

APPEAL BY ISLAND GAS LTD, PORTSIDE
ELLESMERE PORT

APPEAL REFERENCE APP/A0665/W/18/3207952

OPENING STATEMENT

ON BEHALF OF THE RULE 6 PARTY

FRACK FREE ELLESMERE PORT & UPTON



Introduction

1. IGas's proposed exploration for shale gas, on a site 320m from local residences and 50m from local businesses, is not sustainable. Its impact in terms of greenhouse gas emissions, its negative air quality impacts, negative public health impacts, the social and economic harm it will cause, the risks it poses to nearby residents and businesses and the way in which it undermines the regeneration vision for Ellesmere Port and its historic Waterfront mean that it is not sustainable development, and it is in breach of two key local strategic policies: STRAT 1 and STRAT 4. It is also in breach of policies SOC 5 on health and well-being; ENV 7 on alternative energy supplies; ENV 1 on water management; ENV 4 on biodiversity and ENV 9 on mineral development.
2. Frack Free Ellesmere Port and Upton, the Rule 6 Party, represents a local community of around over 3000 people, with a core group of about 20 organisational leaders. The two wards closest to the proposed shale gas exploration – Rossmore and Elsmere Port Town – are ranked amongst the 10% most deprived nationally. That vulnerability, in particular in terms of health and social stressors, means local people are more vulnerable to the negative impacts of the proposed development, especially the negative air quality impacts.
3. A precautionary approach should also be taken to the proposed exploration in light of the evidence about the geology of the site, such that permission should be refused unless IGas can rule out uncertainty over the potential conduits for contamination (in particular contamination of the aquifer) and for release of toxic gases such as hydrogen sulphide.

The Proposed Development

4. IGas has been at pains to point out that the proposed exploration is not for fracking. We entirely accept that. Fracking is ruled out by the environmental permit. But IGas finally admitted in its evidence that it intends to carry out both an "acid wash" and an "acid squeeze". It intends to use up to 95m³ of acid – either hydrochloric acid or the far more toxic and dangerous hydrofluoric acid

– at 15% dilution, which contradicts the claim that simple wellbore washing is intended [see the EA’s definition document at EP20]. Both the description of the planning permission and the environmental permit allow acid stimulation of the shale via a technique known as “matrix acidisation” – essentially acid fracking’s ugly little sibling.

5. So while this proposal is absolutely not for fracking, many of its impacts are similar.
6. The description of the proposed development is: “Mobilise well test equipment, including a workover rig and associated equipment, to the existing wellsite to perform a workover, drill stem test and extended well test of the hydrocarbons encountered during the drilling of the EP-1 well, followed by well suspension” (CD 2.3 pg 3).
7. FFEPU has since well before the inquiry raised with IGas its concerns about this description, which does not mention either shale gas – the hydrocarbon to be tested – or the proposed extraction technique. Instead, it describes the proposed development by reference to a previous planning permission which was for exploitation of a completely different hydrocarbon: coalbed methane.
8. There are two main difficulties with the description. First, it is hopelessly vague. Because it refers to testing “the hydrocarbons encountered during the drilling of the EP-1 well”, it requires reference to be made to documents extraneous to the planning permission to understand what those hydrocarbons are and that they are shale gas. Given the previous planning permission was for coalbed methane, the description could be understood to refer just to that hydrocarbon, thus making the whole application entirely redundant.
9. Second, the failure to specify the proposed extraction method is very troubling, and means that, despite IGas’s protestations that it does not intend any acid stimulation, that is precisely what would be permitted. The Appellant was very coy in the documentation supporting the planning permission in describing

the proposed extraction method. The Planning Statement [CD 2.4] mentions “acid” once. And does not use the term “acid squeeze” at all. So too IGas’s Statement of Case. It was only through FFEP&U’s correspondence with IGas that the possibility of undertaking an acid squeeze emerged. It was only in IGas’s evidence that the intention to carry out an acid squeeze was confirmed. While the environmental permit does not allow fracking, it does not prevent acid stimulation via the “acid squeeze”, so it does not prevent matrix acidisation. IGas has repeatedly claimed the permit does prevent acid stimulation, but has failed to show how. The permit requiring groundwater activity to be de minimis simply means that the use of acid is “near the wellbore” [CD 2.13 pg 10], which does not prevent matrix acidisation [EP 20].

Why the Community is Concerned About the Description

10. The EP-1 Well was drilled under PEDL 184. When Nexen made the original planning application to drill “for the purpose of coal bed methane appraisal and production” [CD 1.5(5) pg 1 §1.1], Nexen had an 80% interest in PEDL 184 and IGas a 20% interest [CD 1.5(5) Appendix 1]. Nexen indicated that the anticipated Total Vertical Depth was around 900m, into the coal seam [CD 1.5 (5) pg 17 §9.3.6].
11. Planning permission was granted for “Drilling of two exploratory boreholes **for coal bed methane appraisal and production**. The installation of wells, production and power generating facilities and **the extraction of coal bed methane** and the subsequent restoration of the site.” [CD 1.1, emphasis added]. The Indicative Well Profile, with which condition 3 of the planning permission required the development to be carried out “in strict accordance” showed a Total vertical depth of 900m [CD 1.5(11)].
12. IGas acquired a 100% interest in PEDL 184 in 2011 [CD 2.4 pg 9]. In March 2011, IGas applied to discharge various conditions under the planning permission and all indications were that the intention remained to drill for coal bed methane [CD 1.3 pg 1]. But something changed. As a result of other drilling undertaken by IGas at Ince Marshes, IGas met with the Council and then wrote

to them to put “on the record” that the likely future plans for EP-1 was to drill into the limestone and penetrate the Bowland Shale [CD 1.7].

13. In June 2014 IGas applied to the EA for the requisite permit. It told the EA that there was a planning permission “to drill a borehole for **hydrocarbon** exploration” [CD 1.6 pg 3 section 2.1, emphasis asses]. IGas was absolutely plain with the EA: the “proposed operations include exploratory drilling to a total depth of “2,100 ± 300 mbgl at the top of the Carboniferous Dinantian Limestone” so that “the shales above the ... Limestone [could] be cored to obtain information on their hydrocarbon potential.” [CD 1.6 pg 6]. IGas was crystal clear with the EA that they would drill well beyond the coal measures (which it anticipated end at 1,125 mbgl) and into the Bowland Shale [CD 1.6 pg 7 Fig 1]. The well was drilled to obtain a core to test for the presence of shale gas. That was IGas’s clear intention.
14. But while IGas told the Council and the EA of its intention, in July 2014 it told the community, in its glossy “Community Information Ellesmere Port Exploration Well” document CD 1.8: “In the coming months we will be drilling an exploratory well at the Ellesmere Port site. **The primary objective of this well is to identify the resource potential including Coal Bed Methane in the underlying rock formations.**” (pg 8). It showed the community a schematic of a “Coal Bed Methane Well” (pg 12). It explained to the community what coal bed methane is (pgs 18-19). It produced a 3D image of a well drilled only into the coal seam (pg 19). Not one word did it say about shale gas, or drilling into the shale, or exploring for shale gas, or obtaining cores of the shale for information on their hydrocarbon potential. IGas told the community it was exploring for coal bed methane when in actuality the primary objective of the well was to drill to explore for shale gas.
15. That is why the community is very concerned that this planning permission properly describe the process that IGas is telling the Council and the Inspector now that it wishes to undertake. So that there can be no change in primary objective, of which the Council and the EA may be aware, but of which the

community would not be aware, and which would wholly undermine this process of assessment based, on IGas's case, on the impacts of not stimulating the well.

16. It is helpful that, on the cusp of the Inquiry, IGas has finally indicated that, in principle, it has no concern if the Inspector wishes to alter the description of development to refer to specific formations or operations and that it considered that this would prejudice any party. FFEP&U will work with IGas to seek to agree sensible amended wording.
17. It should be noted, however, that even if the description is amended to clarify the proposed extraction technique; or if a condition is imposed limiting the use of acid to wellbore washing, that would not avoid most of the impacts to which FFEP&U's evidence speaks. It would lessen (but not to zero) the potential pathways for contamination of the aquifer. But it would not have any effect on the impact in terms of greenhouse gas emissions, negative air quality impacts, negative public health impacts, the social and economic harm it will cause, the risks it poses to nearby residents and businesses and the way in which it undermines the regeneration vision for Ellesmere Port and its historic Waterfront.

Policy Matters

18. We accept that there is national government support for shale gas exploration, even for exploration via matrix acidisation. We do not challenge this policy support and we invite the Inspector to give it appropriate weight.
19. Some of FFEP&U's witnesses do in their professional lives hold the view that the government's policy is wrongheaded and that there is no place for shale gas exploration or production in the UK. But all of them recognise that, in this inquiry, the Inspector is required to apply current government policy as reflected in the various written ministerial statements and the NPPF. They do not, in the confines of this inquiry, challenge that, nor does FFEP&U ask the Inspector not to apply these policies or to give the appropriate weight.

20. But that does not mean that shale gas exploration must be permitted in the wrong location, so close to residences and neighbouring businesses, in a vulnerable area and in a cul-de-sac that makes emergency response very difficult. The policies supporting shale gas do not mean that every application for shale gas exploration goes through on the nod.
21. National policy also does not ride roughshod over the local development plan. Shale exploration that is not sustainable under the local development plan, such as that proposed here, and which directly contradicts the local regeneration vision, can properly be refused permission.
22. Furthermore, local decision-makers are entitled to take into account the latest evidence of impacts and to give great weight to preventing climate change and avoiding other impacts. Despite this proposed development plainly resulting in release of both methane and carbon dioxide into the atmosphere through the flaring of the gas, and the 3,144 two-way traffic movements over the 104 proposed working days (572 of which will be HGV movements) [Hawkins rebuttal §2.3.27], resulting in further greenhouse gas emissions as well as emissions of nitrogen dioxide (NO₂) and fine particulate matter (PM), IGas has not bothered even to calculate the anticipated greenhouse gas emissions. It seeks only to sidestep the climate change issue.
23. But the climate change impact of the proposed exploration cannot be side-stepped. It is front and centre in the main local policy relevant to the proposed development – STRAT 1. Greenhouse gas emissions are a material planning consideration. The Secretary of State in the recent Talk Fracking challenge told the High Court that the appropriate place for the consideration of evidence of the impact of shale gas development on climate change and the environment is in local planning decisions. And the Secretary of State also recently told the High Court that he has begun to give greater weight to the impact of greenhouse gas emissions than had previously been the case: *HJ Banks & Co v SSHCLG* [2018] EWHC 3141 (Admin) at §3. This is not surprising. The

government has a statutory duty under the Climate Change Act 2008 to remain within the carbon budgets and paragraph 148 of the NPPF requires the planning system to contribute to a radical reduction in greenhouse gas emissions in order to meet the challenge of climate change.

Conclusion

24. The local community has said a resounding no to the proposed development. Its opposition is not ill-informed or ignorant or knee-jerk, as some have attempted to characterise it. The evidence of FFEP&U's expert witnesses will show that the proposed development is simply in the wrong place and, in light of its adverse impacts, is not acceptable in planning terms. FFEP&U will invite the Inspector to dismiss the appeal.

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