



Ministry of Housing,
Communities &
Local Government

Government response to the compulsory community pre-application consultation for shale gas development consultation

A summary of responses to the consultation and the
Government's response



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If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Ministry of Housing, Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

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Foreword

1. The Written Ministerial Statements on energy and planning policy made by the Secretaries of State for Business, Energy and Industrial Strategy, and Housing, Communities and Local Government on 17 May 2018¹, announced a range of measures to facilitate timely decisions on shale planning applications and support Mineral Planning Authorities. The statement also committed to strengthen community engagement by consulting on the potential to make pre-application consultation a statutory requirement.
2. In line with the broad focus of the Written Ministerial Statement on shale gas development, the consultation sought views on whether applicants should be required to conduct pre-application consultation with the local community prior to submitting a planning application for shale gas development.
3. The *Compulsory community pre-application consultation for shale gas development*² consultation was published on 31 October 2018 and ran for a period of 10 weeks, ending on 7 January 2019. The responses to the consultation were analysed following its closure.
4. The consultation covered the following areas:
 - Whether community pre-application consultation should be compulsory prior to submitting a planning application for shale gas development.
 - Whether compulsory community pre-application consultation for shale gas development should follow one of the existing processes, or some other process.
 - Defining what shale gas development should be subject to compulsory community pre-application consultation.
 - Public sector equality duty.
5. The responses to the consultation have been carefully considered and the Government's responses to the questions are set out below.
6. The Government has been clear that it 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 that affect them. These are long standing principles. No one benefits from the uncertainty caused by delay.

¹ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-05-17/HCWS690>

² <https://www.gov.uk/government/consultations/compulsory-community-pre-application-consultation-for-shale-gas-development>

Overview

Summary of responses

7. This document provides a summary of the consultation responses received. We have carefully reviewed and analysed the responses.
8. There were 524 responses to the *Compulsory community pre-application consultation for shale gas development* consultation. Not all respondents answered every question. We received responses from a wide range of interested parties from across the public and private sectors, as well as from the general public. We are grateful to everyone who took the time to respond.
9. The table below provides a breakdown of responses to the consultation survey by type of respondent.

Type of organisation	Number of responses
Interest group, industry representative body, voluntary or charitable organisation	27
Local authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)	19
Private sector organisation (including housebuilders, developers, housing associations, businesses, consultants)	7
Neighbourhood Planning Body / Parish or Town Council	8
Other Public Sector Body	1
Other (please specify)	13
Not provided	1
Personal response	435

10. We also received responses expressing general opposition to shale gas exploration and extraction.

General responses	13
Total number of responses	524

Pre-application engagement

Question 1

Should community pre-application consultation be compulsory prior to applying for planning permission for shale gas development? Yes/No/Not Sure

Question 1 response

11. There were 467 responses to this question. There was overwhelming support for this proposal. Nearly all respondents (94.6%) agreed with the proposal, 3.8% opposed, while 1.6% were not sure.

The main points raised by those who also provided comments on this question were:

- Pre-application engagement has significant beneficial impacts, particularly in helping to provide interested parties with an understanding of the relevant planning policies and other material considerations.
- Shale applications are controversial and often sizeable forms of development and compulsory pre-application consultation, with support of the mineral planning authority, may aid in acquiring community feedback on proposals. Local planning authorities suggested that it would also allow communities to have a greater role in shale applications, and help applicants understand local issues at an earlier stage.
- While supportive of the proposals, many respondents re-iterated the view that decisions and consultations for shale gas development should remain, and be undertaken, via the existing local planning system through mineral planning authority processes, which provides ample opportunity for consultation.
- Respondents from industry were also clear that the current process, including their own voluntary community engagement best practice commitments, operated well and was sufficient to positively engage with local communities and decision makers. They indicated that they would not be supportive of a statutory requirement to engage with local communities, suggesting that this would undermine the quality of the consultation.
- Respondents also acknowledged applicants had positively and proactively engaged with the public and other interested parties prior to the submission of their applications, through a range of consultation initiatives.

Existing processes for compulsory community pre-application consultation

Question 2

By what process (if any) should prospective applicants be required to conduct community pre-application consultation prior to applying for planning permission for shale gas development? Onshore wind development/ Nationally Significant Infrastructure Projects /Other (please specify)

Question 2 response

12. There were 451 responses to Question 2. There was minimal support for both the onshore wind development (12.9%) and Nationally Significant Infrastructure Projects (17.8%) pre-application consultation processes being suitable for shale gas development. There was considerable support (69.5%) for an 'Other' option.

Comments made by those supporting an 'Other' option included:

- Combining requirements from both the onshore wind development and NSIP processes to form a bespoke consultation process could be appropriate for shale gas development.
- That the pre-application consultation process could be based on a statutory requirement to produce a form of Statement of Community Consultation, or Community Engagement charter, to accompany applications for shale gas development that would set out what processes of community consultation would have been undertaken in pre-application phase.

Further comments on the question included:

- That the current consultation required by the full planning application system may still be the most appropriate for ensuring the community's views are considered appropriately in determining applications.
- Those respondents who were not supportive of the proposals suggested that the existing initiatives and practice for consulting communities are adequate and allow for an appropriate amount of flexibility in the methods of consultation that could reasonably be deployed for individual applications.

Question 3

What (if any) shale gas development should be subject to compulsory community pre-application consultation? All shale gas development requiring a planning application/ Where an Environmental Impact Assessment is required/Other criteria or threshold (please specify)

Question 3 response

13. There were 459 responses to Question 3. More than half (55%) indicated that compulsory community pre-application consultation should apply to all shale gas development requiring a planning application, while there was minimal support (3%) for where an Environmental Impact Assessment is required. 42% indicated there should be other criteria or thresholds.

Points raised by those who provided comments to this question included:

- That compulsory community pre-application consultation should apply to all shale gas development requiring a planning application, and suggested that this should be regardless of whether an Environmental Impact Assessment is required or any other criteria, such as the stage of shale gas development the application is concerning.
- Local planning authorities noted that exploratory stage of shale development is the most important of all phases to have a compulsory pre-app consultation, as it is the first time a community is aware of where and what is being proposed, as well as the stage in which the greatest input into design can be made. They suggested however that it should not be compulsory for applications to variations or non-material amendments to development which already has full planning permission, as this could dilute the importance given by the public to the consultations undertaken for the main phases of development.
- The majority of those indicating a preference for other criteria or thresholds suggested that all forms of shale gas development should be subject to compulsory community pre-application consultation.
- Respondents from Industry re-stated that the current rules and guidance alongside the voluntary industry engagement charter was more than sufficient in providing an adequate and acceptable approach to community consultation. The best approach to building long-term effective community engagement is by having industry guidance which is regularly updated and reviewed. This allows for a flexible and proportionate approach that is appropriate for meeting the needs of individual communities. It also goes further than the processes and statutory requirements in place for other industries and sectors.
- That it is essential that pre-application consultation is seen as an addition to, and not a substitute for, the statutory consultation which takes place following the submission of a planning application.

Government response to Questions 1-3

14. The Government acknowledges that the majority of those who responded to the consultation indicated support for the measure. However, respondents indicated that community engagement on shale gas projects needs to be meaningful and meet the needs of individual communities. Many suggested that this is best served via the current consultation process undertaken by mineral planning authorities as part of determining a planning application.
15. As the respondents have identified, the planning system already features statutory mechanisms to ensure communities are adequately consulted on development proposals. It has also been acknowledged that industry are playing their part in positively engaging with communities. Therefore, and in the light of the decision not to take forward other legislative changes, the Government does not intend to take forward this proposal, at this time.
16. However, we recognise the importance of developers actively engaging with communities at the earliest possible stage and we encourage developers to continue do so. The Government remains fully committed to ensure that local communities are fully involved in planning decisions that affect them. If necessary, will consult further on possible changes, at a later date.
17. It should be noted that the Government has made clear in a separate Written Statement that on the basis of the current scientific evidence, and in the absence of compelling new evidence, it has taken a presumption against issuing any further Hydraulic Fracturing Consents. While future applications will be considered on their own merits by the Secretary of State in accordance with the law, the shale gas industry should take the Government's position into account when considering new developments.

Public sector equality duty

Question 4

Do you have any views on the potential impact of the matters raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

18. There were 339 responses to this question. The potential impacts of the matters raised in this consultation on people with protected characteristics highlighted by respondents included:
 - Any consultation process should ensure that events and practices are fully accessible to those with protected characteristics, particularly those with disabilities and the elderly, as they find it more difficult to engage with standardised consultation procedures, such as online surveys or social media use.

- Introducing statutory community consultation at the pre-application stage would have an equal impact across individuals with protected characteristics and without.
- Early statutory consultation has the potential to have a positive impact in engaging the views of those with protected characteristics.
- Some respondents to this question did not consider the proposals would discriminate against those with protected characteristics, but noted that any pre-application consultation should be accessible to everyone.

Government response to Question 4

19. As the Government is not taking forward these proposals at this time, we do not consider that impact of that decision (not to take forward the proposals) would have a direct or indirect impact on people with protected characteristics, having regard to the need to eliminate discrimination, foster good relations and advance equality of opportunity.

20. Should we proceed in consulting further at a later date on compulsory community pre-application consultation for shale gas exploration development, we will reassess whether there would be a positive or negative, direct or indirect, impact on people with protected characteristics, having regard to the need to eliminate discrimination, foster good relations and advance equality of opportunity.