

Shale Gas & 'Fracking' - An Update

21 May 2014

What is shale gas / What is fracking?

Shale gas is:

- Natural gas trapped in shale formations
- Found within the layers of the deep rock formations rather than in a hollow reservoirs
- Extracted via hydraulic fracturing

Fracking is:

- Injection of high pressure (water & chemicals) into a borehole to create fractures in the rock out of which shale gas can then be extracted



The industry in the UK

- Currently no production activity in the UK
- A number of exploration licences granted in 2008
- Pioneered by Cuadrilla Resources
- David Cameron, January 2014: *“We’re going all out for shale”*
- A number of measures announced by government:
 - £100,000 initial contribution for local communities per site and 1% of revenue thereafter
 - Tax benefits for companies developing shale gas
 - Councils to keep 100% of business rates from fracking sites

The debate about Shale Gas

For

- Decentralisation of energy production/ greater energy independence
- Bridge energy gap
- Investment in local communities/ creation of jobs
- Increase in tax revenues
- Cleaner than other fossil fuels?

Against

- Environmental impact (contamination/ seismic activity)
- Renewable technologies – investment discouragement
- Public opposition

The licensing regime



- Rights in oil and gas resources are vested in the Crown in the UK
- A UK Petroleum Exploration and Development Licence is required from the Department of Energy and Climate Change
- Applications to DECC

Petroleum Exploration and Development Licence

- Standard format
- Deed which binds licensee even if they are not currently exploring / developing shale gas
- Annual charge based on the acreage covered by the licence
- Three terms
 - Exploration - 6 years
 - Appraisal - 5 years
 - Production - 20 years +
- Licences may be surrendered and assigned
- Licensees must meet certain criteria prior to grant of a licence

Other permissions

- A PEDL only confers exclusive rights to search for, bore for and extract shale gas
- Other permissions required, for example:
 - Planning permission
 - DECC's consent to drill
 - Permits from the Environment Agency
 - Health and Safety - notification to HSE
 - Other consents e.g. The Coal Authority

Access to land and trespass

- One of the key issues for operators of shale gas is access to land for both above and below surface works
- Options:
 - Negotiate with land owners
 - Compulsory acquisition
 - Do nothing and hope the landowner doesn't notice...
 - ...but this risks a trespass action being brought as in the case **Star Energy v Bocardo [2010]**.



Changes to trespass law

- Access issues are a key concern for operators
- The government is therefore set to announce changes to trespass law
- These changes may allow companies carrying out exploration and development of shale gas to drill under private land without consent simply by paying nominal compensation
- This development is likely to face strong opposition



Concluding remarks

- Shale gas remains in its infancy
- The licensing and regulatory regimes continue to develop
- Further exploration and testing is required
- Unlikely to be the ‘game changer’ that it was in the US
- Continued opposition and high profile protests
- Industry seems to have the government’s support

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