

REPORT OF THE LEAD MEMBER FOR TRANSPORT AND ENVIRONMENT

The Lead Member for Transport and Environment met on 21 November 2022. Attendances:-

Councillor Claire Dowling (Lead Member)

Councillors Godfrey Daniel, Chris Dowling, Roy Galley, Nuala Geary, Ian Hollidge, Eleanor Kirby-Green, Wendy Maples, Paul Redstone, Bob Standley and Georgia Taylor.

1 Notice of Motion: No to Fracking

1.1 The following Motion has been submitted by Councillor Georgia Taylor and seconded by Councillor Chris Collier:

“As part of our climate emergency response, this council is committed to a just energy transition and to investments in the green infrastructure and industries that will create jobs and rapidly decarbonise our economy.

The construction of new fossil fuel infrastructure and expanded reliance on fossil fuels is at odds with these commitments and exposes our communities to untenable risks to public health and safety at the local and global levels. Fracking relies on high levels of water use at a time of increasing drought risk; dangerous contamination of water aquifers and creation of toxic ‘waste water’; increase of heavy vehicle traffic using the local roads, which will deteriorate our roads further; and earthquakes.

In East Sussex, areas identified as having potential oil and gas reserves include the very areas of outstanding natural beauty and national park areas we value so highly and that contribute so significantly to our local biodiversity.

The economic opportunities presented by a clean energy transition far outweigh the opportunities presented by an economy supported by expanding fossil fuel use and extraction. Fracking for shale oil or gas will also fail to provide relief to those struggling with fuel bills, as the tiny contribution such activity would make to the world market would not affect prices.

We therefore resolve to oppose, as a matter of council policy, any initiatives to develop fracking, or other methods, for the extraction of shale oil or gas in East Sussex.”

1.2 In November 2019, the Government placed a moratorium on fracking following a report by the Oil and Gas Authority (now known as the North Sea Transition Authority) found that it was not possible, at the time, to accurately predict the probability or magnitude of earthquakes linked to fracking operations. In September 2022 the Government removed this moratorium. Subsequent to the submission of this Notice of Motion, on 26 October 2022 the Government announced that they had reimposed the moratorium on fracking. Should the moratorium be removed again, for fracking to take place a number of permissions, permits and licenses are required. This includes a Petroleum Exploration and Development License (PEDL), which is granted by the North Sea Transition Authority, an Environmental Permit issued by the Environment Agency, and planning permission.

1.3 East Sussex County Council has made a clear commitment through its Climate Emergency Action Plan to achieve net zero carbon emissions from its own operations, as well

as helping to facilitate the county in general to move towards this target. The further use of fossil fuels is clearly at odds with this target, particularly at a time when there should be a greater move towards renewable and low carbon energy supplies in order to ensure that local, national and international climate change targets and obligations can be met. In light of this, and also recognising that significant concerns remain over the impacts arising from fracking, not least from the general public, the reimposition of the moratorium on fracking is something to be welcomed.

1.4 East Sussex County Council is a Minerals Planning Authority and therefore deals with oil and gas matters. If the moratorium on fracking were to be removed again, the Council as the Planning Authority would deal with any planning application for the exploration, appraisal and production of unconventional hydrocarbons (shale oil and gas) within East Sussex, though any proposals within the National Park would be dealt with by the South Downs National Park Authority. The current situation in East Sussex is that there are no active sites and no current planning permissions or applications for oil and gas exploration. In addition, to date the County Council has not been approached by any prospective applicant with any pre-application enquiry for the extraction of shale oil or gas.

1.5 Should a planning application be received in the future, the County Council has a legal obligation to consider it on its own merits taking into account national and local planning policy, as well as material planning considerations relevant to that proposal. Members of the Planning Committee must consider each application with an open mind, and must not predetermine the outcome.

1.6 Section 25(2) of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because the decision maker has previously done something that, directly or indirectly, indicates what view the decision maker might take, or would or might take in relation to a matter, and the matter was relevant to the decision. This provision makes it clear that just because a Member has given a view on an issue, this, considered in isolation, does not show that the Member has a closed mind on that issue. Predisposition is where a Member may have a pre-existing opinion or attitude about the matter under discussion but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting.

1.7 It is therefore open to Members to support the motion, or to oppose it. If the motion is approved, and the Council adopts a position of opposing, as a matter of council policy, initiatives to develop fracking, or other methods, for the extraction of shale oil or gas in East Sussex this will not, of itself, predetermine any planning applications or fetter the Council's discretion in respect of those matters. The Council policy will be one relevant consideration, amongst others, that the Members of the Planning Committee must have regard to when considering the application on its own merits. The key will be to ensure that the Members of the Planning Committee keep an open mind when considering the application.

1.8 It is acknowledged that many people are concerned and object to the principle of fracking. The extraction and use of shale oil and gas is also at odds with local, national and international climate change targets and obligations. Should a planning application be received in future, the County Council has a legal obligation to consider it on its own merits taking into account national and local planning policy, and any other material planning considerations relevant to the proposal. Members of the Planning Committee would need to consider any application with an open mind and must not predetermine the outcome.

1.9 However, for the reasons set out in paragraph 1.3 of this report, it would not be unreasonable for the County Council to state that it is generally unsupportive of fracking and therefore welcomes the reimposition of the moratorium on fracking, which was announced on the 26 October 2022.

1.10 The Lead Member for Transport and Environment recommends the County Council to:

✧ approve an amended Notice of Motion as set out below:

“The County Council recognises the significant public concerns over any initiatives to develop fracking, or other methods, for the extraction of shale oil or gas in East Sussex. The County Council, therefore, supports the Government’s recent announcement that reinstates the moratorium on fracking.”

21 November 2022

COUNCILLOR CLAIRE DOWLING
(Lead Member)