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10 October 2022

Dear Member,

County Council - Friday, 14 October 2022

Please find enclosed the briefing notes for the motions to be debated at the meeting of the County Council to be held on Friday, 14 October 2022.

Yours sincerely

Tony Kershaw
Director of Law and Assurance

To all members of the County Council

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County Council – 14 October 2022

Item 14(a) - Notice of Motion by Cllr Lord

Oil and Gas – Briefing Note

Introduction

National planning policy is that mineral planning authorities should make provision for the extraction of mineral resources of local and national importance. This includes provision for conventional hydrocarbons, such as oil and gas that flows through porous rocks (e.g. limestone, sandstone) into reservoirs under impermeable layers/'cap rock', and unconventional hydrocarbons, such as oil and gas still trapped in pore spaces within impermeable rock (e.g. shale).

On 22 September 2022, the Government announced that it has lifted a moratorium on shale gas production in England and confirmed its support for a new oil and gas licensing round. The Government's aims are to increase home-grown sources of energy, reduce the United Kingdom's reliance on foreign imports, and explore all possible options to boost domestic energy security.

At this stage, no changes have been made to national policy in relation to planning for hydrocarbons or to relevant legislation.

Shale Gas and Hydraulic Fracturing

'Hydraulic fracturing', more commonly referred to as 'fracking', is a process sometimes used to break open rock after a well has been drilled for natural gas and oil. The potential to use fracking depends upon the underlying geology and it is most often referred to in relation to shale gas reserves (i.e. gas trapped in shale rock). Fracking is undertaken to create and expand fractures in the shale rock layers, below conventional limestone and sandstone layers, to increase gas production.

The British Geological Survey has confirmed that that the geology of the Weald Basin, which includes West Sussex, means that there is no significant shale gas potential.

No sites are being hydraulically fractured in West Sussex and planning permission has not been issued for operators to do so. Furthermore, no operator has proposed hydraulically fracturing in West Sussex since concerns about the process were raised in 2011 (as a result of events in Lancashire).

Petroleum Exploration and Development Licences

A Petroleum Exploration and Development Licence (PEDL) allows a company to pursue a range of oil and gas exploration activities, subject to necessary drilling/development consents and planning permission. There are nine PEDLs that cover areas in West Sussex (including within the South Downs National Park).

Joint Minerals Local Plan

As a mineral planning authority, the County Council has a duty to prepare a statutory Minerals Local Plan that addresses the exploration, appraisal, and production of onshore hydrocarbons.

The West Sussex Joint Minerals Local Plan (JMLP), prepared jointly by the County Council and the South Downs National Park Authority, was adopted in 2018. The JMLP, which covers the period to 2033, is the most up-to-date statement of land use planning policy for minerals and it provides the basis for making consistent decisions about planning applications for mineral activities in West Sussex.

Regulations require that local plans are assessed no later than five years from adoption to determine whether they remain relevant and effective. Therefore, the JMLP will be formally assessed during early 2023. If it is determined that a formal review of the Plan is required, for example, due to significant changes to national policy or resulting from monitoring the effectiveness of policies, the timetable for the review will be set out in the statutory management plan, the Minerals and Waste Development Scheme (MWDS), which will be rolled-forward in spring 2023.

Approval of the MWDS 2023-26 will be a key decision for the Cabinet Member for Environment and Climate Change.

Proposals for Hydrocarbons

At its meeting on 19 October 2018, the County Council agreed that the wishes of local communities should be considered in decisions on shale gas and other oil and gas exploration and production, and that these decisions were best determined by local mineral planning authorities through the planning process.

Proposals for hydrocarbons are not defined as ‘for Nationally Significant Infrastructure Projects (NSIP). NSIPs are usually large-scale developments that require ‘development consent’ from the relevant Secretary of State under the Development Consent Order process. Therefore, all proposals for hydrocarbons require planning permission from the relevant mineral planning authority.

Accordingly, the County Council has a duty to determine applications for the exploration, appraisal, or production of onshore hydrocarbons on their merits, taking account of national and local planning policy and all other material considerations. The County Council cannot pre-determine whether a planning application will be permitted or refused.

Lee Harris
Director of Place Services

County Council - 14 October 2022

Item 14(b) - Notice of Motion by Cllr Duncton

Adult Social Care Funding – Briefing Note

Adult Social Care Reform – White Papers

In 2021 the Government published Our Plan for Health and Social Care and People at the Heart of Care White Papers, which set out plans to fundamentally reform the funding and delivery of adult social care and redistribute the financial responsibility for paying for care between the individual and the local authority. The four main proposals for reform are set out below.

Cap on personal care

A cap of £86,000 on the amount any individual can be required to spend on their personal care over a lifetime, with local authorities required to help individuals 'meter' towards the cap through a 'Personal Care Account', based on a budget set by the local authority. Once this cap is reached, care will be funded by the local authority. This will mean that residents' personal contributions to the cost of their care will be limited, regardless of the level of wealth and assets they have although they may choose to pay more or to use 'top-ups'. Daily living costs such as rent, food and utility bills will remain the responsibility of individuals, even if they live in a care home, with an allowance for this set nationally. The Government's Impact Assessment suggested a figure of £200 per week (in 2021/22 prices), which would mean people contributing £10,400 per year. Any costs incurred by people prior to the introduction of the cap will not be considered. The Government's Our Plan for Patients, announced on 22 September 2022, confirmed that the cap will be introduced from October 2023, along with the means test (see below).

Means Testing

A new means test will mean that anyone with assets of less than £20,000 will not pay for their care at all, and anyone with assets between £20,000 and £100,000 will receive some assistance. Currently, local authorities only assist if a resident has assets of below £23,250 and will only contribute in full if they have assets of less than £14,000. The Minimum Income Guarantee (MIG) and Personal Expenses Allowance will also be unfrozen. Where a person receives support from the local authority, the £86,000 cap will still apply to the individual's personal life-time contribution.

Fair Cost of Care and Market Sustainability Plan

Local authorities are expected to 'move towards' paying a 'fair cost of care', with the intention of ensuring that providers receive sustainable funding to deliver high quality, consistent care. This applies to providers for 65+ residential and nursing care and 18+ domiciliary care. A timeline has been set for this to be achieved, and there is an expectation that local authorities will pay a rate which takes regard of the median for their area rather than match the prices paid by self-funders. It is likely that the rate will vary between providers, influenced by market-related factors, complexity of care needs and rurality. A West Sussex Market Sustainability Plan 2022-25 (MSP) is being developed, in collaboration with partners, for submission (in draft) to the Department for Health and Social Care (DHSC) by

14 October 2022. A cost of care exercise, which has been undertaken with providers, is integral to this plan, and has provided data on operational costs which will be taken into account for fee setting purposes alongside local market insight and strategic commissioning intentions.

Extension of assessment responsibilities

The implementation of section 18(3) of the Care Act 2014 will mean that self-funders can request an assessment from their local authority, as well as being able to ask them to source and broker their care. This would mean that self-funders pay the local authority cost of care when the local authority arranges it. It is expected that care providers will lose income from this cohort, who in most cases currently pay a higher rate. This change will be staged over 18 months, so that people entering residential care from October 2023 are initially eligible and anybody already living in residential care will be eligible from April 2025 at the latest. This is unlikely to reduce demand as people will want to set up their care account as soon as possible.

Potential impact of the reforms

There are concerns that the financial implications of the Government's social care funding reforms on local authorities have been significantly underestimated. The County Councils Network (CCN) estimates the impact to be £29bn to £32bn over 10 years, compared to £19bn estimated by the DHSC Impact Assessment.

The reforms will have significant operational impact and its likely this will create a further workforce crisis in social care, with over 5,000 extra staff projected to be required nationally to carry out extra care and financial assessment for those seeking to benefit from reforms (an additional 130 full-time equivalent staff in West Sussex). This will exacerbate existing recruitment challenges, especially when there are likely to be significant supply issues across the whole region. Even if the County Council were able to recruit these staff, there is significant uncertainty around additional national funding to meet this added cost.

More affluent areas like West Sussex, with higher levels of self-funders, will experience significantly greater impact from the care cap. Office for National Statistics (ONS) figures show less deprived areas have a much higher proportion of self-funders at 52% compared to 18.7% in most deprived areas. The South East has the highest proportion of self-funders with 44% compared to just 21.5% in the North East.

Potential financial impact on the County Council

The potential impact for the County Council, as for any other local authority, is almost impossible to state with any certainty. This is because the largest element of cost will be bound up in changes to the means test. At this stage too little is known at a population-wide level about wealth distribution, and its component parts. Nevertheless, the County Council has estimated a broad order cost of between £30m and £35m in 2023/24, rising to £160m to £190m by 2031/32. For comparison the adults' budget in 2022/23 is £216m.

Although the Government has made a commitment to fund the cost of the reforms, it has provided this in the context of its impact estimate and not as an undertaking to cover actual costs in full. That creates obvious risks for local authorities, especially as a new formula will be used to allocate the funding.

The County Council has recently responded to a DHSC consultation on the distribution of funding to support the reform of the adult social care charging system in 2023/24. The response emphasised that the ONS estimates are the most appropriate basis for distribution of funds to support the reforms. The LGA has also responded to this consultation, calling for social care reforms to be fully funded, and the deferral of elements of the proposals, in order to allow time to learn from the small number of councils that will be part of early testing of the reforms. They also advocate the need to use the best available data to ensure allocations are as accurate as possible and that where there is evidence to suggest authorities are underfunded, they are provided with additional funding. In addition, the CCN has subsequently called for the reforms to be postponed until October 2024, arguing that the care system is currently facing a 'perfect storm' of financial and workforce pressures. The outcomes of this consultation are expected to be confirmed in the Local Government Finance Settlement later this year.

Under a best-case scenario, the impact in 2023/24 might be cost neutral, but under other options there would be a significant shortfall. None of this is helpful in planning terms, especially as the Government has said that "as more information becomes available on the distribution of pressures, we will adjust our distribution approach to take those patterns into account". This has been done without promising to review the total quantum of funding it will make available, which means there is no on-going certainty about resourcing levels.

For 2023/24 budget purposes, the County Council is assuming that costs will be met fully by Government, since the alternative would have required additional savings to be delivered. In addition it is proposed that £20m be set aside in an earmarked reserve to mitigate the immediate funding risk and to allow time for the impact of the reforms to become apparent before any on-going decisions are made. In the case of the cost of care, it means that fee increases for providers from April 2023 will depend directly on the specific funding that the Government will allocate for this element of the reforms.

Alan Sinclair

Director of Adults and Health

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