

Adran Tai ac Adfywio
Department for Housing and Regeneration

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Llywodraeth Cymru
Welsh Government

Ein Cyf/Our ref: qA1127413
Dyddiad/Date: 2 October 2013

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
(ENGLAND AND WALES) REGULATIONS 1999 (AS AMENDED)
PROPOSED SINGLE VERTICAL EXPLORATION BOREHOLE AT SITE LOCATED
IN FIELD 400M ALONG AN UNNAMED ROAD BETWEEN THE A4266 AND
DUFFRYN – PLANNING APPLICATION NO. 2013/00333

1. I refer to your application for planning permission made to the Vale of Glamorgan Council (“the Council”) and received by them on 11 April 2013. The above development was the subject of a screening opinion when it was before the Council. The screening opinion concluded Environmental Impact Assessment (EIA) was not required.
2. Representations have been made to the Welsh Ministers to use their powers under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) (“the 1999 Regulations”) to make a screening direction that the above proposed development is ‘EIA development’ within the meaning of the 1999 Regulations.
3. I am authorised by the Minister for Housing and Regeneration to provide that screening direction.
4. I have considered the screening opinion made by the Council and I agree that the proposed development falls within the definition contained in section 2(d) of Column 1 of Schedule 2 to the 1999 Regulations. I also agree with the Council that the proposed development is not in a sensitive area (as defined by the 1999 Regulations) and that it falls below the relevant thresholds and criteria indicated in Column 2 to Schedule 2.
5. Under the provisions of regulation 4(8), however, the Welsh Ministers may direct that a particular development of a description mentioned in Column 1 of Schedule 2 is EIA development in spite of the fact that none of the conditions contained in sub-paragraphs (a) and (b) of the definition of “Schedule 2

development” is satisfied in relation to that development. In light of this I have considered whether it would be appropriate, in this case, to use that power of direction.

6. It has been suggested by the party requesting the screening direction that the proposed development should be regarded as the first stage of a staged EIA-development of gas extraction using high pressure hydraulic fracturing. The Welsh Government considers there is a difference between projects that are subject to different stages of approval before operations commence (such as outline planning permission and approval of reserved matters applications) and projects that are subject to ‘salami-slicing’ where individual parts of a project are artificially separated then are assessed and receive consent without consideration of the wider project.
7. In my view this proposed development is not part of a project which is subject to different stages of approval before operations commence. Nor do I consider that project splitting (salami slicing) is occurring in this case because the test drilling is not dependent on other project stages or an automatic precursor for further extraction. Any proposal to develop gas production on a commercial basis will be subject to the consideration of the need for EIA at that time.
8. Consequently, I have considered whether the proposed development the subject of the application referred to above should be subject to EIA.
9. To assist me in my consideration of whether EIA is required I sought advice from Natural Resources Wales (NRW). Their advice was:

“Thank you for your email of 30th September 2013 referring to the Welsh Minsters consideration of a screening direction under the Environmental Impact Assessment (EIA) Regulations for planning proposals in the Vale of Glamorgan area.

We note your comments relating to the concerns raised by a third party about detrimental effects on;

- the landscape
- Protected Species
- Drilling noise
- Disposal of chemicals containing wastes

Our Natural Resources Wales view is that such developments are unlikely to have significant effects and we would not ask for an Environmental Impact Assessment to be undertaken. We have also considered the above third party concerns (relevant to our remit) in our advice.

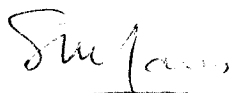
Our view is also based on the type of development described in the three planning applications* where proposals do not involve any hydraulic fracturing and involve exploration works (methane) only. Further, the proposals do not fall within any of the descriptions given in Schedule 1 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. Whilst Schedule 2 of the same regulations includes deep drillings, the development proposals are not within a sensitive area; and the applicable thresholds and criteria refer to the area of the works exceeding 1 hectare, which would not be applicable.

We trust our advice is helpful and will inform the Welsh Ministers decision as to whether an EIA is required for these proposals.”

*Those three applications are applications referenced 2013/00333/FUL, 2013/00334/FUL and 2013/00335/FUL.

10. Having taken NRW's advice into account with the selection criteria in Schedule 3 to the 1999 Regulations and the advice in Welsh Office Circular 11/99: 'Environmental Impact Assessment' on establishing whether EIA is required, I take the view that the development the subject of the above application would not be likely to have significant effects on the environment, by virtue of factors such as its nature, size or location. Consequently, I do not propose exercising the powers available to me under regulation 4(8) of the 1999 Regulations.
11. Accordingly, for the reasons given above and in exercise of the powers conferred by regulations 4(7) of the 1999 Regulations and the authority referred to in paragraph 3 above, I hereby direct that the development the subject of this application is not "EIA development" within the meaning of the 1999 Regulations.
12. You will bear in mind that my opinion on the likelihood of this development having significant effects is reached only for the purposes of this direction.
13. I am copying this letter to the Vale of Glamorgan Council and to NRW.

Yours faithfully



Mr S M Jones
Deputy Head - Decisions Branch
Planning Division

Signed under authority of the Minister for Housing and Regeneration,
one of the Welsh Ministers.