

Response by South Hambleton Shale Gas Advisory Group to the Government Inspector's Invitation to comment on the Joint Ministerial Written Statement on Energy Policy (HCWS 690) dated 17th May 2018

Subject to clarification the Inspector should rule this Ministerial Statement inadmissible for the following reason:

Not to do so could be an **unlawful procedural irregularity** in the process of the Examination in Public. We wish to safeguard the Inspector from falling into such error inadvertently, yet fatally, for the validity and effectiveness of the Minerals and Waste Joint Plan.

At the hearing of the EIP on Friday 13th April 2018 the Inspector made it plain she was inclined to revise her earlier expressed view with regard to the weight to be given to safeguard local communities and in particular residential dwellings and other sensitive receptors from drilling within 500 m. At that the solicitor representing UKOOG raised serious objection to the Inspector's revised view, informing her that unless she reverted to her formerly expressed view in favour of the industry, Judicial Review of her decision would be sought. The Inspector was unmoved by this threat. Shortly after that hearing we understand Mr. Ken Cronin, Chief Executive of UKOOG, sought a meeting with and subsequently met officials of the Department of Housing, Communities and Local Government. His clear purpose appears to have been to circumvent that which the Inspector had indicated. Within days the Department's Chief Planning Officer requested the LPAs send him the policies in the Minerals & Waste Joint Plan particularly in issue, which they did. Within a further week or so the Joint Ministerial Statement was issued. The Statement is, inter alia, directed specifically at these policies and its thrust is to obviate the indication which the Inspector gave on 13th April were she to implement it, alternatively to change the Inspector's mind. By the close sequence of these events and the Government's obvious desire for the shale gas industry to succeed, the Statement appears transparently related to the meeting between UKOOG and the Department's officials. Furthermore, while it would be irrelevant to the Inspector's present task if UKOOG's lobbying of a Government official had not been at this particular time and for this particular purpose, **the fact that it has occurred at this juncture and in the context of a quasi-judicial procedure could be an attempt to pervert the course of justice.** It appears to cross the line between legitimate persuasion with regard to Government policy, on the one hand, and compromising the integrity of the Inspector's independent role, on the other. The close inter-connectivity of the events related appears so to taint the Ministerial Statement that to give it any weight without further inquiry would be a serious irregularity in the execution of the Inspector's responsibility. This is potentially such a grave matter that we feel it not only necessary but our duty to bring it to the Inspector's attention. We ask that the Inspector require UKOOG, a participant in these proceedings, to provide full particulars, together with dates and times, of all relevant communications on or after 13th April and prior to the date of the

Statement between UKOOG, its servants, agents and representatives, and HM Government officials, together with copies of all e-mails, records of telephone conversations and minutes and records of all meetings relating to the above events.

Alternatively, but only in the event of the Inspector not declaring the Ministerial Statement (HCWS690) inadmissible, we submit the following:

It forms a material consideration in both plan and decision making. **It does not rescind local mineral plans but refers to them, stating, inter alia:**

Mineral plans should reflect that mineral resources can only be worked where they are found, and applications must be assessed on a site-by-site basis and having regard to their context. Plans should not set restrictions or thresholds across the plan area that limit shale development without proper justification.

Also:

Whilst assisting local councils in making informed and appropriate planning decisionsthe Government remains fully committed to making planning decisions faster and fairer for all those affected by new development and to ensure that local communities are fully involved in planning decisions which affect them...

It is therefore clear that while the Government wish to speed up the planning process and are keen to see the industry develop within England, they also wish this to take place with the involvement of local communities. If such be the case, then a basic tenet of the process must be robust local plan policies which reflect local circumstances and which have been subject to meaningful local consultation, public debate and robust examination.

If the decision taking is to be centralized and not be taken by locally elected representatives, it becomes even more critical that any infrastructure panel take full account and give due weight to local policies which if certified by a Government Inspector following an EIP will accord with the NPPF. The North Yorkshire Minerals & Waste Joint Plan for hydrocarbon policies does not “set restrictions or thresholds across the plan area” other than those already set by government policy or legislation but merely applies additional tests to safeguard the settings of National Parks, AONBs other significant environmental assets and people’s homes. These are not prohibitions but precautionary means to take due account of interests of acknowledged importance.

We therefore contend that the Minerals & Waste Joint Plan should not be modified on account of the Ministerial Statement.

Christopher Stratton O.B.E., F.L.I. (Chairman)

Peter Fox D.Ll., Q.C. (Legal Member)