

Response to government consultation on surface development restrictions for hydraulic fracturing

The Campaign for National Parks is the independent national voice for the 13 National Parks in England and Wales. Our mission is to inspire everyone to enjoy and look after National Parks – the nation’s green treasures. Our response has been endorsed by all the National Park Societies in England.

National Parks are our finest landscapes with the highest level of protection. Their statutory purposes are to conserve and enhance wildlife, cultural heritage and natural beauty, and to promote opportunities for public enjoyment and understanding of their special qualities. For nearly 80 years the Campaign for National Parks has been working to ensure that our National Parks are beautiful, inspirational places that are relevant, valued and protected for all.

We recognise that National Parks have a key role to play in delivering the types of energy infrastructure that will be required to meet the UK’s targets for carbon reduction and renewable energy supply. The challenge is to do this by introducing only infrastructure which is appropriate in scale and design for such a setting so as not to damage the landscape, tranquillity and other special qualities which form the character of these protected areas. Much of the pressure for new energy infrastructure results from the UK’s growing demand for energy so energy conservation and energy efficiency also have a crucial contribution to make, especially in rural areas. We do not support the use of hydraulic fracturing in or under National Parks, given the potentially significant environmental impacts, including the damage to tranquillity and landscape caused by the large number of boreholes and associated infrastructure required to recover shale gas.

We have provided more detailed responses to questions 1 and 3 of the consultation below. The main focus of our response is on National Parks as that is what our charitable purposes relate to but most of the issues covered are equally applicable to AONBs and many also apply to other types of designation.

Question 1: Do you agree with the proposed approach to restricting surface developments in specified protected areas through licence conditions? Do you agree with the scope of the restrictions to be applied in England? Please give reasons.

We welcome the fact that the Government is proposing measures to restrict hydraulic fracturing taking place from new or existing wells drilled at the surface in National Parks and other specified protected areas. It is entirely appropriate that such environmentally sensitive areas should be protected from the damage that could result from allowing hydraulic fracturing to take place within their boundaries. Allowing such activity in National Parks would be incompatible with giving great weight to conserving the landscape and would also be contrary to the National Park’s statutory purposes.

We are generally supportive of the proposed approach to introduce restrictions through licence conditions. However, we are concerned about a number of aspects of the proposed approach. In particular, we are extremely disappointed that the measures will do nothing to prevent hydraulic fracturing taking place at depths below 1,200 metres in protected areas especially as we don’t yet know what the longer-term effects of this would be on an area’s wildlife and natural beauty. The Environmental Audit Committee (EAC) inquiry on the

'Environmental risks of fracking'¹ earlier this year highlighted the continuing uncertainty about some of the environmental impacts of fracking, including the hydrogeological impacts. In its evidence to this inquiry, the British Geological Survey stated: 'The difficulty lies in the fact that below c.200m there is very little information and data on the hydrogeological properties and potential for movement of pollutants through rocks below this depth.' The EAC concluded that 'It is vital that the precautionary principle is applied'. Given this lack of certainty, there should be a complete ban on hydraulic fracturing in the specified protected areas at any depth. This will also reduce the likelihood of National Parks and other protected areas suffering detrimental impacts as a result of surface drilling taking place just outside their boundaries.

In addition, we are not convinced that a policy statement saying that the Secretary of State is not minded to grant consent will carry sufficient weight to prevent the drilling of wells in areas with existing licences. We would also welcome clarification as to the enforcement of these restrictions for both new and existing licences. The consultation document refers to checks being carried out but says nothing about how these checks would be carried out or what would happen if they identify that the licence conditions have been broken, for example, would licences be revoked?

Question 3: Does existing regulation provide sufficient protection for the areas in which we are proposing to restrict surface developments? If not, what would be the additional benefit if the proposals were adopted (e.g. in terms of environment, heritage, landscape value, economic impacts)?

There is not yet sufficient protection for the areas referred to in this consultation. Much of the existing protection is set out in guidance and so does not carry the same weight as regulation. The 2014 guidance on planning for unconventional oil and gas says that: 'Where applications represent major development, planning permission should be refused in National Parks, the Broads and Areas of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated they are in the public interest.' This effectively reiterates the major development test as set out in the National Planning Policy Framework. This policy is open to interpretation and has failed to provide sufficient protection to National Parks and AONBs, as evidenced by the recent approval of the potash mine in the North York Moors despite unequivocal evidence of the damage this development would cause to the National Park.

The consultation document refers to the statutory duty to have regard to the statutory purposes of National Parks. This duty requires all public bodies to have regard to the statutory purposes of National Parks 'in exercising or performing any functions in relation to, or so as to affect land' within them and also relates to activities undertaken outside National Park boundaries which may affect land within them. In theory, this duty should help protect National Parks against the damaging impacts of fracking within their borders or in areas just outside their boundaries. However, unfortunately this duty does not provide sufficient protection as it is not always monitored and enforced effectively so additional protections are definitely required. As the introduction of restrictions on activity in the protected areas is likely to lead to increased pressure for drilling on their boundaries, these restrictions should be accompanied by measures to promote and strengthen the S62 duty to prevent damaging fracking activity in areas just outside the protected areas. In addition, as stated above, we believe there should be a complete ban on hydraulic fracturing in the specified protected areas at any depth.

¹ <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmenvaud/856/856.pdf>

There would be significant additional benefits if the proposals in this consultation are amended to take account of our suggestions and adopted. As well as providing greater certainty to the industry and the public about the areas where fracking is clearly not allowed, it would also ensure that the most environmentally sensitive areas of the country are protected against some of the most serious visual, noise and other local environmental impacts of fracking activity. As well as the significant environmental benefits, there would be wider benefits to the economy and society as a result of protecting National Parks from fracking. National Parks contribute significantly to the well-being of the nation, deliver key resources and services such as water provision and carbon storage and also make a significant contribution to the economy through farming, tourism and other related businesses. In 2012, £10.4bn of turnover was generated by businesses in the National Parks in England², many of whom rely on the high quality of the environment for their success. If fracking activity were to detract from the natural beauty of these areas and make them less attractive places to visit, it could have a negative impact on the local economy in many National Parks.

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For further information about any aspect of this response, please contact Ruth Bradshaw, Policy and Research Manager (email:ruthb@cnp.org.uk, tel: 020 7981 0896)

² http://www.nationalparksengland.org.uk/__data/assets/pdf_file/0007/338362/3209-NPE-INFOGRAPHICweb.pdf Westminster Hall debate: Planning Policy and National Parks