale gas resource
- There is a need to undertake more extensive exploration and appraisal activities to better assess the commercial viability of shale gas
- Environmental impacts can occur during exploration/development and require:
 - Comprehensive baseline assessments
 - Assessment and understanding of risks and impacts
 - Implementation of mitigation where required
 - Monitoring before, during and after hydraulic fracturing
- Regulatory control and guidance
 - Existing regulations can control progress of shale gas developments in UK
 - Slower development in UK than US should allow time to develop best practice and more robust regulatory controls if prove to be necessary

Any Questions?



Tea & coffee break



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Shale Gas Exploration and Development



Planning Issues

John Hollister BA (Dual Hons) MRTPI MCIWM CEnv

Applications for planning permission to carry out shale gas extraction , like any other, must be determined in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 – which states:

“ if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- so in this presentation I will consider the existing situation of terms of:

- development plans;
- material considerations; and
- issues for planning policy makers.

and will finish with a few observations on the topical matter of financial considerations.

Development Plan (1)

Current development plan policies largely carry forward the approach originally set out in Department of the Environment Circular 2/85 'Planning Control over Oil and Gas Operations' e.g.

- encourage exploration and production; and
- maximum exploitation consistent with good practice.

Existing policies typically structured in terms of the 3 phases of development:

- exploration;
- appraisal; and
- production

– to reflect i) different policy considerations at each stage and ii) planning decisions should not preempt those to be taken later at the production stage.

Development Plan (2)

New plan making system introduced by the Planning and Compulsory Purchase Act 2004 - coverage of plans produced under the new system is still very patchy.

The development plan in most areas currently comprises a mix of policies from the old and new systems.

Policies only likely to exist for conventional hydrocarbon extraction in areas of activity in the past.

Shale gas extraction is too recent a phenomenon to be addressed in plans of either vintage.

MPAs which fall in areas subject of PEDLs issued by DECC will need to consider the issues likely raised by shale gas extraction.



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Development Plan (3)

Nottinghamshire CC's emerging Minerals Local Plan considers that there is no need to distinguish shale gas from other forms of hydrocarbon extraction.

Lancashire CC, Blackpool Council and Blackburn with Darwen BC are currently in the early stages of developing a joint oil and gas SPD. This SPD will provide guidance on the interpretation and application of the policies in the adopted Joint Lancashire Minerals and Waste Core Strategy and Site Allocation and Development Management Local Plan.

Hampshire CC, Southampton City, Portsmouth City and the New Forest NPA are in the process of developing a joint oil and gas SPG document - intended to assist in the implementation of the Hampshire Minerals and Waste Plan and provide further guidance on the implementation.

In the interim, decisions on individual shale gas proposals are likely to give more weight to the 'material considerations' which apply.

Material Considerations

No statutory definition of “material considerations”.

Established through case law - wide range of policy and evidential documents.

In the case of shale gas – two key policy / guidance documents:



- National Planning Policy Framework (DCLG, March 2012); and
- Planning Practice Guidance (PPG) (DCLG, March 2013).

Also important evidential material in:

- reports referred to by Ian Campbell; and
- Ministerial statement - December 2012.



Announcement
**Written Ministerial Statement by
Edward Davey: Exploration for shale
gas**

Material Considerations - NPPF

Paragraph 14 **Presumption in favour
of sustainable development**

Paragraph 142 **important that there is a sufficient
supply of energy**

Paragraph 144 local planning authorities should
**give great weight to the benefits of
mineral extraction**, including to the
economy.....

Paragraph 147 When planning for unconventional
hydrocarbons, MPAs should clearly distinguish
between the three phases of development and
address constraints on production and processing.....



Material Considerations - PPG

Minerals para 91 shale gas ...**pressing need to establish** – through exploratory drilling – **whether or not there are sufficient recoverable quantities present** to facilitate economically viable full scale production.

Minerals para 112 mineral planning authorities should **rely on the assessment of other regulatory bodies** [seismic, well integrity, waste and water management, gas flaring] before granting planning permission they will **need to be satisfied that these issues can or will be adequately addressed by taking the advice** from the relevant regulatory body

Minerals para 223 shale gas extraction in National Parks, the Broads, AONBs and World Heritage Sites should be refused except in exceptional circumstances (see NPPF para 116) PPG amendment 28th July 2014



Material Considerations – Ministerial Statement (1)

Extracts from the written ministerial statement by Rt. Hon. Edward Davey MP (Secretary of State for Energy and Climate Change) published on 13th December 2012.

“..... **appropriate controls are available to mitigate the risks of undesirable seismic activity.** Those new controls will be required by my Department for all future shale gas wells.”

“I believe that the industry has a good record, and that **there are already in place robust regulatory controls on all oil and gas activities.**”

“..... emphasise the importance of the integrity of the well. This issue is central to the regulation of the safety of well operations by the HSE. **The Executive will scrutinise the well design and operational plan. Additionally, the regulations require a full review by an independent competent person.**

“the hazard potential of all substances proposed to be injected into the ground will be assessed [by the Environment Agency] and **the use of substances hazardous to groundwater will not be permitted.**”

Material Considerations – Ministerial Statement (2)

Extracts from the ministerial statement (continued).

“..... water used if directly abstracted by the operators, requires a licence from the Environment Agency. **Licences will only be given where the Agency is satisfied that a sustainable [water] supply is obtainable.**”

“**disposal of waste water** is subject to scrutiny by the [Environment Agency] and will require a permit A case-specific radiological assessment is required in support of any application for a permit for the disposal of radioactive waste. **The Agency will critically review any such assessment, and will only issue a permit if satisfied.**”

“ **Subsidence** **is not considered a risk** because of the strength and load-bearing characteristics of these rocks.” [i.e. the host shales and overlying strata]

Material Considerations – Public Concerns

Weight to be given to such concerns has been considered by the Courts.

The situation can be broadly summarised as:

- public safety is capable of being a material consideration;
- public opposition per se is not a material consideration;
- concerns may be a material consideration if they relate to a planning matter, are objectively justified and may have land-use consequences; and
- where public concern is not justified, it cannot be conclusive.



Popular opinion is that the Localism Act 2012 enables a MPA to refuse planning permission on the basis of the weight of public opinion.

However, law remains as before (see for example *Tewkesbury BC v SSCLG* and others).

NPPF and PPG seek to strike an appropriate balance between the economic and security of energy supply benefits which shale gas appears to offer and legitimate environmental concerns.

Can be no doubt though that Government's overall position is one of strong support for shale gas extraction.

Indicators – removing barriers:

- Town and Country Planning (Development Management Procedure and Section 62A Applications)(England)(Amendment No.2) Order 2013 removed requirement to serve notice on landowners when an application for planning permission is made to drill under their land - replaced by a requirement to publish a notice in the parish or ward; and
- forthcoming Infrastructure Act will remove the need for operators to obtain the consent of landowners to drill under their land (not a planning matter as such but)
- forthcoming amendments to Permitted Development Rights to include baseline monitoring.

Policy Issues (2)

Policy makers need to design policies which strike the right balance between the role of the MPA, other regulatory regimes and the water companies.



The PPG and case law makes it clear that MPAs do not need to carry out their own assessments of potential environmental effects which are controlled by other regulatory bodies and that they can determine applications on the advice of those bodies without waiting for the related approval processes to be concluded.

Changes to the PPG made in July 2014 make it clear that the Government's overall support does not extend to shale gas in National Parks, Broads, AONBs and World Heritage Sites.

What about the other areas where NPPF says development should be restricted (e.g. SACs, SPAs, Ramsar sites, SSSIs, Green Belt, Local Green Space and Heritage Coast) ?

Legislation provides special protection for some of these designated areas – but not all.

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Financial matters



The UK Onshore Operators Group (UKOOG) has adopted a “Community Engagement Charter” which includes a commitment to provide:



- £100,000 per well site where hydraulic fracturing takes place;
- 1% of revenues, allocated approximately 2/3rd to the local community and 1/3rd at the county level;

DECC estimates this could be worth £5M to £10M for a typical shale gas production site over its lifetime.

Prime Minister announced on 13th January 2014 that Councils will be able to keep 100 per cent of business rates they collect from shale gas sites – double the current 50 per cent figure. DECC has estimated that the business rates could be worth up to £1.7 million a year for a typical site.



Department
of Energy &
Climate Change

Infrastructure Act will be accompanied by a voluntary industry scheme under which payments of £20,000 will be made to the community for each horizontal well drilled. Draft regulations have been published.

Financial Matters (2)

Regulation 122 of the Community Infrastructure Levy Regulations 2010 sets out the limitations which apply to the use of planning obligations. Regulation 122(2) states that:

“A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly relate to the development; and
- fairly and reasonably related in scale and kind to the development.”



The type of community financial benefit schemes referred to earlier **fail** some or all of the tests set out in Regulation 122(2) and therefore cannot be taken into account as a planning obligation.

Financial Matters (3)

Could the community financial benefit schemes fall to be a 'material consideration' given the Localism Act 2012 ?

Section 143 of the Localism Act 2011 requires local planning authorities to have regard to any 'local finance considerations', so far as material to the application.

'Local finance consideration' means a grant or other financial assistance that has been, or will or could be provided to a relevant authority by a Minister of the Crown.

Therefore appears that the community financial benefit schemes fall outside definition of a 'local finance consideration'

MPAs therefore likely to be advised by officers that the community financial benefit schemes should not be viewed as a material consideration when determining applications.

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Summary



Policies need to be reviewed and in some cases updated in all MPA areas in which PEDLs are located.

Government's lead is for policies to reflect strong support for shale gas extraction - other than in National Parks, the Broads, AONBs and World Heritage Sites.

The PPG and case law makes it clear that MPAs do not need to carry out their own assessments of potential environmental effects which are controlled by other regulatory bodies and that they can determine applications on the advice of those bodies without waiting for the related approval processes to be concluded.

Although shale gas applications are likely to be controversial in some cases, MPAs should have regard to the case law on public opposition – the Localism Act does not change this.

The various community financial benefit schemes which have been introduced cannot be taken into account when MPA determine shale gas applications – either as a planning obligation or a 'material consideration'.

Lunch



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Shale Gas Exploration and Development



Practical Matters

Planning Advisory Service – Local Government Association

John Hollister and Rachel Hamblin

Processing applications for planning permission to carry out shale gas extraction can present special challenges for Planning Authorities.

Two issues in particular:

- how to determine applications in a timely and appropriate manner when faced with a large number of representations / enquiries from the public and associated elected member concerns; and
- how to ensure that the needs of District / Borough Council elected members and officers are met in two tier Local Government areas – when the application is determined by the County Council.

Will give some brief pointers before opening both topics up for discussion.

Then will compare the outcome with interviews we have conducted with various authorities.

Finish with some observations on recent case studies - see if these point up any trends and/or lessons to be learnt.

Managing Controversial Applications

Suggested discussion points:

Informing the debate

- local authority engagement;
- applicant engagement
- officer and elected member training.

Efficient working (post submission)

- smart systems
- resources (are Planning Performance Agreements the answer ?);

Decision making

- elected member briefings and attendance by the regulators at Committee
- leadership.

Two Tier Local Government Areas

Suggested discussion points:

District / Borough Council engagement

- officer and elected member training
- officer participation in MPA pre-application discussions
- officer participation in EIA screening and scoping

Participation in MPA elected member briefing sessions

Ownership and accountability

Elevating the District / Borough Council's role at the consultation stage





URS interviews with MPAs



Managing Controversial Applications (1)

Lancashire

- training provided for elected members – District / Borough elected members and officers, DECC and HSE invited;
- LCC website includes overview of the onshore oil and gas industry and links to government guidance etc.
- latest two applications over 20,000 representations - majority standardised templates from groups. Approximately 200 are individual representations - knowledgeable;
- logging counting and filing done manually – time consuming. Website functionality also an issue;
- 2 extra FTE staff brought in – more required
- only consultee responses are made available online, the others are analysed, counted and put on file. No acknowledgements, replies notifications are issued;
- size and complexity of the applications mean that consultees require more time to respond and are more likely to raise queries;
- consultants engaged by LCC to provide advice technical matters e.g. air quality, noise and seismicity.

Managing Controversial Applications (2)

Derbyshire

- no experience of shale gas but has deal with a controversial application which generated 40,000 representations;
- large proportion automated activist group websites;
- standard proformas not uploaded for viewing online - but a count kept;
- analysing and processing of the other representations done manually - very resource intensive;
- consultee responses uploaded on to website;
- replies not issued.

Managing Controversial Applications (3)

Hampshire

- no experience of shale gas but has deal with a number of conventional hydrocarbon extraction schemes;
- published a FAQ document on shale gas on website in response to numerous calls from the public. Aim of the FAQ document is to support officers and provide clear information;
- written representations are acknowledged, scanned and made available to view online;
- replies not issued unless a question is raised or it is specifically requested
- processing of representations is done manually;
- few examples where large numbers of representations have been received have proved a major resourcing problem. Staff seconded to mineral team from rest of the department;
- pre-application discussion promoted to encourage applicants to organise local meetings, public awareness and information exchange etc.
- intention to establish new oil and gas site liaison panels ideally at the pre-application stage
- held an 'Oil and Gas Development in Hampshire' event in June 2014 – attended by elected members, District Councils, other MPAs, Parish and Town Councils, regulators, operators and associated industry, local interest groups and environmental organisations.

Managing Controversial Applications (4)

South Downs National Park Authority

- answers to the most commonly sought queries are on website in the form of three FAQ documents.
- no experience of shale gas - but has recently dealt a controversial conventional hydrocarbon exploration application (over 5,000 representations);
- dedicated email address created to ensure no comments were missed;
- representations received from online automatically logged and sent an automatic acknowledgement;
- all representations received in hardcopy manually inputted and no acknowledgement issued;
- manpower required to process the representations very difficult to manage;
- insufficient resource to enable a bespoke response to each of the representations.

Managing Controversial Applications (5)

West Sussex County Council

- dedicated oil, gas exploration and fracking news page on website;
- held an Oil and Gas exhibition in June 2014 the event was attended by the Environment Agency, the Health and Safety Executive, DECC, District Councils and Friends of the Earth. Presentations etc on website. Similar event organised for November 2014;
- onshore hydrocarbons FAQs on website, plus further details on the Council's position;
- Council has facilitated a number of training workshops for elected members;
- no experience of shale gas - but has dealt with controversial conventional hydrocarbon exploration applications;
- written representations scanned in and made available to view online;
- representations dealt with manually – very time consuming;
- where there are a large numbers of standardised responses the Council adds up the total number of these and reports the number and themes.
- processing and analysing of technical information submitted by applicants also a resourcing issue;
- would like to see increase involvement of local communities at the pre-application stage - but this is largely dependent on the applicant.

Two Tier Local Government Areas (1)

Lancashire

- District / Borough elected members and officers invited to LCC elected member training sessions (DECC and HSE also invited)
- LCC have not led any focus group type events yet - do not want to be seen as promoting the shale gas industry
- Flyde Borough Council has set up its own scrutiny panel to assess applications
- consultants appointed by LCC to provide the advice normally given by the District EHOs.
- 'Lancashire Shale Gas Group' set up by LCC meets every two months. Aim is to circulate information / knowledge - Environment Agency, District Councils, DECC, Police, LCC emergency planning and HSE all attend.

Derbyshire

- rely on formal consultation process with District / Borough Councils.

Two Tier Local Government Areas (2)

Hampshire

- history of close liaison with those former second tier authorities which are now unitary authorities (and therefore separate MPAs) e.g. New Forest, Southampton and Portsmouth
- County Council and the other Hampshire MPAs held an 'Oil and Gas Development in Hampshire' event in June 2014 – attended by elected members, District and Borough Councils, other MPAs, Parish and Town Councils, regulators, operators and associated industry, local interest groups and environmental organisations;
- DCLG is to publish the best practice information from this event;

South Downs National Park Authority

- SDNPA as MPA has a service level agreement with the Counties and Districts in the NP under which applications are dealt with on the SDNPA's behalf unless deemed sufficiently important for the SDNPA to determine them itself; and
- rely on formal consultation process with District Councils in such cases.

Two Tier Local Government Areas (3)

West Sussex County Council

- rely on formal consultation process with District Councils;
- trend for Districts not provide a recommendation either positive or negative;
- Districts instead tend to highlight the issues that they consider should be focussed on and leave it to SWCC to decide;
- District Councils invited to Oil and Gas exhibition organised by the County Council held in June 2014;
- Districts have asked the County Council for further help with training of officers and elected members.

Tea & coffee break

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Case studies



Banks Enclosed Marsh, Beconsall, Lancashire

- Application to retain well site for a further 3 years to allow pressure monitoring of the Bowland Shale reservoir, followed by plugging and abandonment of the well and site restoration.
- Planning permission granted in September 2014
- Comment - applicant provided a unilateral undertaking in respect of offsite ecological mitigation measures.

Nine Acre Copse, Fenhurst, West Sussex

- Application to drill a vertical borehole for the exploration, testing and evaluation of hydrocarbons for a temporary period of three years.
- Planning permission refused in September 2014.
- Comment – permission refused because the applicant failed to demonstrate exceptional circumstances exist and that it would be in the public interest for such exploration to take place within the protected landscape of the South Downs and due to the adverse impact on the tranquillity and amenity of the National Park.

Boxal Bridge, Wisborough Green, West Sussex

- Application to drill a vertical borehole and contingent horizontal borehole for the exploration, testing and evaluation of hydrocarbons for a temporary period of three years.
- Planning permission refused in July 2014 (appeal lodged)
- Comment - permission refused because access considered to be unsuitable in terms of highway capacity and road safety and on residential amenity through increased noise. Traffic also held to harm the character of Wisborough Green and Conservation Area.

West of Commonwood Farm, Commonwood, Wrexham

- Application to drill exploration borehole for core sampling of coal and site restoration.
- Planning permission refused by the LPA and allowed on appeal
- Comment - permission initially refused because proposal considered to be i) in an unsustainable location and ii) industrial development outside recognised settlement limit. The LPA also held that the geophysical survey did not provide sufficient information in respect of the impact of drilling upon the movement of gas. Appeal allowed in October 2014 - Council's concerns rejected by Inspector.

Findings

- Beconsall permission approved despite widespread concerns about shale gas extraction in Lancashire;
- Fenhurst decision turned on the tests at para 116 of the NPPF. Any appeal will be instrumental in establishing how the Secretary of State considers that these tests should be applied in the case of shale gas extraction.
- Wisborough Green decision turned on “traditional” highways related issues.
- Wrexham initial decision appears to have been influenced by potential future development – rather than that proposed in the application.

Overall – while the shale gas debate may have been an influencing factor in some of these cases, the deciding factors cited are mainly based on “traditional” planning considerations.

We need your feedback



This is nice, but we want more

Poor	Fair	Good	Excellent
1	2	3	4
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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- We need to know what you think
- Comments triply welcome
- We read all of them
- We use your ideas to change what we do and how we do it

Follow-up evaluation

- We employ Arup to follow-up on our work
 - On reflection, was today actually useful?
 - 10 mins of feedback in return for £100's of support
- Our board use this to decide what we do with our grant. If we don't get positive feedback we are unlikely to continue

Three things to do before 10am tomorrow:



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1 August 2014

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