

Environment and Communities Committee

Date of Meeting:	2 February 2023
Report Title:	Notice of Motion: Hydraulic Fracturing (Fracking)
Report of:	Jayne Traverse, Executive Director of Place
Report Reference No:	EC/25/22-23
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. At the full Council Meeting of 19 October 2022, a notice of motion was proposed in relation to Hydraulic Fracturing (Fracking). This report responds to that notice of motion.

2. Executive Summary

- 2.1. A Notice of Motion relating to Hydraulic Fracturing (Fracking) was proposed to Council at its meeting on 19 October 2022. The motion was proposed by Councillor N Mannion. Council referred the motion to the Environment and Communities Committee.

- 2.2. Notice of Motion: Hydraulic Fracturing (Fracking)

Last month the Government announced the lifting of the moratorium on fracking that had been in place since 2019 following earth tremors and environmental concerns.

It is understood that certain areas of Cheshire East may have geological conditions, shale rock, suitable for the hydraulic fracturing process to extract shale gas.

As admitted by the British Geological Survey, the risk of large tremors from fracking 'remains a scientific challenge for the geoscience community'.

In addition to the risk of earth tremors there remain significant unresolved environmental concerns around the contamination of ground water and associated public health and safety issues.

Therefore, it is proposed that:

1. *Cheshire East Council not support any activity associated with the exploration, extraction or storage and transportation of shale gas on land it owns, leases or manages.*
2. *That where necessary, the council's environmental, mineral and planning policies be updated to deter all activities associated with fracking and shale gas exploration, extraction or storage and transportation within Cheshire East.*
3. *Local Members of Parliament be lobbied to support this position*

- 2.3. Hydraulic Fracturing, commonly known as “fracking”, is a technique used in the extraction of gas from shale rock. It involves drilling into the earth and directing a high-pressure mixture of water, sand, and chemicals at a rock layer, to release the gas inside. Fracking is controversial because the injection of fluid at high pressure into the rock can cause earth tremors.
- 2.4. In November 2019 the government announced a moratorium on shale gas fracking in England following the publication of new scientific analysis. The moratorium was lifted by the then-Prime Minister Liz Truss in September 2022, but subsequently restored by the new Prime Minister Rishi Sunak in October 2022.
- 2.5. Cheshire East Council has signed the UK100 Clean Energy by 2050 Pledge and has therefore committed itself to a focus on carbon reduction and the prioritisation of renewable energy generation.
- 2.6. The Council as a landowner does not permit hydrocarbon related activity on land within its control. It is unknown whether there are shale gas deposits below land the Council owns, leases, or manages or whether there are practical reasons why a developer of this type of resource would seek to access Council land for this purpose. Wellheads can be located some distance away from where the below ground fracking activity is taking place as drilling activity is horizontal as well as vertical. Given the nature of the technology to extract these resources it is very likely that a promoter of a scheme would be able to access these resources from land not in the Council's ownership. Policies relating to the development and delivery of the Council's estates and land is the responsibility of the Economy and Growth Committee.
- 2.7. As the local planning authority, the Council details its planning policies on minerals matters, including the extraction of energy minerals such as hydrocarbons (oil and gas), through the Cheshire East Minerals and Waste Plan (MWP). The Council consulted on the draft MWP was undertaken for 6 weeks during November and December 2022. A further public consultation will be undertaken on the Publication Draft MWP in Q3 2023 prior to its submission for independent examination.
- 2.8. National planning guidance requires a Local Planning Authority to “plan positively” for hydrocarbon activity. The Council's policy in the draft MWP conforms with planning guidance. It has been specifically written to be neutral

but emphasises the importance of ensuring proposals do not have unacceptable adverse impacts on human health, general amenity and the environment. If the policy was to be updated to deter activities associated with fracking it would be contrary to national planning guidance and would not get through Examination.

3. Recommendations

- 3.1.** That the Committee note the national and local planning guidance and policy in relation to hydraulic fracturing.
- 3.2.** That the Committee note there are more controls the Council can put in place on land within its ownership.

4. Reasons for Recommendations

- 4.1.** The Cheshire East Council Constitution sets out the procedure for Notices of Motion submitted to Council. A motion referred to the relevant decision-making body must be considered within two meeting cycles. At the meeting to which the motion has been referred for consideration, the proposer of the motion if present shall be invited to speak first, followed by the seconder. The matter will then be opened up to wider discussion.

5. Other Options Considered

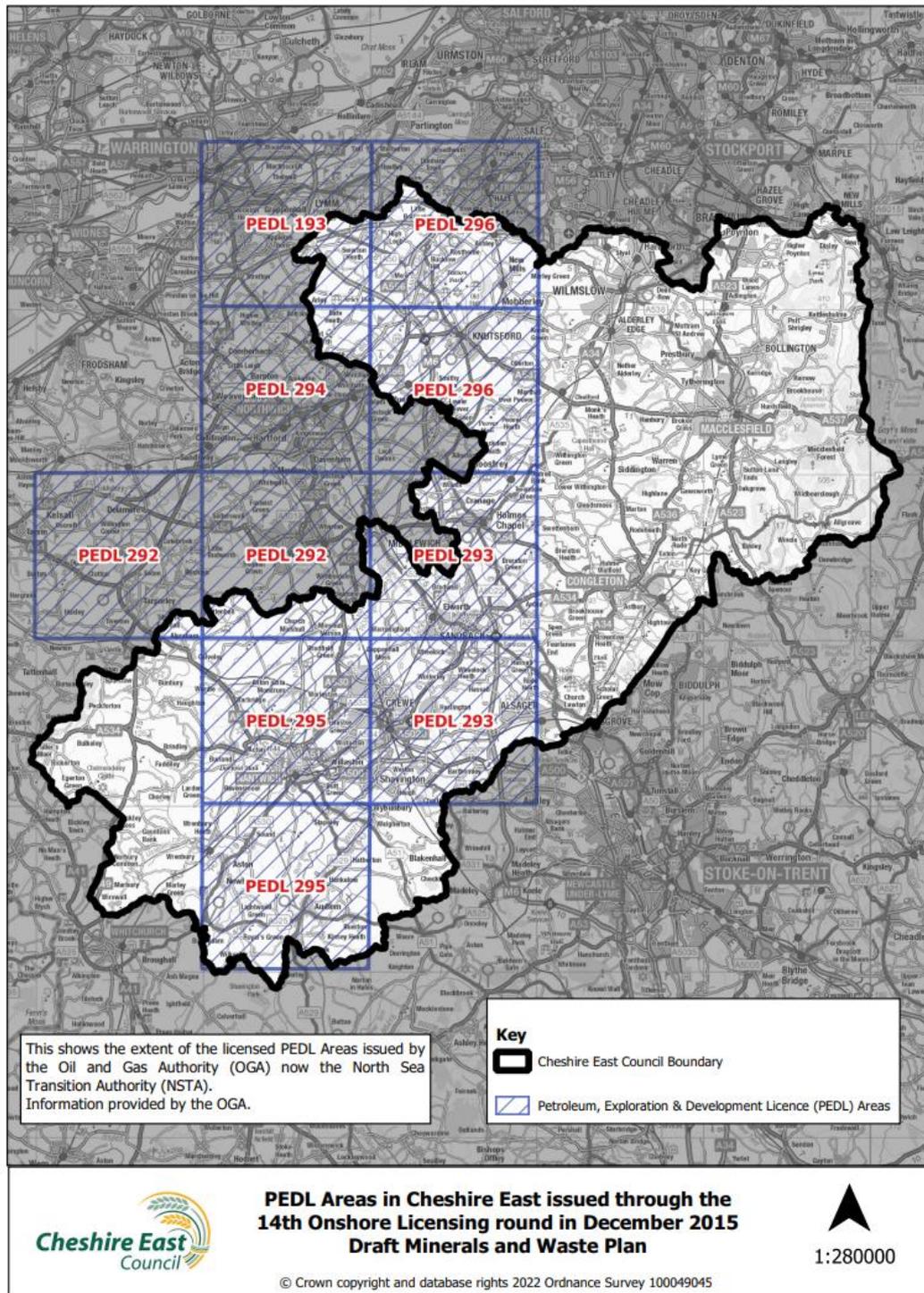
- 5.1.** No other options were considered. In the interests of being open and transparent, the Notice of Motion to Council was referred to the relevant service committee for consideration in accordance with the Council's Constitution.

6. Background

- 6.1.** Hydraulic Fracturing, commonly known as "fracking", is a technique used in the extraction of gas from shale rock. It involves drilling into the earth and directing a high-pressure mixture of water, sand and chemicals at a rock layer, to release the gas inside. Wells can be drilled vertically or horizontally in order to release the gas. Fracking is controversial because the injection of fluid at high pressure into the rock can cause earth tremors.
- 6.2.** In November 2019 the government announced a moratorium on shale gas fracking in England following the publication of new scientific analysis.
- 6.3.** In September 2022, the then-Prime Minister Liz Truss lifted the moratorium on fracking in England where it was supported by local communities. However, the moratorium was restored by the new Prime Minister Rishi Sunak in October 2022. Fracking, therefore, in effect remains banned under the current government.
- 6.4.** Cheshire East is likely to have reserves of shale gas. The issuing of PEDLS (Petroleum Exploration and Development Licences) in December 2015 through the 14th Onshore Licensing round resulted in the issuing of 6 PEDL areas covering 10 grids of land within or partly within Cheshire East. The

licences convey no permission for operations on land but give exclusivity for exploration operations against other oil and gas exploration companies within a defined area. The PEDLs issued in Cheshire East all have extant status, meaning that they are not time limited.

Figure 1 – PEDL Licences Map



6.5. The geology is such that there is a possibility that hydrocarbons are present below the licenced PEDL areas within Cheshire East that can be commercially extracted. No applications have been made to date within the Borough

because of the issuing of these licences and no sites in Cheshire East have planning permission to explore, appraise or extract unconventional hydrocarbons such as shale gas.

- 6.6. The Cheshire East Minerals and Waste Plan (MWP) details the Council's planning policies on minerals and waste matters. It is part of the suite of planning policy documents that once all approved will together form the Council's Local Plan. The MWP focuses on issues that are specific to minerals and waste matters with the overall aim of achieving the sustainable provision of minerals and the sustainable management of waste within the borough. A consultation on the draft MWP was undertaken for 6 weeks during November and December 2022. The responses to the consultation are currently being considered. A further public consultation will be undertaken on the Publication Draft MWP in Q3 2023 prior to its submission for independent examination.
- 6.7. In terms of the general planning policy position, planning guidance requires the Local Planning Authority to "plan positively" for hydrocarbon activity. It identifies the Council's role as being to agree appropriate well locations where the impacts of the development are acceptable.
- 6.8. The Council's policy in the draft MWP conforms with planning guidance. It has been specifically written to be neutral (it neither supports nor opposes hydrocarbon extraction) but emphasises the importance of ensuring proposals do not have unacceptable adverse impacts on human health, general amenity and the environment (both natural and historic).

Extract from draft Minerals and Waste Plan

Policy MIN 10 Conventional and Unconventional Hydrocarbons (Oil and Gas)

Proposals for the exploration, appraisal or production of hydrocarbons will be considered on the following basis:

Exploration and appraisal

1. Proposals for the exploration and appraisal of hydrocarbons will only be permitted where it has been demonstrated that well sites and associated facilities are sited in the least sensitive location from which the target reservoir can be accessed, and they accord with all relevant policies of the Local Plan. Where proposals for exploration and appraisal are permitted, there will be no presumption that long term production from those wells will be permitted.

Production

2. Proposals for hydrocarbon production will only be permitted where it has been demonstrated that the further works and surface facilities are justified as being required to manage the output from the well(s),

including facilities for the utilisation of energy, where relevant, and that they are sited in the least sensitive location from which the target reservoir can be accessed. Proposals will also need to accord with all relevant policies of the Local Plan and be supported by a full appraisal programme for the hydrocarbon resource.

Overall assessment

3. Having assessed the impacts of proposals for exploration, appraisal and production of hydrocarbons, permission will only be granted for such activities where it has been demonstrated that there are no unacceptable adverse impacts on human health, general amenity and the environment (both natural and historic).
4. All proposals should include restoration and aftercare measures for each stage of development.
5. All applications for development associated with the exploration, appraisal and production of oil, gas and unconventional hydrocarbons will be expected to demonstrate that:
 - i. well sites and associated facilities are sited, so far as is practicable, to minimise adverse impacts on the environment or local communities
 - ii. the development is located outside Protected Groundwater Source Areas
 - iii. there are no unacceptable adverse impacts (in terms of quantity and quality) upon sensitive water receptors including groundwater, water bodies and wetland habitats
 - iv. the exploration and appraisal operations are for an agreed, temporary length of time
 - v. the drilling site and any associated land is restored to a high-quality standard and appropriate after use that reflects the local landscape character at the earliest practicable opportunity
 - vi. fugitive emissions from the exploration, testing and production activities should be minimised

Supporting Information

Whilst accepting that hydrocarbon related proposals and activities may come forward during the plan period, the Council is concerned to make sure that they can be undertaken in a way that does not unacceptably impact on the environment and the amenity of local communities. This can raise issues that are dealt with by policies elsewhere in the Local Plan, including the LPS and

SADPD. These include issues such as climate change, protection of wildlife and biodiversity, protection of the historic environment, landscape character, agricultural land, flood risk, water resources, pollution, land contamination and land instability, public rights of way and restoration.

Particular consideration will be given to the location of hydrocarbon development involving hydraulic fracturing, having regard to impacts on water resources, seismicity, local air quality, landscape, noise and lighting impacts. Such development will not be supported within protected groundwater source protection zones or where it might adversely affect or be affected by flood risk or within Air Quality Management Areas or protected areas for the purposes of the Infrastructure Act 2015, section 50.

- 6.9.** The suggestion in the motion that the Council's policy should be updated to "deter all activities associated with fracking and shale gas exploration, extraction or storage and transportation with Cheshire East" would be contrary to national planning guidance and would not get through Examination.

7. Implications

7.1. Legal

- 7.1.1. This Report notes National planning guidance requires a Local Planning Authority to "plan positively" for hydrocarbon activity. National Planning Policy also makes it clear that when considering relevant planning applications, mineral planning authorities should ensure that there are no unacceptable adverse impacts on the environment or on human health.

7.2. Finance

- 7.2.1. There are no financial implications arising from this report. Any update to planning policy can be considered as part of the planned activity to review and update the Minerals and Waste Plan.

7.3. Policy

- 7.3.1. There are no policy implications arising from this report.

7.4. Equality

- 7.4.1. There are no equality implications arising from this report.

7.5. Human Resources

- 7.5.1. There are no Human Resources implications arising from this report.

7.6. Risk Management

- 7.6.1. The recommendations of the motion propose to influence planning policy that would be contrary to national planning guidance. This could result in the MWP failing to get through independent examination.

7.7. Rural Communities

7.7.1. There are no implications for rural communities arising from this report.

7.8. Children and Young People/Cared for Children

7.8.1. There are no implications for children and young people arising from this report.

7.9. Public Health

7.9.1. There are no implications for public health arising from this report.

7.10. Climate Change

7.10.1. There are no implications for climate change arising from this report.

Access to Information	
Contact Officer:	Stuart Penny, Planning Policy & CIL Manager Stuart.penny@cheshireeast.gov.uk
Appendices:	None
Background Papers:	None