# Fracking and information for landowners/leaseholders

## Background

INEOS, one of the largest shale gas companies, has made clear to North York Moors National Park (NYMNP) that it intends to start a programme of exploration in and around the southern boundary of the Park in 2018. This would involve vibration and seismic assessments, followed by exploratory drilling. Surveys will be undertaken with the intention of fracking for shale gas underneath NYMNP by drilling laterally from outside it. NYMNP are opposed to these plans - [Positional statement on fracking – January 2018](http://www.northyorkmoors.org.uk/about-us/press-office/press-releases/articles2/positional-statement-on-fracking-january-2019).

INEOS companies hold four Petroleum Exploration and Development Licences (PEDLs) which include parts of the North York Moors National Park. The licences comprise:

PEDL 285 – wholly in the National Park (including Lastingham)

PEDL 284 – north of Kirkbymoorside (including Appleton-le-moors)

PEDL120 – stretching from Helmsley to East Ayton (including Sinnington and Cropton)

PEDL280 – south and west of Ampleforth

## What does this mean for local landowners/leaseholders?

Landowners/leaseholders may be approached by an INEOS agent for permission to generate geological data. This is likely to be FGP Ltd, a firm of Charted Surveyors acting for INEOS.

Although land may be included in a PEDL area, a fracking company does not gain access rights through the licence (Petroleum Act 1998). Therefore, in the majority of cases, the company negotiates access rights with the landowner or leaseholder. (See Oil and Gas Authority (OGA) guidance, <https://www.ogauthority.co.uk/media/3532/annex-a-the-guidance-final.pdf>)

Seismic surveys must meet certain conditions, but do not usually need planning permission, unless they last more than 28 days or affect a European designated wildlife site.

Fracking companies must have insurance to cover any damage caused, and any landowner/leaseholder agreeing to seismic testing must satisfy themselves that insurance is adequate. Written confirmation of insurance cover and limitations for any damage is recommended. In addition, photographic or even surveyor’s evidence of any structure that may be at risk from seismic activity (earth tremors) or other damage by contractors can be useful. Further professional advice can be considered.

## Refusing Access

Without permission from the landowner/leaseholder, access by INEOS or its agents would constitute trespass. Where access to surveyors is refused, companies can use the Mines (Working Facilities and Support) Act 1966 to apply for an ancillary right of access - <https://www.ogauthority.co.uk/media/3532/annex-a-the-guidance-final.pdf>

The OGA considers applications and determines whether or not to refer the matter to court. To grant access, the court must be satisfied that:

* the application is ‘expedient in the national interest’
* the company could not get access through negotiation with the landowner/leaseholder. This might be because the refusal of access was unreasonable, or unreasonable terms were demanded for access.

The court must also consider the impact of a seismic survey on local amenities. The process is lengthy and the fracking company must pay its own legal costs for the application (under the 1998 Act). It cannot, in normal circumstances, claim these from the landowner/leaseholder. It also has to pay the landowner’s reasonable costs.

## Considerations

Seismic testing and the drilling of groundwater monitoring boreholes is the preparatory stage to shale gas development. Landowners/leaseholders should be aware of what is involved in seismic surveys and the constraints on activities - <https://friendsoftheearth.uk/sites/default/files/downloads/stopping-fracking-before-it-starts-seismic-surveying-fracking-near-you-102421.pdf>

Subsequent stages involve:

* appraisal stage - construction of the well pad and other infrastructure, drilling wells, hydraulic fracturing and monitoring results (gas flow).
* production stage – more permanent/long term infrastructure, production wells, further exploration/wells and possible power generation, gas-processing infrastructure.

Allowing access to land for the second and third stages of shale gas development has much bigger implications for landowners/leaseholders. These stages involve longer-term formal agreements.

There are examples locally and nationally of disputes arising with shale gas companies due to alleged damage incurred during preparatory activities in shale gas exploration. <https://drillordrop.com/2017/10/23/a-complex-tale-of-thumper-trucks-leaks-and-dirty-bath-water/>; *‘Derwent Ward and impending seismic testing prior to fracking’* (M Potter 2018).

Landowners/leaseholders are within their legal rights to refuse access to their land. Although court action is open to fracking companies to challenge this, it has not yet been tested. There are many negatives associated with a company taking legal action against a landowner/leaseholder, including uncertainty, delay, costs and negative publicity.

*The above is provided for information purposes only. The following sources are acknowledged:*

* *North York Moors National Park* [*http://www.northyorkmoors.org.uk*](http://www.northyorkmoors.org.uk)
* *UK Oil and Gas Authority* [*https://www.ogauthority.co.uk*](https://www.ogauthority.co.uk)
* *Friends of the Earth* [*https://friendsoftheearth.uk*](https://friendsoftheearth.uk)
* *Drill or Drop* [*https://drillordrop.com*](https://drillordrop.com)
* *M. Potter Councillor for Derwent Ward, personal communication*
* *Concerned Farmers of Yorkshire* [*http://www.cfoy.org.uk*](http://www.cfoy.org.uk)
* *Ryedale Farmers against Fracking* [*https://ryedalefarmers.org*](https://ryedalefarmers.org)
* *Department for Business Energy and Industrial Strategy* [*https://www.gov.uk/government/publications/about-shale-gas-and-hydraulic-fracturing-fracking/developing-shale-oil-and-gas-in-the-uk*](https://www.gov.uk/government/publications/about-shale-gas-and-hydraulic-fracturing-fracking/developing-shale-oil-and-gas-in-the-uk)

Prepared by Appleton-le-moors Parish Council Fracking advisory group.

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