

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT ONSHORE HYDRAULIC FRACTURING (PROTECTED AREAS) REGULATIONS 2015

Tuesday 27 October 2015

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£5.00

No proofs can be supplied. Corrigenda slips may be published with Bound Volume editions. Corrigenda that Members suggest should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 31 October 2015

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY
FACILITATE THE PROMPT PUBLICATION OF
THE BOUND VOLUMES OF PROCEEDINGS
IN GENERAL COMMITTEES

© Parliamentary Copyright House of Commons 2015

*This publication may be reproduced under the terms of the Open Parliament licence,
which is published at www.parliament.uk/site-information/copyright/.*

The Committee consisted of the following Members:

Chair: MR DAVID HANSON

- | | |
|---|--|
| † Double, Steve (<i>St Austell and Newquay</i>) (Con) | † Mann, Scott (<i>North Cornwall</i>) (Con) |
| † Evans, Chris (<i>Ishwyn</i>) (Lab/Co-op) | † Matheson, Christian (<i>City of Chester</i>) (Lab) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | † Maynard, Paul (<i>Blackpool North and Cleveleys</i>) (Con) |
| † Grieve, Mr Dominic (<i>Beaconsfield</i>) (Con) | † Philp, Chris (<i>Croydon South</i>) (Con) |
| † Griffiths, Andrew (<i>Burton</i>) (Con) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| † Harpham, Harry (<i>Sheffield, Brightside and Hillsborough</i>) (Lab) | † Sheppard, Tommy (<i>Edinburgh East</i>) (SNP) |
| † Jones, Graham (<i>Hyndburn</i>) (Lab) | † Smith, Julian (<i>Skipton and Ripon</i>) (Con) |
| † Leadsom, Andrea (<i>Minister of State, Department of Energy and Climate Change</i>) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Lynch, Holly (<i>Halifax</i>) (Lab) | |
| † McCaig, Callum (<i>Aberdeen South</i>) (SNP) | Katya Cassidy, <i>Committee Clerk</i> |
| | † attended the Committee |

The following also attended, pursuant to Standing Order No. 118(2):

- | | |
|--|---|
| Benyon, Richard (<i>Newbury</i>) (Con) | Marsden, Mr Gordon (<i>Blackpool South</i>) (Lab) |
| Cryer, John (<i>Leyton and Wanstead</i>) (Lab) | Maskell, Rachael (<i>York Central</i>) (Lab/Co-op) |
| Dakin, Nic (<i>Scunthorpe</i>) (Lab) | McCabe, Steve (<i>Birmingham, Selly Oak</i>) (Lab) |
| Herbert, Nick (<i>Arundel and South Downs</i>) (Con) | McInnes, Liz (<i>Heywood and Middleton</i>) (Lab) |
| Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con) | Saville Roberts, Liz (<i>Dwyfor Meirionnydd</i>) (PC) |
| Howlett, Ben (<i>Bath</i>) (Con) | Skinner, Mr Dennis (<i>Bolsover</i>) (Lab) |
| Irranca-Davies, Huw (<i>Ogmore</i>) (Lab) | Smith, Cat (<i>Lancaster and Fleetwood</i>) (Lab) |
| Lewis, Clive (<i>Norwich South</i>) (Lab) | Turner, Mr Andrew (<i>Isle of Wight</i>) (Con) |
| Lucas, Caroline (<i>Brighton, Pavilion</i>) (Green) | Williams, Mr Mark (<i>Ceredigion</i>) (LD) |

Second Delegated Legislation Committee

Tuesday 27 October 2015

[MR DAVID HANSON *in the Chair*]

Draft Onshore Hydraulic Fracturing (Protected Areas) Regulations 2015

2.30 pm

The Chair: Before I call the Minister to move the motion, let me say that there has been a lot of interest from Members in contributing to the debate. I intend to allow non-members of the Committee to speak after members of the Committee who have indicated whether they wish to contribute. This debate is only an hour and a half long, so given the interest, I implore Members following the Front Benchers to be reasonably brief.

Tommy Sheppard (Edinburgh East) (SNP): On a point of order, Mr Hanson. I seek clarification on the position of Scottish Members on this Committee following the changes made last Thursday by the House as a whole to Standing Orders in relation to English votes for English laws. Our understanding—I would appreciate clarification—is that we will be able to fully participate in this Committee for two reasons; first, we are talking about secondary legislation that relates to primary legislation that preceded the EVEL change; and secondly the Scottish Parliament does not yet have legislative authority over this matter and will not do so until 2018.

The Chair: I am grateful to you for raising this issue, Mr Sheppard. I confirm as the Chair that you can debate and vote in this Committee today.

2.31 pm

The Minister of State, Department of Energy and Climate Change (Andrea Leadsom): I beg to move,

That the Committee has considered the draft Onshore Hydraulic Fracturing (Protected Areas) Regulations 2015.

It is a pleasure to serve under your chairmanship, Mr Hanson. Before outlining what the draft regulations seek to do, I would like to take this opportunity to restate the Government's commitment to a low-carbon and affordable future for energy. Gas, the cleanest fossil fuel, still meets a third of our energy demand and we will need it for many years to come. It is vital that we seize the opportunity to explore the UK's shale gas potential, while maintaining the very highest safety and environmental standards.

We have established those standards as world leaders in extracting oil and gas over many decades. Shale can and will be developed safely. The UK has more than 50 years' experience of safely regulating oil and gas exploration. We have world-class independent regulators, who will not allow operations that are dangerous to local communities or to the environment to go ahead. Safety is and always will be absolutely paramount.

Members of the public are understandably worried about a process which has not been used in the UK before, and my job is to provide reassurance and a clear explanation of why this potential new industry is very much in our interests and will be safely carried out. We have a strong regulatory regime for exploratory activities, and we will continuously review it as the industry develops. We insist on the highest safety standards, and all of that is backed up by independent checks from the regulators.

There is no denying the fact that 80% of us use gas for heating and cooking, and industry uses gas in many everyday products. At the moment, we import about 40% of our gas needs and by 2030 we could be importing three quarters of the gas we use.

Michael Fabricant (Lichfield) (Con): On a point of order, Mr Hanson. Someone is taking a photograph in the Committee Room. Surely that is out of order?

The Chair: Thank you, Mr Fabricant. Whoever is taking a photograph, would they please desist? That is not allowed in the Committee.

Andrea Leadsom: As I said, at the moment, we import 40% of our gas needs, and by 2030 that could increase to around three quarters of the gas we use, so shale is vital, not just to reduce our reliance on imports but because it can create an energy bridge while we further develop renewable energy, improve energy efficiency and build new nuclear generating capacity.

Christian Matheson (City of Chester) (Lab): On that point, will the Minister give way?

Andrea Leadsom: I will not give way at the moment. I would like to make some progress in making my case and then I will take some interventions.

Importantly, studies show that the carbon footprint of electricity from UK shale gas is likely to be significantly lower than that of unabated coal and imported liquefied natural gas. Shale offers a valuable decarbonisation route from where we are today to where we want to be with a cleaner energy future.

Exploring for shale will also help create jobs and grow local economies. Investment in shale could reach £33 billion and support as many as 65,000 jobs in the oil, gas, construction, engineering and chemicals sectors. Locally, that could mean not just highly skilled jobs, but cementing contracts, new facilities and work for local businesses such as lorry drivers and income for local restaurants and bed and breakfasts.

The draft regulations serve to strengthen further the protections already in place for protected areas. It is right that we are debating them at the earliest opportunity, as we agreed to do during debate on the Infrastructure Act 2015. The powers to make the regulations are found in section 4B of the Petroleum Act 1998, as inserted by section 50 of the Infrastructure Act, which, following scrutiny in this House and the other place, received Royal Assent in February 2015.

The Infrastructure Act requires the Government to specify protected areas within which hydraulic fracturing cannot take place. As hydraulic fracturing occurs far

below the surface, the regulations can relate only to subsurface activities, so they will not contain an answer to all the questions Members may wish to raise about hydraulic fracturing at surface level; however, I will address those questions in a moment.

I remind hon. Members that sections 4A and 4B of the Petroleum Act set out further safeguards for onshore hydraulic fracturing in England and Wales to provide the public with confidence that the shale industry is being developed in a safe, balanced and measured way. The Act lays down a number of conditions that must be satisfied before a hydraulic fracturing consent is issued by the Secretary of State. It includes two conditions specifying that associated hydraulic fracturing cannot take place within “protected groundwater source areas” or “other protected areas”.

Michael Fabricant: Will my hon. Friend give way?

Andrea Leadsom: If my hon. Friend will bear with me, I will certainly give way in a moment.

Those two terms are not defined in the Act. Instead, the Act contains a requirement for the Government to produce draft regulations with the proposed definitions and to lay them in both Houses by the end of July this year. To honour that commitment, we laid the instrument in draft form on 16 July.

Let me be clear: despite accusations to the contrary by Opposition Members, there has been no attempt to sneak the regulations past Parliament. The instrument has been in the public domain for three months, during which time the Opposition have not requested a debate on the Floor of the House, so to affect outrage that there will not be a House debate at such a late stage—hours before this Committee met—is pure political point scoring. On that point, I will give way to the hon. Member for City of Chester.

Christian Matheson: It is okay. Time is moving on.

Andrea Leadsom: In that case, I give way to my hon. Friend.

Michael Fabricant: While I have concerns to raise if I catch your eye later, Mr Hanson, I want to ask my hon. Friend a question following on from a visit I paid to the Environment Agency last Friday. Does she agree that, although there were major incidents of pollution in the early stages of fracking in the United States, there have not been such incidents since the US implemented strict regimes; and can she assure me that there will be robust regulations in the United Kingdom?

Andrea Leadsom: I assure my hon. Friend that the Government, in conjunction with the regulators, have taken every step possible to ensure that we can safely exploit shale. Let us be clear: at the moment no hydraulic fracturing is going on in the UK. This industry is at the very early stages and we have used every bit of our more than 50 years of regulatory experience to make the process the safest possible.

Huw Irranca-Davies (Ogmore) (Lab): The Minister has been at pains to give assurances on environmental protection, but does she accept that one of the assurances that even those who are adamantly opposed to onshore hydraulic fracking as part of unconventional gas set

great store by was that it would not take place in protected areas such as sites of special scientific interest or anywhere near any groundwater source zones? There is a fear that, with these regulations, that assurance is being undone.

Andrea Leadsom: The regulations tighten the protections on hydraulic fracturing; that is precisely what they are for. As I have made clear, they deal with the subsurface implications of hydraulic fracturing, a process that occurs far below ground level, and they will tighten the protections. Far from loosening them or turning back on whatever the hon. Gentleman seems to think, they will improve the protections.

Christian Matheson: I accept what the Minister is saying: the regulations deal with what is happening far below ground level. But for that to happen far below ground level, something has to happen at the surface. Frankly, I cannot see why the Minister is making that rather false distinction.

Andrea Leadsom: I am grateful to the hon. Gentleman because he gives me the chance to repeat what I said, which is that the Infrastructure Act required the Government to lay regulations to deal with the hydraulic fracturing process, which happens far below the ground. We will, as soon as possible, make a statement regarding the areas on ground level—the surface drill level—in which activity will be banned. We are looking very carefully at how to define and protect our most valuable areas. We will be making announcements shortly, but that is not for today. These regulations are the consequence of a requirement in the Infrastructure Act to deal with the subsurface implications, so I will move on.

The draft regulations set out definitions for the protected groundwater source areas and other protected areas in which hydraulic fracturing will be prohibited, and will afford greater protection to some of our most precious areas in a manner that still meets the Government’s broader policy objective of supporting the long-term development of the UK’s shale gas industry.

Regulation 2 defines protected groundwater source areas. The definition is equivalent to the existing definition of source protection zones 1, which applies to those areas close to drinking water sources where there is the greatest risk associated with groundwater contamination. The draft regulations ensure that the process of hydraulic fracturing cannot take place in such areas at depths above 1,200 metres. The vast majority of drinking water supplies are located at depths above 400 metres. The limit therefore provides at least 800 metres between the depth of most drinking water sources and the highest possible level at which hydraulic fracturing can take place.

As required by the Infrastructure Act, we consulted the Environment Agency and Natural Resources Wales on the definition of protected groundwater source areas. They confirmed that they are content with the definition being aligned with source protection zones 1, as that reinforces their approach to controlling risks from other groundwater activities. Indeed, it is already the case that neither agency permits onshore drilling for oil or gas, which does currently happen in the UK—to be clear, hydraulic fracturing does not—in source protection

[*Andrea Leadsom*]

zones 1. They have successfully influenced operators not to apply for sites in those zones and have ensured that pipelines do not run through such areas. Furthermore, if either agency assesses that more stringent controls are needed to protect groundwater, those will be applied as conditions in the environmental permits required for all developers. The proposed definition would not affect the environmental regulator's current powers to refuse permit applications within source protection zones 1, 2, 3 or wider on a case-by-case basis, if it considers that an activity poses an unacceptable risk to the environment.

Regulation 3 defines "other protected areas" as national parks, the broads, areas of outstanding natural beauty and world heritage sites. The draft regulations ensure that the process of hydraulic fracturing cannot take place above 1,200 metres below ground in such areas. In defining protected areas there is a need to strike the right balance, affording them additional protection without stifling the nascent shale industry. The Government firmly believe that the depth limit chosen—1,200 metres—strikes that balance.

In addition, national parks, the broads and areas of outstanding natural beauty are our finest landscapes and are afforded the highest status of landscape and scenic beauty protection within the planning system. Similarly, world heritage site status is the highest international heritage designation. Our world heritage sites are simply irreplaceable, and the Government take their responsibility to conserve and protect them very seriously.

Mr Mark Williams (Ceredigion) (LD): Will the Minister explain the omission from that list of SSSIs, which the hon. Member for Ogmore mentioned, not least in the light of comments made by her ministerial colleague during debate on the then Infrastructure Bill that SSSIs would be protected and part of the list?

Andrea Leadsom: The regulation deals with activity underground—1,200 metres below ground. The Infrastructure Act 2015 already deals with the level below ground at which hydraulic fracturing may take place normally. The important balance to strike is between those areas that are protected absolutely and those where the depth of drilling underground can be set safely by the Environment Agency. The key point regarding SSSIs in the planning process is that the Environment Agency may determine the depth, so additional protections were not deemed necessary, because they would transcend the balance between enabling the industry to succeed and protecting our most valuable areas.

Mr Williams *rose*—

Andrea Leadsom: I cannot give way again, because many Members wish to speak.

Turning briefly to surface level protections, our existing regulatory and planning regimes already offer strong protections to sensitive areas. In addition, the Government have separately committed to ensure that hydraulic fracturing cannot be conducted from wells that are drilled at the surface of national parks and other protected areas. Members can be reassured that that remains the

Government's position. We are considering how best to implement that surface restriction, but the draft regulations before us today are not a suitable vehicle, because they flows from the Infrastructure Act's requirement to specify the protected areas within which subsurface hydraulic fracturing cannot take place. Consideration of surface activity therefore is not within the scope of the regulations.

Nick Herbert (Arundel and South Downs) (Con): The Minister has just said something important that will be reassuring to our constituents. Given that the draft regulations deal with below-the-surface activity and not with surface activity, the assumption has been that drilling at the surface in protected areas would be allowed. Will my hon. Friend make it absolutely clear that it remains the Government's intention not to allow drilling at the surface in protected areas, including national parks, and that a policy instrument will be put forward to enable that?

Andrea Leadsom: Yes, I can give my right hon. Friend that reassurance. The Government's intention is to announce soon the areas in which it will not be possible for drilling to take place at the surface, and that will include all of our most valuable areas. At the moment we are defining the scope and precisely how the arrangements will work. I hope that totally reassures him and other hon. Members.

The Government recognise that some concerns have been expressed about fracking being carried out from wells drilled at the surface of some of the UK's most valuable areas; in particular a number of groups have voiced concern about sites of special scientific interest. The national planning policy framework already makes it clear that a development should not normally be permitted if, either individually or in combination with other developments, it is likely to have an adverse effect on special interest features of an SSSI. That applies even if the development itself is outside the boundary of the SSSI.

In addition, under the Wildlife and Countryside Act 1981, as amended, consenting authorities have a duty to conserve and enhance the features of sites of special scientific interest; that duty must be incorporated in their decision making. We have considered carefully how we can protect SSSIs and are confident that the existing planning and regulatory regime already accords them strong protections.

I stress that even when the draft regulations and the surface restrictions are in place, a company looking to develop shale will always need to obtain all the necessary permissions, including planning and environmental permits, before hydraulic fracturing can be carried out.

Liz Saville Roberts (Dwyfor Meirionnydd) (PC): I note what the Minister has said about national parks and areas of outstanding natural beauty, but within the planning regime—certainly within Wales, which is what I am familiar with—there is also a requirement to abide by planning rules in areas where there would be a visual impact on national parks. She mentioned that surface works will not be permitted within national parks, but will the visual impact requirement also be in place, or will there be a rule about how near to national parks and other areas of special interest surface works may be carried out?

Andrea Leadsom: As I said to my right hon. Friend the Member for Arundel and South Downs, we will shortly make announcements about the surface level implications. We are considering how to define exactly in which areas surface drilling will be banned and precisely how that can be enforced. I assure the hon. Lady that there will not be any changes to the ability of local planners to take all those facts into account when determining planning applications.

As part of the licence, permission and permit procedures, the environmental impact and any risks associated with operations are assessed by regulators and through the planning system on a case-by-case basis. All oil and gas sites need permits under the Environmental Permitting (England and Wales) Regulations 2010, as well as planning permission from the relevant planning authority. The national planning policy framework and supporting practice guidance state that, in respect of minerals such as shale oil and gas, any new development should be appropriate for its location. Let me be very clear: if the risks of a proposed shale activity are deemed unacceptable, the environmental regulators will not allow that activity to go ahead, irrespective of the geographic area or the depth of the drilling.

Finally, in line with the Small Business, Enterprise and Employment Act 2015, regulation 4 of the draft regulations commits us to carry out a review of the regulations in five years, and every five years thereafter, and to publish a report setting out the conclusions of the review.

I recognise that it is for me and the Government to make the case for shale and to reassure the public that shale can be developed safely. Shale gas may have huge potential to add to the UK's energy sources, to improve energy security, to create jobs and to help to meet our carbon targets. We need more secure home-grown energy supplies, and shale gas has a vital role to play, as a bridge to a cleaner energy future.

2.53 pm

Dr Alan Whitehead (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship, Mr Hanson.

This simply is not good enough. It defies belief that arrangements set out in the Infrastructure Act can be separated out in the way that the Minister has described, talking about fracking underground as if it had no relation whatever to the pipe that leads up from the underground fracking, that leads to the drill head at the top of the pipe, that leads to the water coming out of the pipe and being held in containment ponds on the surface, that leads to the vehicles bringing the water to go down the pipe for fracking. It is preposterous to suggest that associated hydraulic fracking is nothing to do with the rest of the process of fracking that inevitably has to take place on the surface and down through the ground to the point at which the drill bit turns left or right and goes into the horizontal seam and then begins the fracking.

We can see why that suggestion is preposterous in the Infrastructure Act. As the Minister has indicated, this SI does indeed arise from section 50 of the Act, which is headed "Onshore hydraulic fracturing: safeguards". Section 4B(4) of the Petroleum Act 1998, which is inserted by section 50, requires the Secretary of State by regulation to specify descriptions of areas that are protected in the

section. That is essentially what the Minister has told us this afternoon: it is something she is thinking about at the moment and she may come back at a later date with a definition. However, the definition is already required by section 4B. The protected areas are numbers 5 and 6 of the table in section 4A, which state that

"The associated hydraulic fracturing will not take place within protected groundwater source areas",

and

"The associated hydraulic fracturing will not take place within other protected areas."

One might think that that is clear. The regulation defines the areas—what is in, what is out and what is the extent of the areas.

It is clear also because those two items in the table directly arose from an amendment to the Infrastructure Bill accepted by the Government at the time, which specified that,

"Any hydraulic fracking can not take place...in land which is located within the boundary of a groundwater source protection zone...within or under protected areas"

or

"in deep-level land at depths of less than 1,000 metres".

The amendment was modified to some extent during the passage of the Bill through another place, but by and large it remained intact as a list of prohibitions on or conditions attached to the fracking process that is a hydraulic fracturing consent issued by the Secretary of State. So clear was it that upon acceptance of the amendments even before the Bill went to another place, the Secretary of State declared:

"we have agreed an outright ban on fracking in national parks, sites of special scientific interest and areas of outstanding natural beauty."—[*Official Report*, 26 January 2015; Vol. 591, c. 586.]

So that was that: no fracking pads, no trucks, no water retaining ponds, no drill heads, no drilling rigs in those areas. All that was left to do would be to winnow out the precise designation of what those areas were, and that is what was required in the regulation that is in the legislation. There might have been an issue, for example, about the exact extent of groundwater source protection zones, but the regulation would sort that out.

One might ask: what could possibly go wrong? Well, quite a lot has gone wrong. Yes, the instrument before us defines what is in groundwater source protection zones; it defines other protected areas, including national parks, the broads, areas of outstanding natural beauty and world heritage sites; as has been pointed out, it defines out all but zone 1 groundwater source protection zones; and it defines completely out sites of special scientific interest—but then, as in the fracking process, it veers away at 90 degrees. It uses a very curious definition of what constitutes associated hydraulic fracking within those defined zones. It merely adds an additional protection zone of 200 metres to the 1,000 metres nationally above which the process of fracking can take place. If the Government really intended to undertake as a separate exercise the process of deciding in which areas fracking would be banned completely—and these would be identical to the areas defined in this statutory instrument—why would they introduce a zone below which fracking can take place? Why does regulation 3, at that point, state that associated hydraulic fracking can take place at depths below 1,200 metres, rather than

[Dr Alan Whitehead]

1,000 metres, as is the case nationally, if indeed there was to be no fracking at all in those particular areas? It simply makes no sense.

Reading the definitions in the statutory instrument, along with the provisions of the Act, we can see that only the associated hydraulic fracking that might otherwise take place within that chunk of defined land—it is all underground, from 0 metres to 1,200 metres—cannot happen. That is the protected lump of rock in this particular statutory instrument.

Michael Fabricant: On a point of order, Mr Hanson. I am sorry to interrupt the hon. Gentleman, but I understand that there will be a vote at 3.5 pm, which will be followed by a second vote. Can you define when Committee members have to come back? There will be a suspension during the vote, but if it is a 20-minute vote followed by another, will we have to come back and then go back down to the Chamber?

The Chair: We will, as ever, cross that bridge when we come to it, but to help the Committee let me say now that there will be a minimum of 15 minutes for the first Division. If there are two Divisions, I would expect 25 minutes. I will indicate that when the Division bell goes.

Michael Fabricant: Further to that point of order, Mr Hanson. If the vote takes 20 minutes before there is a result, are you saying that we need to come back here and wait for the second vote?

The Chair: What I am saying, Mr Fabricant, is that there will normally be a 15-minute suspension for a Division and I would expect people to be back here within 15 minutes. If there is a second vote, we will have to cross that bridge when we come to it. We have already used a minute of time now as a result of your point of order.

Dr Whitehead: As I was saying, there is no clarity in the SI, as I have emphasised, concerning what any reasonable person would regard as the rest of the fracking process: that is, the establishment of the fracking pad, the vehicle movements, the drilling itself and the treatment of waste water on the site.

Richard Benyon (Newbury) (Con): I have come along to try to get to the bottom of this, so I am listening closely to the debate. The hon. Gentleman seems to suppose that every fracking operation happens vertically. Surely the lateral drilling that he mentioned earlier must be the reason for the fact that activity might take place on the surface outside a protected area, but reach deep underground inside a protected area. I hope that he will clarify that point.

Dr Whitehead: The hon. Gentleman may consider that the reason for the 1,200 metre protection; like me, he does not know. It may be that one could consider a process—the Minister may enlighten us in the fullness of time about how that process might work, when she comes up with a list of protected areas, as she has said

she might—in which a drilling rig could be set up on the boundary of a national park, then drill diagonally for a number of miles and then go further around to reach whatever it is thought might be reached at 1,200 metres below the national park. I would consider that fairly unlikely, particularly in large protected areas, because the drilling process would have to be extensive even to get there. However, like the hon. Gentleman, I am in the dark about whether that is the reason, because it is not stated in the SI, and indeed was not stated in the main legislation.

Mr Dennis Skinner (Bolsover) (Lab): I used to work in very deep pits. My hon. Friend might be coming to the fact that drilling might cause gas to escape. The reason why I say that is that the Government want to be very careful about what they are doing. After Arkwright colliery in the Bolsover constituency closed, it had not been closed very long before there was an escape of gas into about 200 or 300 houses close to the pit. We were lucky that nobody was killed. Had somebody struck a match, the whole village could have gone up in smoke.

That is what can happen, and my hon. Friend has described it almost exactly. The drilling shaft and then, at 90°, the seams of coal and so on—it is almost an exact replica of what it is like in a pit, and I defy anybody to suggest otherwise. We all carried a safety lamp down the pit. Why did we carry them? To find gas. Believe me, when canaries went down the pit, they went for the same reason.

The Chair: Order. Interventions should be short.

Mr Skinner: I am just finishing. I say to my hon. Friend that I do not know whether he was going to talk about gas, but it would not be a bad idea. [*Interruption.*]

The Chair: There is a Division in the Chamber. I understand from the Opposition and the Government Whips Offices that there will be two Divisions, so I suggest that we reconvene at 3.35 pm.

3.5 pm

Sitting suspended for Divisions in the House.

3.35 pm

On resuming—

The Chair: For the convenience of Members, the new completion time for the Committee is 4.30. I intend to take a five-minute winding-up speech from the Minister, and as for the remainder of the time it is in Members' hands to enable as many to be called as possible.

Dr Whitehead: I was in the process of saying that there is no clarity in the statutory instrument—although the Minister suggested that at some stage a definition might be brought forward—with respect to the rest of the fracking process, the drilling itself, vehicle movements, the pads, the treatment of waste water and so on, on the site.

From the definition in the statutory instrument—which, I agree, also has to be read in conjunction with the requirements on local authorities to certify that fracking

is not taking place within any of the stated protected areas in their planning area—the Secretary of State could lawfully give permission for fracking wells to be established on the surface of all the areas in question, provided only that the 1,200 metre condition was met when it came to the actual fracking proceedings. The statutory instrument therefore completely overthrows the assurances and written definitions in the Infrastructure Act 2015.

Graham Jones (Hyndburn) (Lab): My hon. Friend makes a powerful case for our serious concerns about today's proposals. He says that he struggles to find a reason for the manner in which the Government are bringing the measure forward; but on pages 10 and 11 of the impact assessment we see nothing but spreadsheets about the value—presumably to the Treasury as well as to the economy—and about numbers and financial benefits. Is not that one reason for the introduction of the measure?

Dr Whitehead: My hon. Friend may well be right. He has drawn attention to the impact assessment accompanying the statutory instrument, which dwells at length on the relative utility for the public—or private—purpose of fracking at 1,000 metres or 1,200 metres. Even assuming—this is what the hon. Member for Newbury and I were puzzling about a little while ago—that there could conceivably be a proposition that one could drill diagonally from outside the areas in question below 1,200 metres, and that that would not give rise to a great deal more danger or problems for the whole process than drilling vertically down, a 200 metre “additional protection zone” seems an odd creation.

Either the 1,000 metre limit below which fracking may take place nationally is deemed not to be safe, but under these particular areas 1,200 metres is safe—in which case why is there a 1,000 metre prohibition for the rest of the country, and additional protection under areas of outstanding natural beauty and national parks—or there is no difference as to protection. In that case, the statutory instrument is a completely vacant measure, which should not have been put before the Committee in its present form, as it makes no difference to the reality of what goes on under the surface.

There is another strange locution in the statutory instrument, about the question of what a national park is. The regulation refers to

“land at a depth of less than 1,200 metres beneath...a National Park”

as if a national park were merely what is on the surface. In planning terms, it is not possible to be granted planning permission in a national park if what is under the national park is not taken into account. The definition of a national park is not just the surface of the national park; in planning terms, it is the surface and what is under the national park. Therefore, we cannot decide to introduce even secondary legislation that treats a national park as if what is under it is nothing to do with it and as if the national park is merely a millimetre deep linear feature on the surface of the earth.

Christian Matheson: My hon. Friend makes an interesting point. I recall going to Edale in the Peak District national park when I was a child. I visited Blue John

mines and Speedwell cavern, which are rather deep under the national park. They are considered to be important tourist attractions within that national park, even though they are underneath it.

Dr Whitehead: My hon. Friend makes a strong point, which leads me to draw attention to the word “within”, which is in condition 6 of section 4A of the Petroleum Act 1998. “Within” a national park must mean what is in and under it. It is therefore illogical—and, indeed, a simple misreading of what a national park is—to try to define a national park as if it consisted of two separate things, one for the purpose of what is on the surface and the other for the purpose of what is 1,200 metres beneath it. I contend that this was simply not what was set out when the Act was passed. Indeed, the apparent strength of the bans that were set out at that point may have caused some doubting Members to vote for the legislation in the first place.

One can, at the very least, say that this provision is a serious diversion of the intention of the Act—of what the Act said and, indeed, what those who proposed it said about it at the time. Either this SI has been accidentally very badly drafted, meaning that it allows fracking activity in all of these areas while claiming that it does not, or it has been deliberately drafted to take a very fine definition of what

“specify the descriptions of areas”

means to drive a coach and horses through the protections that Members thought were in the Act when it became law.

Under those circumstances, it would be best if the SI were simply withdrawn to be returned for further consideration. At that point, if and when the Minister decides what should have been done in the first place—which is to specify the extent of the protections that are to be on the surface—a properly drafted SI can be brought forward with that protection so that Members can see whether this provision is an accidental or a deliberate diversion of the intention of the Act. Either way, we demand that the SI is withdrawn. Failing that, we will divide the Committee. This is not just a question of whether the Government vote one way and the Opposition vote another. All hon. Members are engaged in a joint endeavour about whether the protections put forward in the Infrastructure Act, which all hon. Members here voted on, should be maintained or set aside.

Some hon. Members may already have corresponded with constituents about protections for various areas in their constituencies. The hon. Member for St Austell and Newquay has an area of outstanding natural beauty in his constituency, as does the hon. Member for North Cornwall. The hon. Members for Lichfield and for Croydon South, and the right hon. and learned Member for Beaconsfield have water source protection zones in their constituencies. The hon. Member for Skipton and Ripon has a national park in his constituency; he is doing rather well there. Indeed, all but one of the hon. Members on the Committee have sites of special scientific interest in their constituencies. It is a question not simply of possible party animus, but of how Members want to vote in light of how those sites in their constituencies may be dealt with and what they have said about those sites. I merely draw attention to the fact that should hon. Members on either side of the Committee decide to vote for the SI, they will effectively be saying that

[Dr Whitehead]

those areas in their constituencies, contrary to their understanding and that of their constituents, have no protection. That is a weighty decision for hon. Members to take.

3.46 pm

Michael Fabricant: I rise because I, too, have concerns, and I certainly share some of those expressed by the shadow Minister. He quite rightly pointed out that I have a water source protection zone in my constituency. The SI was laid before the House, it says quite clearly, albeit in tiny print at the very bottom, in July 2015, so there is no excuse for anyone to say that it is a surprise. As a consequence, I went to visit the Environment Agency, which has an area headquarters in my constituency, last Friday, and today I spoke to people at the agency about the legislation. Yes, I have concerns, but I am also aware, as a chartered engineer and someone who is interested in technical matters, that people should not become alarmed unnecessarily—although there is some element to be alarmed about, and I will come on to that shortly.

As I said in my lengthy intervention, for which I apologise, I think the early stages of fracking in the United States, which were not subject to robust regulation, gave it a very bad name indeed. I have had a few emails—only a few—from constituents and from people outside my constituency who have talked about “this dirty practice”. It need not be a dirty practice if it is controlled. As the EA said to me only today, provided that robust regulations are in place—and it fully expects that to be the case—there is nothing to fear from pollution, or the sort of pollution that has occurred in the United States, because the construction of the wells and the horizontal seam is very different.

I listened to the hon. Member for Bolsover with considerable interest before the vote. The conditions that existed in coal mines 30 or 40 years ago are very different from those that will exist with fracking. Indeed, the EA did not even exist 30 or 40 years ago. We must bear that in mind.

With regard to fracking beneath areas of natural beauty, I want to remind people that coal mines have seams below country parks and SSSIs. I do not think that that is the issue. My concern—it has already been expressed by hon and right hon. Members—is the question of the well heads. The drill heads can cause considerable problems, whether they be in SSSIs, country parks, national parks or other areas of outstanding natural beauty. Before I can guarantee that I will vote for this SI, I want assurance from the Minister in her summing up that regulations will be laid before the House to control where the drill heads are placed.

There has been and continues to be a lot of hysteria about fracking, partly because people quite naturally do not know enough about fracking and are ignorant about the actual processes. I should say that I have nothing to declare in regard to fracking: I have no financial interest in it, only an academic interest.

Provided that I can be assured that robust regulations will be in place—that is certainly what the Environment Agency has said to me today—and that the Minister can say that there will be strict controls on where the

drill heads will be, I will support the motion. If I do not receive those assurances, I have to tell my hon. Friend the Whip, who is sitting nervously in front of me, that there is a possibility that I may have to vote with the Opposition.

3.51 pm

Callum McCaig (Aberdeen South) (SNP): I will be brief to allow others to speak. First, I will touch on what the Minister said about the call for this debate to happen in the Chamber, as opposed to in Committee. At business questions on Thursday, I made that request to the Leader of the House, and it was rejected. That was unfortunate. This debate would benefit from all Members being given the opportunity to engage in it, because the implications of getting this issue wrong are so large.

Ostensibly, this is an England and Wales only matter. The point that my hon. Friend the Member for Edinburgh East made on the changes to Standing Orders raises the issue of why the Scottish National party is here and why we will be voting. There are two clear issues. First, there is the cross-border issue with water contamination. Frankly, poisoned water knows no national boundaries, or sub-national boundaries, if that is what people wish to call them. Beyond that, the SNP made it clear in the run-up to the election that we would engage in progressive politics with folks from elsewhere in the United Kingdom. Frankly, it saddens me that defining whether we should have safe drinking water should count as progressive politics in this day and age. It is beyond the pale.

Andrea Leadsom: Does the hon. Gentleman not think it is rather ridiculous, shall we say, that he should stand there as an SNP Energy spokesman suggesting that somehow the Government of the day would deliberately poison people’s drinking water? Does he not think that is a completely outrageous accusation? Did he not listen to my remarks?

Callum McCaig: At no stage did I say that there would be deliberate poisoning of water. If the Minister took some more time to listen and reflect, it might be more helpful. What we are dealing with here is the potential for drilled wells—fracked wells—under protected groundwater source areas.

Caroline Lucas (Brighton, Pavilion) (Green): Far from talking about scaremongering, the Government would do well to look at the impact assessment by the Department for Environment, Food and Rural Affairs on rural economy impacts. Of course, the Government tried to prevent it being in the public domain, but it states:

“There is a risk that even if contaminated surface water does not directly impact drinking water supplies, it can affect human health indirectly through consumption of contaminated wildlife, livestock or agricultural products.”

That is from the document that the Government tried to hide. We now have it in the public domain, and what the hon. Gentleman is saying is far from scaremongering.

Callum McCaig: I thank the hon. Lady for that. To dwell for a second on the terminology here, we are talking about protected groundwater source areas. Why are we talking about that? The agencies have suggested

that the areas are in need of protection. Someone drilling a well is going through the aquifers to pump chemicals down into the ground to cause a chemical reaction that causes mini-fractures. That is the process. If people think that what happens 1,200 metres below the ground has no relevance to what happens at the surface, they are deluding themselves. Even were it not for the large hole that is required to get the chemicals down there in the first place, there is the chance of seepage to the surface and the aquifers, causing damage.

I understand that the Government have a different approach to fracking than my party's Government in Holyrood, and I am entirely thankful that the matter is devolved to the Scottish Parliament. I have great sympathy for Members whose constituencies may be adversely affected by the regulations. If the Government are to proceed with fracking, would it not be sensible to demonstrate its safety before they consider allowing it in protected groundwater source areas? To me, that seems a logical way of dealing with the race for gas.

Graham Jones: The hon. Gentleman tempts me to ask two quick questions. First, has there not been some form of fracking under the North sea, in and around Scottish shores, for a long period? What experience and knowledge does he have of that?

Callum McCaig: First, the majority of fracking in the North sea uses water, so there is not the use of chemicals that is required for onshore gas fracking. Secondly and frankly, the North sea is considerably further away, so I do not think that the implications for our drinking water are the same: I do not think that it is possible to drink sea water.

Graham Jones: I am grateful for that answer. The hon. Gentleman said that scientific evidence is needed. So I presume that he is in favour of some limited testing of fracking: he is not absolutely opposed to fracking if he wants some scientific base for it.

Callum McCaig: The science can be done in a number of ways and there are many lessons that can be learned from fracking elsewhere in the world: we would benefit from pausing and learning the lessons of elsewhere. I am very pleased that the Government north of the border have proceeded with a moratorium to allow a proper evidence-based approach to this issue.

Graham Jones: So the hon. Gentleman is saying that fracking is okay in other countries, to find out the scientific evidence base, but there is a moratorium in Scotland. Is that not a duplicitous position for the SNP to take?

Callum McCaig: I have no jurisdiction over what happens in the United States of America, for example. *[Interruption.]* Excuse me?

The Chair: Order.

Callum McCaig: I will cut my comments short—I have taken up longer than I had intended to—and say that it is completely and utterly unfathomable to push ahead with this proposal at this time. It is deeply regrettable

that this debate is not happening in the Chamber and I wholeheartedly support the comments of the hon. Member for Southampton, Test about taking these regulations away and coming back with something that protects the environment, and above all protects water sources.

Several hon. Members rose—

The Chair: Order. We have 27 minutes before I call the Minister, and I have nine right hon. and hon. Members seeking to catch my eye. I will first call members of the Committee who wish to speak although there are none on the Government side, so I call Mr Nick Herbert.

3.57 pm

Nick Herbert: Thank you, Mr Hanson.

I will just make a couple of points. First, the Opposition's case rested on the assertion that the regulations betray the promise that was made not to allow fracking in protected areas. However, the Opposition did not say whether there is any evidence that lateral drilling at depths below 1,200 metres is damaging and therefore should not be permitted.

What is clear about the Government's position now is that fracking in protected areas at depths of up to 1,200 metres will not be permitted by these regulations. Furthermore, the Minister gave an assurance that the Government were also committed to ensuring that fracking at the surface in protected areas would not be permitted. Therefore, the question is whether it is damaging to allow lateral drilling from outside these protected areas that will allow fracking at depths below 1,200 metres. That is 40 times the depth of the deepest underground tunnel, for instance, it is the height of Ben Nevis and it is three times deeper than the level of water sources.

What the Opposition have not said is whether they believe that such activity at such depths—lateral wells only—is damaging and should therefore be opposed. The opposition of the hon. Member for Southampton, Test seemed only to be procedural; he argued that these regulations were not entirely as had been suggested, because there was not an outright ban, and therefore they were not good enough. But he has made no case as to why fracking at these depths is damaging.

That leaves the question of SSSIs and there is a good point to be made that the definition of protected areas in these regulations does not include SSSIs. However, the vast majority of SSSIs fall within the protected areas that are covered by this legislation in any case. Only about 15% of SSSIs would fall outside this definition, and SSSIs have an existing protection under the planning system. Therefore, it behoves those who oppose the regulations and say they are inadequate to show why the existing procedures are inadequate to protect them. It is not enough to say that because the regulations do not cover them, therefore SSSIs are under threat. There is no evidence of that.

Half of my constituency is covered by the South Downs national park and my constituents can be reassured that fracking at the surface in that national park will be banned. Fracking to a depth of 1,200 metres will be banned under the regulations. Only if they are concerned about fracking at depths below 1,200 metres should they feel that I should oppose the regulations. I see no evidence that such activity will be damaging at such

[Nick Herbert]

enormous depths and, therefore, I see no justification for the claim that national parks will be damaged by the regulations and no justification for opposing the Government on the matter.

4.1 pm

Graham Jones: It is a great pleasure to serve under your chairmanship, Mr Hanson. I do not know if this is your first Committee, but it is certainly the first on which I have served under your chairmanship.

I want to make a few brief comments on the regulations, the purpose of which is to clarify and hurry on the industrial-scale fracking in the UK. I question the Government's reasons for fast-tracking this. The report I alluded to earlier, the "Summary: Intervention and Options" impact assessment, makes interesting reading and talks about being committed to developing oil and gas as soon as possible, a new tax regime—I want to touch on that—and streamlining the regulatory regime. I presume that phrase means trying to do away with some of the genuine objections and issues that might be raised about unconventional gas extraction. I am deeply concerned about that. That report talks about mitigating the risk. I think we should be sure about what we are doing, rather than simply mitigating a risk.

I am not opposed to fracking in principle; I support fair policies based on evidence. As I mentioned to the hon. Member for Aberdeen South, I do not think we should be duplicitous on this. If it can plug a demand gap before a transition to new technologies, which are not reliant on fossil fuels, and in the meantime provide jobs and local revenue, we ought to consider fracking.

It would be wrong to oppose fracking without evidence and without exception. I do not see how someone can be totally opposed to fracking and opposed to the gathering of scientific evidence through tests, unless they say they will end all gas consumption in the UK. That is an illogical position and does not stack up.

That said, fracking is clearly a different form of extraction involving a different process, and it is being carried out onshore, which is one of the critical points that ought to be raised as a concern. There are good reasons why many of our constituents are worried. I believe we should be ultra-cautious and strike a balance when considering the roll-out of fracking if it is to be proved safe. Clearly, if it has not been proven safe, there should be a moratorium, which would be a logical position.

Turning to the report, I am concerned that as early as page 4 the topic is growth and jobs. It is all about finances, not about safety. Sporadically, over the next couple of pages, the economic rather than the environmental case is mentioned. I would have thought that the environmental case should come before the economic one. On page 6 at the bottom, we are straight into Treasury figures about fracking. That causes me deep concern. We should be considering the environmental, not the financial argument. By the time we get to page 8, we are talking about production levels, and page 9 addresses development costs and gas prices, which is a long way from environmental considerations, and I am deeply concerned about that. By the time we get to pages 10 and 11, as my hon. Friend the Member for

City of Chester mentioned, we have tables of costings on who will benefit from this measure: private companies and the Treasury. I will return to the benefit to the Treasury, which is mentioned at the beginning of the impact assessment. I am deeply concerned that the emphasis is completely the wrong way round. We should look to protect the environment. If there is a case for unconventional gas, it should address those environmental concerns.

I am regularly contacted by my constituents on this issue. I am a Lancashire MP, and I see quite a few Lancashire MPs here today. Of course, Lancashire is probably the epicentre at the moment, with supposed considerable shale gas reserves in the Bowland basin. We have seen the test wells and the test pads out on the west coast in the constituency of the hon. Member for Blackpool North and Cleveleys.

Paul Maynard (Blackpool North and Cleveleys) (Con) *indicated dissent.*

Graham Jones: You don't have them? There are test wells and test pads very nearby on the Fylde coast. Licences have just been issued for that area, and Lancashire MPs are deeply concerned.

Finally, on my constituents' concern and on the policy being the wrong way round, the beginning of the impact assessment mentions a new tax regime. I am delighted to oppose the Government's plans for fracking in Lancashire so long as they are accompanied by an insulting 1% retention rate for local authorities while the Treasury collects 60% should gas flow from the wells. The Treasury is taking a huge amount of money that my constituents, and constituents across Lancashire, think is just going to be spent on Crossrail 2 or some other London or south-east project. It is outrageous that the Bowland basin should be so used. The Minister talks about a new tax regime, but that new tax regime is an insult to the people of Lancashire.

Kevin Hollinrake (Thirsk and Malton) (Con): The hon. Gentleman may be confusing two different figures. The 1% figure is based on revenue, but the 60% figure is taxation on profits.

Graham Jones: The hon. Gentleman has a point, but he will find that, when the gas finally flows, it will be nearly all profit because the capital investment will be at the beginning and there will be minimal capital investment as we go along. Year on year, the balance sheet will essentially show profits. He is not wrong, but if he looks at how it will play out, there is huge disparity and there will not be much closing of the gap between the 1% that Lancashire gets and the 60% that will be given to the Chancellor.

Michael Fabricant: I think the hon. Gentleman is genuinely confused. The revenue is the actual total sales. He is comparing capital with revenue. The revenue is the sales, and the profit is the profit. As he will know, profit on the pump at petrol stations is a tiny proportion of total sales. His assumption is therefore wrong.

Graham Jones: That is not what the Treasury has set out. It is following the broad financial framework for the oil and gas industry in Scotland. I know that other Members want to speak, but it is not fair that the

constituents of Lancashire will be ripped off again. There are environmental concerns, but I am happy to oppose the regulations because the offer in the impact assessment is simply not good enough.

Several hon. Members *rose*—

The Chair: Order. We have approximately three minutes per person if all the Members in the room wish to speak, so please bear that in mind.

4.9 pm

Richard Benyon: You will be glad to know, Mr Hanson, that my right hon. Friend the Member for Arundel and South Downs made most of my points, so I will be brief. I came into the room thinking that I would be giving my hon. Friend the Minister a rather harder time than I actually am, because she made a very important point in her introductory remarks that I hope she will repeat in her conclusion.

I am here because most of my constituency is an AONB. I live in it. I used to have a job in government that was involved with looking after designated landscapes. I think that it is important to state where one comes from in this argument. I do not come from a position of believing that exploiting new hydrocarbons is wrong. I was in DEFRA during the early stages, when we were talking with the Environment Agency about how we would regulate this activity, and I was impressed by its determination that we should be a world leader through the environmental protections that we imposed. I therefore think that the Government are right to be feeling their way, and the regulations reflect that.

I am concerned about the designated landscapes and the special areas of concern. First, on SSSIs, we are talking really about the 15% of them that are not in national parks or AONBs. Those have layer upon layer of protections about what people are and are not allowed to do. The hon. Member for Southampton, Test talked about collecting ponds, roads and pipework going in, but they would not be allowed in SSSIs, so I am reassured on that point. He also made a point about the depth under national parks and AONBs. Frankly, there has to be some gradation of concern; otherwise it could be said that any activity right down to—I am being absurd here—the Earth's core underneath an AONB would be permitted under some future technology. That was probably the weakest point that he made.

However, I hope that the Minister, in her closing remarks, will ensure that the designated landscape community, if I can call them that—the national parks, the AONBs and the people who feel passionately about those landscapes—are given further reassurance that we are talking about an activity that will come in from outside those areas, that it will be below a very deep depth indeed and that there will be endless measures, through the Environment Agency and others, to ensure that protection is given. Then I will be satisfied with the points that she has made.

4.12 pm

Christian Matheson: I agree with my hon. Friend the Member for Southampton, Test that the regulations simply are not up to scratch. The hon. Member for Newbury raises an interesting point, but the idea that

we can somehow separate what happens 1,200 metres below the surface from what happens on the surface is absurd and therefore the idea that we can separate the regulations for one and the regulations for the other is equally absurd. Yes, lateral drilling takes place, but it does not take place as far as perhaps the hon. Gentleman hopes that it might.

In the brief time available to me, I want to talk about some of the problems with the drilling. The industry-accepted figures on well failure stand at 7% of wells failing immediately, and Schlumberger, the world's biggest fracking company, cites failure rates of 60% over a 30-year span, so there is a very high likelihood that wells will fail. The Minister talked in her opening address about the 400-metre to 1,200-metre depth, but what happens if the well fails within that zone—within the zone that is not being fracked—and then the pollution and gas escapes that my hon. Friend the Member for Bolsover talked about in relation to the coalmining industry happen within that zone? We simply cannot guarantee that well failure will not take place within that zone.

There is a problem, in that there was an agreement and assurance was given before the general election that SSSIs would not face fracking. Labour Members are becoming increasingly used to the Government saying one thing before a general election and doing something entirely opposite after it: whether it is saying, "There will be no top-down reorganisation of the NHS," and then introducing the Health and Social Care Act 2012; saying, "There will be no changes in tax credits," and then bringing in the Government's tax credit cuts, or saying, "We are the greenest Government ever," and then replacing that with, "Get rid of all the green crap". However, that brings into question the Government's motives and, indeed, their credibility in this area.

Additionally, in the Infrastructure Act, engineering standards, environmental protections and seismic monitoring measures were discussed, and the Minister talked in her opening speech about ensuring that we have high safety standards and strong regulatory regimes. Because she is not bringing those forward at the same time as this statutory instrument, there are grounds for us to be cautious about whether the Government will go back on those promises and assurances as well. There is enough doubt about the Government's credibility to prevent us from approving this statutory instrument without seeing everything that goes on on the surface. I remind you, Mr Hanson, of the 24-hour a day operations, the huge air and light pollution and all the heavy goods vehicle movements that go with it. This is not the right time to introduce a statutory instrument about something that is happening down below, because it is intrinsically linked to what is happening on the surface.

Several hon. Members *rose*—

The Chair: Order. We have 10 minutes left and five speakers.

4.15 pm

Tommy Sheppard: I think we can all agree that there is a fair degree of public concern and anxiety about this process and our deliberations should try to build public trust on this matter. I was not a Member of the House

[Tommy Sheppard]

in January, but I was here to observe the debate on the Infrastructure Bill and I saw the Government head off demands for a moratorium by saying that certain areas would be exempt from this technology. I do not think that it builds public trust to say in January that there will not be fracking under any circumstances in national parks or sites of special scientific interest, then to say in October that, actually, there might be regulations which will allow it to happen under certain circumstances.

The way some colleagues have talked about the 1,200 metres being somehow okay, it is as if there is a disconnection between what happens 1,200 metres under the ground and what happens on the surface; as if some mysterious process happens down there to create shale gas and then, Star Trek style, it is teleported into a lovely, shiny, clean canister and there are no problems. However, what happens 1,200 metres down is connected to the surface and what happens at 100, 200, 300 and 400 metres, all the way through the water aquifers, all the way through until you get to 1,200 metres.

Harry Harpham (Sheffield, Brightside and Hillsborough) (Lab): Will the hon. Gentleman give way?

Tommy Sheppard: Not with three minutes to go—two minutes, I am sorry. The problem with this process, which is essentially more a chemical than a mechanical process, such as coalmining or conventional oil drilling, is that you have to pump stuff down and get stuff up all the way through the 1,200 metres and there is every chance that leakage could take place and the environment be damaged. Why 1,200 metres? Why not 1,500 metres? Why not a mile? The answer is in the explanatory notes, which talk about a balance between environmental protection and the needs of the industry. That is not good enough to reassure the public.

Mr Dominic Grieve (Beaconsfield) (Con): Will the hon. Gentleman give way, very briefly?

Tommy Sheppard: I am just finishing, but I will give way.

Mr Grieve: The hon. Gentleman says he objects to there being a balance, but what is happening up in Scotland when they put up a wind farm? They are having to balance getting the energy from the wind farm with the destruction of the peat land on which it is situated. We are always striking a balance and to argue that we should not do so is to argue that we should do nothing at all.

Tommy Sheppard: I am not entirely sure what that has to do with the debate on this SI. A balance may be struck with wind farming between the turbines and aesthetic judgments of the landscape and various other things, but here we are talking about striking a balance between public safety and environmental protection on one hand, and the needs of the industry on the other. If we want to reassure the public, we should not seek to compromise on those things. We should say that public safety and environmental protection are paramount, and that we will proceed with this technology within

that framework. The problem here—unlike in Scotland, where there is a moratorium and the Government are seeking to develop a policy based on evidence—is that the policy appears to have already been decided and the evidence is being bent to fit the policy.

4.18 pm

Mr Skinner: I came here principally because we have an application in the Bolsover area, in a small village called Calow. They oppose this very idea and the net result is that most of the village is on the side of those who oppose fracking. Cuadrilla set up almost immediately so I realised that there was a lot of money involved, a lot of profit, and that is what this is all about. It is about a licence to print money and, until the oil price went down, it was a licence to print a hell of a lot more money, and who knows what the price will be in the future? I am here to represent my constituents and I promised them that I would come and do that.

I have to tell the Committee that, contrary to what a lot of people think, Derbyshire had more than 50 pits. There are mine shafts all over the place. Even somebody at the Department for Transport has drawn a line that runs across the M1 four times and over two pit shafts. Be careful about lines that are drawn on a fag packet by this Government, because that is what might happen. I am here to represent my constituents and to say, “Keep up the battle”. I am with them all the way. I do not believe in this nonsense about fracking. No one will find me saying, “On the one hand, this, and the other hand, that.” I am against it in principle.

I am pleased that my hon. Friend the Member for Southampton, Test has decided to vote against this, in the absence of the Tory Government withdrawing the measure and bringing it back in another form. I wish I had a vote, Mr Hanson. Give me one if you like; I will use it.

4.20 pm

Caroline Lucas: Thank you, Mr Hanson, for allowing those not on the Committee to make short interventions. To be brief, I simply say that I very much agree with the analysis put forward by the hon. Member for Southampton, Test. The Government have made a spectacular U-turn and are undermining public trust even further by so doing.

Overall, the regulations fall far short of protecting our most precious wildlife sites and also our national parks and water resources. They also run contrary to the recommendations of the Environmental Audit Committee, of which I was a member in the previous Parliament.

The Minister will recall that that Committee carried out an in-depth inquiry into fracking and the unanimous view in that cross-party report was that there should be a moratorium on fracking. If there were not to be a moratorium, at the very least we made recommendations for the regulatory framework, including outright prohibition in protected and nationally important areas such as SSSIs, and in all watersource protection zones. The Minister is now, sadly, running against those recommendations.

I want to pick up on a point the Minister made in her concluding remarks. She said something that frankly beggars belief. She said that going ahead with fracking

would help to meet carbon targets. Fracking represents a whole new fossil fuel industry, which will not displace coal because, by the time fracking comes on to our grid, coal will be off the grid. What it will displace are renewables.

There is real lack of understanding that fracking poses a risk to the shift that everybody says they want to a low carbon economy. Even if we had a perfect, generously resourced system of standards, regulation and monitoring—which we do not—fracking is not compatible with securing a safe and habitable climate for current and future generations.

Graham Jones: Will the hon. Lady give way?

Caroline Lucas: I will not because I have only two minutes. It is clear that globally we already have around five times more fossil fuel reserves than we can safely burn. The bottom line is that building this whole new fossil fuel industry is the very last thing the UK should be doing, especially if we are serious about securing a deal at the Paris climate talks.

The argument that shale gas is lower carbon than coal stacks up only if minimum methane emissions can be guaranteed. Recent studies suggest worrying rates of methane leakage from US shale operations. The inventor of the monitoring device routinely used by the industry warns that a fault in his invention means that historical estimates of leakage are severely underestimated. That means that fracked gas may not be better than coal in greenhouse gas emissions after all.

I can see that you want me to wind up, Mr Hanson, so let me simply repeat what John Ashton, the climate diplomat under the previous Labour Government, said:

“You can be in favour of fixing the climate, or you can be in favour of exploiting shale gas, but you cannot be in favour of both at the same time.”

4.23 pm

Mr Gordon Marsden (Blackpool South) (Lab): My hon. Friend the Member for Lancaster and Fleetwood, other Lancashire MPs and I are here because we are in the eye of the storm. The impact on our tourism and green spaces, and the lack of confidence that our constituents have, due to the duplicity of the Government, have brought us here today. [HON. MEMBERS: “Hang on.”] No hang on. When the Government were under heavy pressure across the Chamber, the Labour amendments were accepted. They were then nibbled at in the Lords and finally we have what we have today.

The Minister failed to answer any questions about the visual impact of drills around areas of natural beauty, such as the Forest of Bowland, that would be affected. She and others took refuge in the fact that they would be outside. What an enticing vista to welcome visitors and residents to national parks—all the apparatus of fracking. The reality is, as my hon. Friend the Member for City of Chester said, that this is a process that goes on above in the sky and not simply below. We need to go back to the spirit and intention that was agreed by all parties in the Commons on 26 January.

The Chair: Order. I apologise to the hon. Member for Lancaster and Fleetwood, but I promised the Minister five minutes to wind up.

4.25 pm

Andrea Leadsom: I am grateful to all Members for their comments. The debate has been interesting and it has certainly given us a lot of food for thought. I will address a few points now and I will write to Members about a few other points later because time is running out. The hon. Member for Southampton, Test asked for the definition of a national park. We have used the same definition as the standard one used by the Environment Agency. He cannot have it both ways. He asked whether there was any point to the regulations. We have taken every possible step to enhance and provide extra protection for the environment and for members of the public. The regulations do that. He seemed to say that the Infrastructure Act achieved adequate safeguards and asked why we need the regulations. I do not understand that. He should welcome this tightening of the protections.

The hon. Member for Bolsover talks about shale wells as if they are similar to coalmining pits. I reassure him that onshore gas wells are enclosed wells and are between six and 22 inches wide. They are enclosed in steel and cement. The Health and Safety Executive scrutinises the well design and monitors its progress, as well as the fracturing process. Nobody goes down these wells; it is a totally different industry. The UK has more than 50 years’ experience of regulating the oil and gas industry. I am sure he did not mean to suggest that anyone would be going down a shale gas well.

I thank my right hon. Friend the Member for Arundel and South Downs, and my hon. Friends the Members for Lichfield and for Newbury for their remarks. I confirm that we will make clear, as soon as possible, the specific policy on banning surface drilling in our most valuable and precious areas, and that will include national parks and areas of outstanding natural beauty. It is complicated to ensure that we have covered every area that we want to and that we have the most robust means of doing so. To clarify, all those rules will apply to hydraulic fracturing. I want to be very clear about that. We have a very successful onshore oil and gas drilling industry. Changes are not proposed to the legislation for that industry, which has a long-standing successful regime.

To the hon. Member for Aberdeen South—I am very disappointed. The statutory instruments were laid on 16 July this year. That was months ago. He has had every opportunity for further debate. I am afraid to say that he is scaremongering to suggest that fracking would be allowed in water sources. That is simply not the case and he should not be saying it. However, I agree with one of his points, which is that we should start with a limited number of wells. I can assure him that it would be great to start with one well. A limited number of wells would be fantastic.

The hon. Member for Hyndburn said that we talk too much about jobs, growth and revenues. I make no apology for that. The country needs energy security, jobs and growth. We need to protect our environment. Communities will gain £100,000 per explored well, and 1% of revenues, which could be worth £5 million to £10 million for the average 10-well site, and there will be a sovereign wealth fund. I assure all Members that we have taken the matter extremely seriously. The regulations seek to improve safety for the environment and for members of the public. I commend them to the Committee.

The Chair: There is one minute left, if anyone wants to speak.

4.29 pm

Cat Smith (Lancaster and Fleetwood) (Lab): I associate myself with the remarks made by my hon. Friends the Members for Southampton, Test and for Blackpool South. The regulations are nothing but a U-turn from this Government. I have been contacted by many constituents on this issue. Well before that, I was determined to turn up at this Committee and express my huge concerns, especially on the safety of drinking water in my constituency. Not all my constituents are on mains water. Many of them take water from the ground, and it is for them that I am here.

Question put.

The Committee divided: Ayes 10, Noes 8.
Division No. 1]

AYES

Double, Steve
Fabricant, Michael
Grieve, Mr Dominic
Griffiths, Andrew
Leadsom, Andrea

Mann, Scott
Maynard, Paul
Philp, Chris
Pursglove, Tom
Smith, Julian

NOES

Evans, Chris
Harpham, Harry
Jones, Graham
Lynch, Holly

McCaig, Callum
Matheson, Christian
Sheppard, Tommy
Whitehead, Dr Alan

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Onshore Hydraulic Fracturing (Protected Areas) Regulations 2015.

4.31 pm

Committee rose.