

The Guardian



This article is more than **3 months old**

High court rules government's fracking guidelines 'unlawful'

Court finds government failed to consider scientific evidence against fracking

Fiona Harvey *Environment correspondent*

Wed 6 Mar 2019 17:13 GMT

The government's attempts to make fracking easier have received a setback after the high court ruled key aspects of its national planning policy to be unlawful.

In a case brought by anti-fracking campaigners, the court found that it was material to consider scientific evidence, including the effects on climate change, in deciding policy on fracking, and the government had failed to do so.

The judgment implied that campaigners could raise climate change as a reason to object to planning permission for fracking sites, which will make it easier for campaigners to lobby against licensing new sites.

Mr Justice Dove also criticised the way the public consultation was carried out, calling part of it "so flawed in its design and processes as to be unlawful".

The judgment also suggested that gas from fracking might not be considered a low-carbon source of fuel, which could also hamper attempts to expand fracking around the country.

The government will now present its arguments on what changes may have to be made to the national planning policy framework, which sets out the rules by which local authorities can make their planning decision on individual sites.

Any changes to the policy framework could make it easier for environmental groups to argue against new fracking sites, which ministers wanted to prevent.

Joe Corre, founder of Talk Fracking, represented by Leigh Day solicitors, which brought the judicial review challenge to the government's national planning policy framework, said the government had been exposed. "The court has clarified both that the government has behaved irresponsibly and recklessly with our democratic rulebook. Their pretend consultation was a farce. It has also become clear with guidance from the court that objections to fracking on the basis of its climate change impacts must be considered at a local planning level," he said.

The case had two main strands:

Adopting key parts of the planning framework would be unlawful because the government failed to take into account scientific developments that call into question whether it was correct to agree gas was low carbon

The government failed to carry out a lawful public consultation on the revision of the policy
Rowan Smith of Leigh Day called for a full review of the government's policy framework.

Natural gas should not be considered a low-carbon fuel, as the government had tried to claim, added Jonathan Marshall, head of analysis at the Energy and Climate Intelligence Unit. "With the UK's electricity system almost free of coal, natural gas is now effectively the most carbon-intensive major source of power," he said. "Official advice from the Committee on Climate Change concluded that fracking was only compatible with national decarbonisation targets if the gas produced replaced higher carbon sources of energy."

He also pointed to a recent study by the British Geological Survey that found elevated levels of methane near a fracking site, which he said showed the fracking industry was not living up to the standards we should expect.

Claire Stephenson, a member of Talk Fracking, said: "The government have continually sought to ignore public opinion on fracking, despite the overwhelming opposition on a national level.

"The lack of public consultation and the unbiased support for an industry, without any substantial underlying evidence, has been a cause for concern.

"The additional acknowledgment from the judge, that climate change is a valid concern for campaigners and councils facing fracking planning applications, is a big win."

Fracking has restarted in the UK after a seven-year pause.

As the crisis escalates...

... in our natural world, we refuse to turn away from the climate catastrophe and species extinction. For The Guardian, reporting on the environment is a priority. We give reporting on climate, nature and pollution the prominence it deserves, stories which often go unreported by others in the media. At this pivotal time for our species and our planet, we are determined to inform readers about threats, consequences and solutions based on scientific facts, not political prejudice or business interests.

More people are reading and supporting The Guardian's independent, investigative journalism than ever before. And unlike many new organisations, we have chosen an approach that allows

us to keep our journalism accessible to all, regardless of where they live or what they can afford. But we need your ongoing support to keep working as we do.

The Guardian will engage with the most critical issues of our time - from the escalating climate catastrophe to widespread inequality to the influence of big tech on our lives. At a time when factual information is a necessity, we believe that each of us, around the world, deserves access to accurate reporting with integrity at its heart.

Our editorial independence means we set our own agenda and voice our own opinions. Guardian journalism is free from commercial and political bias and not influenced by billionaire owners or shareholders. This means we can give a voice to those less heard, explore where others turn away, and rigorously challenge those in power.

We need your support to keep delivering quality journalism, to maintain our openness and to protect our precious independence. Every reader contribution, big or small, is so valuable.

Support The Guardian from as little as £1 - and it only takes a minute. Thank you.

Support The Guardian



Topics

- Fracking
- Energy
- Fossil fuels
- Gas
- news