

## **Nottinghamshire Minerals Local Plan Examination**

### **Egdon Resources U.K. Limited**

#### **Hearing Statement in response to Supplementary Questions**

##### Matter 3 – Minerals Provision Policies

##### Policy M12

*Q44 – Should the policy include detailed criteria for assessment of environmental impacts for each stage of development?*

No. It is unnecessary to include criteria for assessing the environmental impacts whether it is for exploration, appraisal or production. Most of the seventeen Development Management policies in Chapter 5 of the Minerals Local Plan apply to all forms of mineral extraction, including oil and gas. The importance of protecting local amenity is given prominence in the Plan in Policy DM1 which applies to mineral development per se. The justification for policy DM1, set out in paragraphs 5.9-5.21, is helpful guidance to enable operators to undertake the necessary environmental assessments in a proportionate manner in order to support all three stages of hydrocarbon extraction. The precise level of impacts will vary according to local conditions and the type, scale and intensity of development proposed.

*Q45 – Should the policy recognise specific impacts that can result from hydraulic fracturing?*

No. There are some impacts that are likely to arise from hydraulic fracturing such as noise, landscape and traffic movements which may be greater in scale and duration than that associated with conventional oil and gas extraction. However, the assessment of these impacts and the necessary mitigation required is already covered in sufficient detail in the Development Management policies.

*Q46 – What are the ‘protected areas’ as set out in parts (1)(a) and (2)(a) of Policy MP12? If these are the protected areas defined in the Onshore Hydraulic Fracturing (Protected Areas) Regulations 2016, should they be stated in the supporting text or in a footnote? What is the relevance of those areas to oil and gas exploration other than hydraulic fracturing?*

The protected areas referred to in the 2016 regulations are protected groundwater source areas, National Parks, the Broads, AONBs and World Heritage sites. Paragraph 172 of the NPPF gives great weight to conserving and enhancing the landscape and scenic beauty of National Parks, the Broads and AONBs. Major development, which includes mineral development, should be refused unless there are exceptional circumstances.

Section 11A(2) of the National Parks and Access to the Countryside Act 1949, section 17A of the Norfolk and Suffolk Broads Act 1988 and section 85 of the Countryside and Rights of Way Act 2000 require that 'in exercising or performing any functions in relation to, or so as to affect land' in National Parks and AONBs, relevant authorities 'shall have regard' to their purposes for which these areas are designated. Paragraph 39 of the Natural Environment PPG states that 'this duty is particularly important to the delivery of the statutory purposes of protected areas.'

The view is therefore that if there is to be a reference to 'protected areas' in the policy, it should accord with the understanding in the above legislation which relates to the countryside, not to the protected areas in the 2016 regulations. There is no justification for including groundwater source areas. The 2016 regulations only apply to hydraulic fracturing; to include groundwater source areas as 'protected areas' and apply this to all forms of onshore oil and gas extraction generally within Nottinghamshire would be illogical. It would be outside the scope of the 2016 regulations laid down by Parliament. Instead, there is some justification in applying the definition of protected areas to that referred to in both paragraph 172 of the NPPF and at paragraph 39 of the Natural Environment PPG – AONBs and National Parks.

As the policy stands now, it is a requirement for an operator to demonstrate that the proposal in a 'protected area' will not compromise the reasons for its designation. The Plan, perhaps in an Appendix, needs to include these reasons as the policy is directly linked to them, rather than expect the applicant to track down what these reasons are.

However, overriding this is the fact is that there are no designated or candidate AONBs or National Parks that fall within Nottinghamshire. Therefore, the need to refer to these areas in the policy seems to be unnecessary. The question must be, what else could fall within the definition of 'protected areas'?

International and national sites designated for their biodiversity are already given protection both by policy DM4 of the Nottinghamshire Minerals Local Plan as well as the NPPF. Consequently, there is no need to include these within the undefined 'protected areas'.

The only other type of areas that could be considered are World Heritage Sites (of which there are none in Nottinghamshire), conservation areas, scheduled monuments and other designated heritage sites. However, these are also given protection under policy DM6 of the Nottinghamshire Minerals Local Plan as well as the NPPF.

In conclusion therefore, it is questionable whether parts 1(a) and 2(a) of Policy MP12 are necessary since 'protected areas' either don't occur in Nottinghamshire or are covered by Development Management policies elsewhere within the Plan.

*Q47 – Should the policy or the supporting text state what circumstances are likely to constitute 'exceptional circumstances'?*

No. The NPPF refers to exceptional circumstances needing to be demonstrated when either a decision maker, such as a local planning authority, or an applicant is proposing an alternative policy approach or form of development which is contrary to Government guidance. These include an alternative to assessing local housing need, the establishment of new and alterations to Green Belt boundaries, major development in AONBs and National Parks and bonds for the restoration of mineral operations. For the most part, examples of exceptional circumstances are not given in the NPPF. It is for the decision-maker or the applicant to determine and justify what constitutes an exceptional circumstance. This provides an appropriate degree of flexibility and avoids the need to second guess what exceptional circumstances might be.

*Q48 – What would be required to demonstrate the need for development and what is the justification for this requirement?*

On the presumption that parts 1(a) and 2(a) are required in respect of protected areas, the need for the development and the justification for it is likely to be an appraisal setting out alternative locations within the PEDL area, the local and national benefits arising from the development and an assessment of the environmental impacts together with the mitigation measures required to make the development satisfactory.

*Q49 – The wording of paragraph 4.105 reflects that in the 2012 Framework (paragraph 147). The 2019 Framework does not refer to addressing constraints that apply within licensed areas. The wording of this paragraph should be reviewed.*

The text at paragraph 4.105 of the Plan replicates guidance to minerals planning authorities set out in the NPPF. The point made by the Inspector is valid in that the 2012 NPPF (paragraph 147) has been quoted rather than 2019 NPPF (now paragraph 209b). However, there seems little point in substituting one paragraph of the NPPF for another when the text is simply repeating guidance, specifically for MPAs, and not for applicants, in the NPPF. It adds little to the Plan. Its removal would avoid unnecessary duplication. The wording of the paragraph should therefore be deleted.