

Underground Access: Stakeholder Workshop Feedback

Organisations in Attendance

Note- more organisations (including RSPB, BGS, RAE, Celtique, Local Govt Association) were invited but could not attend – we have asked them to provide written feedback and may follow up with bilaterals prior to introduction.

Pinsent Masons	Cluff Geothermal	Coal Authority
Herbert Smith Freehills	EGS Energy	RICS
Arup	Geothermal	Balcombe Parish
SKM	Engineering	Council
Wood Mackenzie	Royal Society	Reach
Poyry	Durham University	eCorp
UKOOG	Keele University	National Infrastructure
Cuadrilla	Greenpeace	Planning Council
Igas	Friends of the Earth	Lancashire Council
Centrica	CBI	Cheshire East Council
Third Energy	National Farmers Union	Cheshire West &
Total	CPRE	Chester Council
Edgon	Countryside Alliance	Preesall Town Council
Rathlin	National Trust	West Lancashire
GT Energy	Country Landowners	Borough Council
	Association	

Summary Note

Introduction

This note summarises the table discussions held at stakeholder workshops on the 24th and 27th February in London, and on the 17th March in Preston, Lancashire. The workshops considered the issue of underground access for shale oil & gas and deep geothermal projects. The discussions were held under Chatham House Rule so comments have not been attributed. Discussions covered a wide range of opinions and this document summarises the main themes.

The Existing Situation

The majority of participants felt that the current system for granting access rights was problematic, in that it had not been designed with horizontal drilling in mind and was unsuitable for the surface areas and numbers of landowners that shale oil & gas and geothermal projects would involve. The process was felt to be lengthy and costly, with a disproportionate amount of power given to individual landowners, who could hold up development regardless of what a community might want. However, the existing process was considered by some participants to be an important part of the overall system of protections in place for individuals, including against unwanted development. Many participants felt that it was important for local people to know about underground drilling activities and that this should be fully communicated.

If the process for granting access rights does not change, it was felt by most participants that both shale and geothermal development could find it difficult to proceed. Companies only have a limited scope to choose new sites if they are blocked in certain areas, and they would likely only be able to proceed in a limited number of areas. Most participants considered that the uncertainty and length of court cases would deter significant levels of investment, but others considered that this investment might only be deferred rather than lost.

Impact of Underground Activity

There was some discussion on the potential impacts of underground drilling for oil, gas and deep geothermal. Some participants had concerns about potential impacts on the surface— including the risk of water contamination, subsidence, seismic activity and environmental damage. There was some discussion as to the magnitude and probability of these impacts, and whether the existing regulatory regime was sufficient to manage them. Some participants did not think there would be any noticeable impact on the surface of the land, other than ‘peace of mind’ for the landowner. There was some discussion of whether shale developments might have a larger impact than deep geothermal – although both technologies can use similar processes such as hydraulic fracturing. There were further concerns raised specifically by local authorities regarding the potential impacts on house prices and home insurance premiums. Local authorities generally agreed that judging the impact of activities relies on local perception vs. facts, and that an increased understanding of the activity generally helps affected communities to determine their key concerns. Participants discussed what an appropriate depth limit might be for underground operations and agreed that a depth considerably below 100m should apply.

Process improvements

Initially, participants discussed whether there might be similarities with access rights procedures in other industries such as coal, hydro schemes and airspace. In addition to underground rights of access, some alternative options were discussed, including

a compulsory rights purchase scheme, bringing shale and geothermal developments into the nationally significant infrastructure programme and a community ownership scheme for geothermal.

The option to 'do nothing' was also discussed, although it was mostly felt that this would be impractical. Some participants suggested reviewing the issue in 18 months, or launching a national scheme to reassure landowners and reduce the chance of long negotiations. Participants considered whether it might be possible to refine the existing procedure (including the option of group negotiation), but it was felt that this would not remove the main problem of a single landowner holding the power of veto over a process involving a large number of other landowners. There was also some discussion of whether to treat shale and geothermal separately.

Underground Access Rights

Attendees agreed that underground access rights should not be viewed as a 'free for all,' and that existing regulation on the environment, safety and planning should continue to act as a barrier against irresponsible development. Some participants were unhappy with removing existing protection for landowners, and thought that retaining the ancillary rights procedure would be beneficial as it would provide an independent assessment of the impacts and risks to the landowner. It was thought by some that a similar approach to section 51 of the Coal Act 1966 (which includes a similar underground right of access) would be inappropriate today without some form of compensation. Most participants concluded that underground access was the most appropriate policy option, though others disagreed.

Payment Options

There was no ultimate consensus on whether a payment should be provided in return for access rights. A few participants felt that a lack of impact for the landowner would mean there would be little reason for payment. However most felt that there should be a payment regardless of any impact, in return for the nominal right of access itself and that a payment would help underground access rights to be accepted by landowners and the public. In terms of the features of any such payment, opinion was divided as to whether this should be made to individual landowners or as a benefit to the wider community. It was generally agreed that any individual payment would likely be nominal, given the low value of the underground land and the low value of payments in existing compulsory purchase schemes. The administration costs of an individual payment scheme were expected to be quite substantial. A community payment was thought to be a more meaningful lump sum, but this was not without its challenges – such as defining a 'community,' and avoiding confusion with the existing shale gas community benefits package (intended to address surface disruption.) Some participants thought that a voluntary payment scheme might have the benefit of flexibility, but that it would need to be enforced in some way by legislation.