

Comments of Councillor Paul Andrews on the draft North Yorkshire County Minerals and Waste Plan in the context of the judgement of Claire Stephenson v Secretary of State.

In previous representations I have contested ministerial written statements to the effect that there is need for shale gas, extracted through unconventional means (namely fracking). I have explained why these statements cannot be sustained.

In October 2017 the Department of Business, Energy and Industrial Strategy published the report with the title “Gas Security of Supply”. Looking ahead over the next twenty years, it says (Page 14): *“Whilst the government is optimistic about the potential for shale gas in the UK, given the industry is currently in an exploratory stage, it is not yet known how much of the UK shale gas resource will ultimately be recoverable. In order to provide a conservative estimate of supply, supply forecasts used in CEPA (2017), assume no shale contributions in the forecast period.”* The document goes on to say that there will be security of gas supply without shale gas during the forecast period – ie up until 2035.

As will be seen below, the figures quoted in Ministerial Written Statement of May 2018 (MWSII) do not seem to add up so as to match the figure in the said “Gas Security of Supply report” which is understood to be the most recent government published document on the security of gas supply.

MWS II states: *the UK has gone from being a net exporter of gas in 2003 to importing over half (53%) of gas supplies in 2017 and estimates suggest we could be importing 72% of our gas by 2030.”*

This statement takes no account of the 30% of gas produced by UK which is exported. It is also misleading because it fails to state the quantities of the required gas imports.

In her Ministerial Written Statement of September 2015 (MWS I) Amber Rudd MP says: *“Last year 45% of UK gas supply was made up of net imports. Our projections suggest that domestic production will continue to decline and, without any contribution from shale, gas net imports could increase to 75% of the gas we consume by 2030.”*

The Gas Security of Supply document (page 11 para. 6) gives a different picture. This states:

“Current GB gas demand is around 923 TWh per annum, having fallen from around 1,000TWh a decade ago and a peak of around 1,100TWh in 2010. National Grid (2017) forecast gas demand of between 604 TWh and 891 TWh in 2035.”

As is clear from the beginning of both MWSI and the second para of MWSII, the government’s policy aim for climate change is to meet its part of climate change targets so that, together with other countries, the “two degree scenario” can be achieved. The 604TWh figure would seem to relate to the 2 degrees scenario, and as this is government policy, this is the figure which should be relevant to forward planning of infrastructure – not the 891 TWh figure. It follows that if the 604 TWh figure is relied on, the second para. of MWSII is wrong and MWS II is discredited.

Taking then the 923TWh figure, 53% of this is 489.19 TWh, which is the quantity of gas imported in October 2017.

Taking the 604TWh figure, 72% of this is 434.88 TWh which is the quantity of imported gas which National Grid estimates will be required in 2035 – a **decrease** of 54.31TWh. **So the UK will actually need less gas in 2035 than is being used now.**

This would seem to completely discredit both MWS I and MWS II. However, whereas the Gas Security of Supply Report was not available before the issue of MWS I, it was certainly available before the issue of MWS II, and there seems to be no evidence to suggest that MWS II takes its findings into account.

In the judgement of *Andrews v Secretaries of State* (November 2018) (paras 9 &10) Holgate J made it clear that, although they have to have regard to National Policies, Local Planning Authorities are not bound by National policies, if they wish to take a different approach.

On this basis it was argued that the definition of fracking set out in MWS II does not have to be used in the North Yorkshire Plan, and indeed this was accepted by the Secretary of State.

However, the Minister's Written Statement of May 2018 has very much less weight than a Statement in the amended NPPF, as the amended NPPF is more than just a ministerial statement issued to Parliament without consultation. The amended NPPF has been fully consulted on, and the Secretary of State purported to have taken all the consultation replies into account. The new NPPF will therefore carry far more weight than either of the Ministerial Written Statements.

Para 209(a) was added to the amended NPPF to support government policy of promoting fracking.

The para requires local planning authorities to recognise the benefits of onshore oil and gas development, (including unconventional hydrocarbons) for security of energy supply for supporting the transition to a carbon free economy, and on this basis to support exploration and extraction.

This para has been struck out in the Claire Stephenson case.

The Local Planning Authority is, therefore, not required to recognise the benefits referred to in what was Para 209(a) of the amended NPPF. It follows that, if the statement in the NPPF has been successfully challenged on grounds of evidence (or lack of it), it would seem reasonable to suppose that equivalent statements in MWSI and MWSII are also disputable, and unsafe to follow.

The Local Planning Authority is, therefore, entitled to take a view that there are no benefits of onshore oil and gas extraction for the security of energy supply or the support of a transition to a carbon free economy, and to take the evidence of the Gas

Security of Supply document noted above as evidence in regard to the alleged need for security of gas supply.

This not only vindicates all the safeguards which the North Yorkshire Plan specifies in regard to fracking, including the 500m residential buffer, but may also validate the position of those authorities which want to provide an absolute prohibition against fracking in their areas.

COUNCILLOR PAUL ANDREWS

9th July 2011