

Lancashire County Council

Development Control Committee

Thursday, 16th July, 2015 at 10.00 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Supplementary Agenda

We are now able to enclose, for consideration at the next meeting of the Development Control Committee on Thursday, 16th July, 2015, the following information which was unavailable when the agenda was despatched.

Part I (Open to Press and Public)

No. Item

- 3. Minutes of the last meeting held on 23, 24, 25 and 29 June 2015** (Pages 1 - 20)

County Hall
Preston

I Young
Director of Governance,
Finance and Public Services

Lancashire County Council

Development Control Committee

Minutes of the Meeting held on 23, 24, 25 and 29 June 2015 at 10.00 am in Council Chamber, County Hall, Preston

Present:

County Councillor Munsif Dad (Chair)

County Councillors

T Aldridge	C Henig
M Barron	D Howarth
A Cheetham	M Johnstone
B Dawson	N Penney
K Ellard	A Schofield
M Green	K Sedgewick
P Hayhurst	B Yates

1. Apologies for absence

None received.

2. Appointment of Chair and Deputy Chair

The committee was informed that the County Council had appointed County Councillors M Dad and K Ellard as Chair and Deputy Chair respectively of the committee for the ensuing year.

Resolved: That the appointment of County Councillors M Dad and K Ellard as Chair and Deputy Chair of the committee be noted.

3. Constitution, Membership and Terms of Reference of the Committee

Resolved: That the Constitution, Membership and Terms of Reference of the Committee be noted.

4. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor P Hayhurst declared a non pecuniary interest in agenda items 6, 7, 8 & 9 as a member of Fylde Borough Council, as the county councillor for the area concerned and as a member of Elswick Parish Council and Elswick Community Project which had received grants from the applicant.

5. Minutes of the last meeting held on 20 May 2015

Resolved: That the Minutes of the meeting held on the 20 May 2015 be confirmed and signed by the Chair.

Announcement

The Committee was informed that the Authority had received two requests to defer consideration of the applications before the committee until such time as the redacted DEFRA report entitled 'Shale Gas Rural Economy Impacts' was published in full.

The Committee was advised that it was not known what weight, if any, could be attached to the report. It was also not known when the report would be released as it was quite possible that DEFRA could appeal the decision of the Information Commissioner. It would be difficult to know the date to which deferral should be made and the applicant was not obliged to agree to an extension of time for the authority to consider the applications. Therefore, although this was not without risk, it was not recommended that the applications be deferred. It was also pointed out that a great deal of time and resources had been spent in bringing the applications before the committee on two separate occasions. The Committee was therefore recommended to proceed to determine the planning applications.

Following brief debate, it was Moved and Seconded that:

"The committee proceed to determine the planning applications".

On being put to the vote the Motion was Carried, whereupon it was:

Resolved: That the Committee proceed to determine the planning applications.

6. **Fylde Borough: application number. LCC/2014/0096 Construction and operation of a site for drilling up to four exploration wells, hydraulic fracturing of the wells, testing for hydrocarbons, abandonment of the wells and restoration, including provision of an access road and access onto the highway, security fencing, lighting and other uses ancillary to the exploration activities, including the construction of a pipeline and a connection to the gas grid network and associated infrastructure to land to the north of Preston New Road, Little Plumpton.**

A report was presented on an application, for the construction and operation of a site for drilling up to four exploration wells, hydraulic fracturing of the wells, testing for hydrocarbons, abandonment of the wells and restoration, including provision of an access road and access onto the highway, security fencing, lighting and other uses ancillary to the exploration activities, including the construction of a pipeline and a connection to the gas grid network and

associated infrastructure to land to the north of Preston New Road, Little Plumpton.

The Committee had visited the site and the local highway network

The Committee was reminded that consideration of the application had been deferred at the Development Control Committee meeting of 28th January 2015 to enable 'further and other information' submitted by the applicant in respect of noise, air quality and landscape and visual amenity to be considered. The further information was advertised and consulted on. This report assessed the 'further information' and those responses received as part of the consultation process.

The report included the views of the Department of Energy and Climate Change, the Ministry of Defence, Blackpool Borough Council, Fylde Borough Council, Westby-with-Plumpton's Parish Council, Medlar with Wesham Parish Council, Kirkham Town Council, Halsall Parish Council, the Health and Safety Executive, Public Health England, the Environment Agency, the Highways Agency, National Air Traffic Services, the Civil Aviation Authority, Blackpool Airport Ltd, National Grid Gas, United Utilities PLC, Police Emergency Planning, Natural England, The Wildlife Trust, The Campaign to Protect Rural England, the Wildlife and Wetlands Trust, the County Council's Developer Support (Highways), Director of Public Health, Emergency Planning, Highways Services (lighting), Specialist Advisory Services (Landscape) (Ecology) and Archaeology and details of representations received from a number of groups and individuals including Friends of the Earth and Preston New Road Action Group. The report also included details of 18,022 letters of representation received, several petitions objecting to the application together with details of 217 letters of representation in support of the proposal.

The Development Management Officer informed the Committee that since the 1 June 2015, further representations had been received from Weeton with Preese Parish Council, the Campaign to Protect Rural England, 13 Fylde Borough Councillors and Cat Smith MP whose letter of objection was supported by 968 residents of Lancaster with 181 others in support. A further 93 letters of representation had been received together with three petitions objecting to the proposals.

The Committee was reminded that it had received presentations on the 23 January and 18 June 2015 from groups objecting to the proposals, and from the applicant in support of the proposal. A summary of the points raised at the presentations on the 23 January together with the advice from the Officer was set out at Appendix 2 to the committee report. The points raised at the presentations held on the 18 June were set out in the Update Sheet at Annex 1 to the Minute Book.

The Officer advised that it was proposed to amend the 'Recommendation' to the committee report and insert an additional condition after condition 4 and renumber subsequent conditions accordingly taking into account the proposed deletion of conditions 26 and 32. Details of the amendment and the additional condition were circulated in the Update Sheet.

The Officer also reported that a further review of the conditions had been undertaken necessitating amendments to Conditions 27, 28 and 29 as reported in a second Update Sheet set out at Annex 2 to the Minute Book. It was noted that all conditions would be renumbered accordingly.

Reference was also made to an addendum to the committee report containing an amendment to pages 63, 64 and 330, an amendment to condition 12 and details of additional background papers.

The Officer presented a PowerPoint presentation which included an aerial view of the site and the nearest residential properties. The Committee was also shown an illustration of the:

- Extent of the surface works
- Maximum extent of the below ground works
- Proposed vehicle routing / access
- Timetable of workings
- Vertical and horizontal wells below ground
- Geological cross section of the underground layers
- Well pad design
- Cross section of well pad design
- Drill layout
- Hydraulic fracturing layout
- Flare stack
- View of what the site could look like from Preston New Road
- Drilling rigs
- Hydraulic fracturing equipment

The Committee was also shown photographs of the proposed vehicle routing / access and a map showing representations received within 5 km of the site.

The Committee heard representations from 43 individuals objecting to the application. They reiterated the concerns raised in the Committee report and at the presentations held on 23 January and 18 June 2015 in relation to unacceptable impacts on air quality, noise, health, visual impact, light pollution, tourism, quality of life, property prices, the environment, local wildlife, climate change, traffic, farming, local businesses and insurance premiums.

They also maintained that;

- The current regulatory framework for the shale gas industry was inadequate;
- There were risks associated with the number of faults in the vicinity of the site;
- The proposal would lead to the industrialisation of the landscape;
- There were risks associated with hydrogeology;
- The operation lacked public support and therefore could not claim any social licence to operate;

- There was no proven need for the application as the UK's energy future was already secure; and
- That the economic benefits of the application had been exaggerated.

The Committee was requested to refuse the application on the grounds that the applications did not comply with policies of the Development plan including Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan and Policy CS5 of the Lancashire Minerals and Waste Development Framework.

The Committee also heard representations from 23 individuals who spoke in support of the applications. They reiterated the specific benefits they felt the proposal would generate including investment in Lancashire and the creation of jobs in the local economy. It was also felt that the UK needed a secure energy reserve and shale gas would provide a predictable, sustainable source of energy to ensure the country's energy supply, to stabilise prices and replace declining North Sea reserves. It was maintained that regulations enforced by Lancashire County Council and the other regulatory bodies would ensure the process was safe and that safeguards were in place to protect the environment. The committee was requested to approve the application.

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During debate, the officers and their advisers responded to questions from the Members in relation to:

- The tone and character of the noise at the site
- Traffic impacts on the A583
- The maintenance of drains and gullies along the A583
- Well design and well integrity
- Ground water monitoring
- The definition of a temporary period
- The impact of the proposals on any nearby septic tanks
- Visual and landscape mitigation measures
- Odour management

In respect of questions raised with regard to the report from the Director of Public Health in relation to the health impacts of Shale Gas extraction, the Head of Service, Planning and Environment advised that, of the 61 recommendations, a number related only to matters subsequent to planning approval, and it would not therefore be possible for all recommendations to be met in advance of permission being granted.

He reminded the Committee of the advice of the Environment Agency in terms of air pollution, and of the council's noise consultants, Jacobs, who were both of the view that public health would not be impacted to any material degree as a result of the proposals.

In response to concerns raised by the Committee, the council's Director of Public Health, Dr Sakthi Karunanithi, recommended an additional condition to any planning permission as follows:

"No development should commence until a scheme and programme for establishing a baseline and on-going monitoring of the health and wellbeing outcomes of the local population and workers had been submitted to the County Planning Officer and approved in writing by the Director of Public Health".

Further debate was had during which Members raised the concerns as summarised below with regard to:

- The effectiveness of regulatory regime given there was no single over-arching regulator;
- The potential impact on public health;
- Whether a six year operation could be regarded as temporary in nature;
- The effect of the proposals on tourism balanced with the minimal employment opportunities associated with the applications;
- The amenity impacts arising from the proposal in relation to the visual, lighting, rural background noise and the potential for the industrialisation of the countryside;
- The reputational damage previously sustained by the applicant in relation to the non-adherence to planning conditions elsewhere and what this might suggest for the future;
- Long term monitoring of wells and the absence of a regulator willing to do so.

It was also questioned why the development could not be located elsewhere, where it would have less impact on the landscape and on the local population.

Following further debate it was Moved and Seconded that:

"The application be refused on the following planning grounds:

1. That it is contrary to the National Planning Policy Framework paragraph 9 on conserving and enhancing the natural environment in that it does not contribute to and enhance the natural environment by protecting and enhancing valued landscapes.
2. That it is contrary to NPPF paragraph 17 in that it fails to protect the intrinsic character and beauty of the countryside.
3. That it is contrary to policy DM2 of the Lancashire Minerals and Waste Local Plan in relation to landscape and visual impact in that it fails to make a positive contribution to the landscape character of the area. Furthermore it will fundamentally and significantly change, for the worse, the character and landscape setting of the area for

those who live and work there. In addition, new noise mitigation methods will add to significant adverse visual effects of the proposed development thus increasing the landscape and visual amenity harm. The lighting and air quality pollution generated by the operation will add to the adverse impact of the scheme on the rural landscape.

4. It is contrary to policies SP2 and EM11 of the Fylde Borough Council Local Plan in that it does not fall into any of the five classes of development that are permitted within it. The application falls outside all permitted developments.
5. The application falls foul of guidance from the Minister for Planning and Housing issued in March 2015 which states that the impact of development on the landscape can be an important, material consideration."

Prior to being put to the vote, officers advised that the Committee must be satisfied that any reasons for refusal must stand up to scrutiny from the Planning Inspectorate if the applicant were to appeal but also advised that reasons 1, 2 and 5 could not be used as the NPPF does not form part of the Development Plan; guidance should not be used for refusal (5) and less weight should be attached to the policies of the Fylde Borough Local Plan.

It was therefore Moved and Seconded that the press and members of the public be excluded from the meeting during consideration of the legal advice to be issued to the committee on the grounds that there would be a likely disclosure of exempt information as defined in paragraph 5, of schedule 12A to the Local Government Act, 1972.

(Paragraph 5 schedule 12a relates to information in respect of which a claim to legal professional privilege could be maintained in legal proceedings applied).

On being put to the vote it was:

Resolved: That the press and members of the public be excluded from the meeting during consideration of the legal advice on the grounds that there would be a likely disclosure of exempt information as defined in paragraph 5, of schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

On return to Part I, and following legal advice provided, the Motion was revised and it was Moved and Seconded that:

"The Committee determine to refuse the planning application before it on the grounds that it is contrary to DM2 of the Lancashire Minerals and Waste Local Plan in relation to landscape and visual impact, in that it fails to make a positive contribution to the landscape character of the area and

it will fundamentally and significantly change, for the worse, the landscape setting of the area for those who live or work there."

On being put to the vote the Motion was Lost.

It was further Moved and Seconded, that:

- "i) The legal advice provided to members of the Committee by David Manley QC be made public
- ii) Further legal advice be taken as to whether policy CS5 of the Lancashire Minerals and Waste Development Framework would be a sustainable reason for refusal
- ii) Any further business be deferred until the Committee had received such advice in writing."

On being put to the vote the Motion was Carried. It was therefore:

Resolved: That:

- i) The legal advice provided to members of the Committee by David Manley QC be made public.
- ii) Further legal advice be taken as to whether policy CS5 of the Lancashire Minerals and Waste Development Framework would be a sustainable reason for refusal.
- ii) Any further business be deferred until the Committee had received such advice in writing."

The meeting was adjourned until 4.30pm.

On resuming at 4.30pm, the Chairman indicated that the written legal advice had not yet been received and called for further adjournment.

However, following brief debate, it was Moved and Seconded that further consideration of the application be adjourned for a minimum of one month to enable interested parties to properly consider the legal advice to be provided and to consider the DEFRA report entitled 'Shale gas Rural Economy Impacts' if released by DEFRA.

On being put to the vote the Motion was Lost.

It was further Moved and Seconded that further consideration of the application be adjourned until Monday 29 June 2015.

On being put to the vote the Motion was Carried and it was:

Resolved: That further consideration of the application be adjourned until 10.00am on Monday 29 June.

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The written legal advice received from David Manley QC was circulated to members of the Committee and members of the public present in the Council Chamber (Copy set out at Annex 3 to the Minute Book). In addition two e-mails clarifying matters, particularly in relation to policy CS5, from Mr Manley QC were circulated (Copies set out at Annex 4 and 5 to the Minute Book).

The Clerk confirmed that advice had been given to the Committee by officers and by Queen's Counsel. It was however only advice and the Committee did not have to follow that advice, members were entitled to take their own view and to make a decision, but the Committee needed to be aware of the possible consequences of that action.

The Chair reminded the Committee that they had agreed that consideration of the matter be deferred until Monday 29 June 2015 and therefore called for an end to the debate.

- 8. Fylde Borough: application number. LCC/2014/0101
Construction and operation of a site for drilling up to four exploration wells, hydraulic fracturing of the wells, testing for hydrocarbons, abandonment of the wells and restoration, including provision of an access road and access onto the highway, security fencing, lighting and other uses ancillary to the exploration activities, including the construction of a pipeline and a connection to the gas grid network and associated infrastructure land at Roseacre Wood, Roseacre.**

A report was presented on an application for the construction and operation of a site for drilling up to four exploration wells, hydraulic fracturing of the wells, testing for hydrocarbons, abandonment of the wells and restoration, including provision of an access road and access onto the highway, security fencing, lighting and other uses ancillary to the exploration activities, including the construction of a pipeline and a connection to the gas grid network and associated infrastructure to land at Roseacre Wood, Roseacre.

The Committee had visited the site and local road network.

The Committee was reminded that consideration of the application had been deferred at the Development Control Committee meeting of 28th January 2015 to enable 'further and other information' submitted by the applicant in respect of noise, air quality and landscape and visual amenity to be considered. The further information was advertised and consulted on. This report assessed the 'further information' and those responses received as part of the consultation process.

The report included the views of the Department of Energy and Climate Change, the Ministry of Defence, Preston City Council, Fylde Borough Council, Elswick Parish Council, Great Eccleston Parish Council, Medlar with Wesham Parish Council and Kirkham Town Council, Newton with Clifton Parish Council, Treales, Roseacre and Wharles Parish Council, Woodplumpton Parish Council, Broughton Parish Council, the Health and Safety Executive, Public Health England, the Environment Agency, the Highways Agency, National Air Traffic Services, the Civil Aviation Authority, Blackpool Airport Ltd, National Grid Gas, United Utilities PLC, Police Emergency Planning, Natural England, The Woodland Trust, The Wildlife Trust, The Campaign to Protect Rural England, the Wildlife and Wetlands Trust, the RSPB, the County Council's Developer Support (Highways), Public Rights of Way, Director of Public Health, Emergency Planning, Highways Services (lighting), Specialist Advisory Services (Landscape) (Ecology) and (Archaeology) and details of representations received from a number of groups and individuals including Friends of the Earth, the Canal and River Trust, Lancaster Canal Trust and Roseacre Awareness Group

The report also included details of 13,443 letters of representation received and several petitions objecting to the application together with 205 letters of representation received and one petition in support of the proposal.

The Development Management Officer reported that further representations had been received from Preston City Council, Weeton with Preese Parish Council, the Campaign to Protect Rural England, 13 Fylde Borough Councillors and Cat Smith MP whose letter of objection was supported by 968 residents of Lancaster with 181 others in support. It was also reported that a further 225 letters of representation and two petitions objecting to the proposals had been received. A summary of the representations was set out in the Update Sheet (copy attached at Annex 1 to the Minute Book).

It was also reported that the Committee had received presentations on the 26 January and 19 June 2015 from groups objecting to the proposals and from the applicant in support of the proposal. A summary of the points raised at the presentations on the 26 January together with the advice from the Officer, was set out at Appendix 2 to the committee report. The points raised at the presentations on the 19 June were set out in the Update Sheet at Annex 1 to the Minute Book.

Reference was also made to an addendum to the committee report which contained an amendment to pages 460 to 464 and page 742 together with details of additional background papers.

The Development Management Officer presented a PowerPoint presentation which included an aerial view of the site and the nearest residential properties. The Committee was also shown an illustration of the:

- Extent of the surface works
- Maximum extent of the below ground works

- Proposed vehicle routing / access
- Timetable of workings
- Vertical and horizontal wells below ground
- Geological cross section of the underground layers
- Well pad design
- Cross section of well pad design
- Drill layout
- Hydraulic fracturing layout
- Flare stack
- View of what the site could look like
- Drilling rigs
- Hydraulic fracturing equipment

In addition the Committee was shown photographs of Roseacre Road and a map showing representations received within 5 km of the site.

The Committee heard representations from 28 individuals objecting to the application. They reiterated the concerns raised in the Committee report and at the presentations held on 26 January and 19 June 2015 in relation to unacceptable impacts on air quality, noise, health and wellbeing, the community, visual impact, light pollution, odours, tourism, quality of life, property prices, the environment, local wildlife, climate change, traffic, farming and impact on the rural economy and jobs.

It was also felt that the proposal would lead to the industrialisation of the landscape and to the potential for fracking chemicals and previously latent chemicals and radioactive waste to find their way to the air, land and water.

During the presentations it was pointed out that that it may be years before the risks associated with the development were recognised and that if the Committee were to approve the application, it would set a precedent for further expansion in the future and give the green light to fracking right across the country.

The Committee was requested to refuse the application on the grounds that the application conflicted with the policies of the Development Plan and in particular Policy DM2 of Joint Lancashire Minerals and Waste Local Plan and Policy CS5 of the Lancashire Minerals and Waste Development Framework.

The Committee also heard representations from 15 individuals who spoke in support of the applications. They reiterated the specific benefits they felt the proposal would generate including investment in Lancashire and the creation of jobs in the local economy. It was also felt that the UK needed a secure energy reserve and shale gas would provide a predictable, sustainable source of energy to ensure the country's energy supply, to stabilise prices and replace declining North Sea reserves. It was maintained that regulations enforced by Lancashire County Council and the other regulatory bodies would ensure the process was safe and that safeguards were in place to protect the environment. The committee was requested to approve the application.

In response to questions raised by the Members, the Officer advised that an additional condition proposed by the Campaign to Protect Rural England, requiring the analysis of monitoring results following the first stage of hydraulic fracturing was not necessary and was provided for by the permit issued by the Environment Agency.

The Committee discussed at length the proposed HGV traffic route; the impact on the rural highway network and the safety implications of such following which it was Moved and Seconded that the application be refused in accordance with the Officer recommendation.

Prior to being put to the vote, it was Moved and Seconded that the application should also be refused on the grounds that the proposal would impact on the visual amenity of local residents and was therefore contrary to the policies of the development plan. However, following on advice from the Clerk to the Committee in response to questions that each individual reason for refusal would need to be able to be justified at any appeal, this addition was withdrawn and it was:

Resolved: That after first taking into consideration the environmental information and further information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 submitted in connection with the application, planning permission be **refused** for the following reason:

The proposed development would be contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies in that it would generate an increase in traffic, particularly HGV movements, that would result in an unacceptable impact on the rural highway network and on existing road users, particularly vulnerable road users and a reduction in overall highway safety that would be severe.

9. **Fylde Borough: application number. LCC/2014/0102**
Application for monitoring works in a 4 km radius of the proposed Roseacre Wood exploration site comprising: the construction, operation and restoration of two seismic monitoring arrays comprising of 80 buried seismic monitoring stations and 8 surface seismic monitoring stations. The seismic monitoring stations will comprise underground installation of seismicity sensors; enclosed equipment and fenced enclosures. The surface array will also comprise monitoring cabinets. The application is also for the drilling of three boreholes, each installed with 2 monitoring wells, to monitor groundwater and ground gas, including fencing at the perimeter of the Roseacre wood exploration site. Monitoring works in a 4km radius of the proposed Roseacre Wood site, off Roseacre Road and Inskip Road, Roseacre and Wharles, Preston.

A report was presented on an application for the installation of monitoring works in a 4 km radius of the proposed Roseacre Wood exploration site comprising: the construction, operation and restoration of two seismic monitoring arrays comprising of 80 buried seismic monitoring stations and 10 surface seismic monitoring stations. The seismic monitoring stations would comprise underground installation of seismicity sensors; enclosed equipment and fenced enclosures. The surface array would also include the siting of monitoring cabinets. The application was also for the drilling of three boreholes, each installed with 2 monitoring wells, to monitor groundwater and ground gas, including fencing at the perimeter of the Roseacre Wood site off Roseacre Road and Inskip Road, Roseacre and Wharles, Preston.

The application was associated with application LCC/2014/0101 reported above. The applications were supported by a planning statement and an Environmental Statement that assessed the potential impacts of the proposals on the application site and surroundings; a description of the proposed development; scheme alternatives; air quality, archaeology and cultural heritage, greenhouse gas emissions; community and socio economics; ecology; hydrogeology and ground gas; induced seismicity; land use; landscape and visual amenity; lighting; noise; resources and waste; transport; water resources and public health.

The report included the views of the Department of Energy and Climate Change, the Ministry of Defence (Safeguarding), Fylde Borough Council, Great Eccleston Parish Council, Newton-with Clifton Parish Council, , Newton with Clifton Parish Council, Woodplumpton Parish Council, Kirkham Town Council Medlar with Wesham Parish Council, Treales, Roseacre and Wharles Parish Council, the Health and Safety Executive, Public Health England, the Environment Agency, the Highways Agency, National Air Traffic Services, the Civil Aviation Authority, Blackpool Airport Ltd, National Grid Gas, United Utilities PLC, Police Emergency Planning, Natural England, The Campaign to Protect Rural England, the RSPB, the Wildlife and Wetlands Trust, the County Council's: Developer Support (Highways), Public Rights of Way, Director of Public Health, Emergency Planning, Highways Services (lighting), Specialist Advisory Services (Landscape) (Ecology) and (Archaeology) and details of representations received from a number of groups and individuals including Friends of the Earth and Roseacre Awareness Group. In addition the report included details of 190 letters of representation received objecting to the proposals together with 6 letters in support of the proposals.

The Development Management Officer, reported that the views of Preston City Council and additional views from Treales, Roseacre & Wharles Parish Council, had been received, details of which were set out in the update sheet at Annex A to the Minute Book.

It was also reported that since the 1 June 2015 and up to 12.00am Friday 19 June a further 195 representations objecting to the proposal had been received. The reasons for objecting reflected those already summarised in the report.

The Committee was advised that an addendum had been circulated reporting that an additional condition should be inserted after condition 2 on page 808 of the agenda and a correction to the condition numbering.

It was reported that as part of presentations received prior to the Committee meeting on 26 January and 19 June 2015, objections were raised to the proposed array(s) and which had already been raised in objections summarised in the report.

The Officer presented a PowerPoint presentation showing the proposed location of the surface and buried seismometer arrays, an illustration of traffic light monitoring equipment and a photograph showing typical buried array points.

The Committee heard representations from individuals objecting to the application. They reiterated the concerns raised in the Committee report, at the presentations held on 26 January and 19 June 2015 and in the update sheet maintaining that the proposal would establish the principle of development for industrial shale gas activities in designated countryside permanently; that there would be cumulative impact on the countryside; they could be constructed with the benefit of permitted development; and that the applicant had advised that they were able to monitor seismic activity without such development through the installation of shallow buried seismic sensors.

In response to questions raised by the Committee, the officer advised that notwithstanding the application was integrally linked to the application for exploration and appraisal of shale gas at Roseacre Wood, it must still be considered on its own merits. The seismic monitoring stations could not be used for other uses without planning permission. The size of each development at 20m x 20m was not large and in any event only temporary during the construction period. Following which the stations would be very small localised individual features measuring 2m x 2m x 1.2 m high wooden fence enclosure. The officer reiterated that the proposals were in accordance with planning policy.

On being put to the vote it was:

Resolved: That after first taking into consideration the environmental information and further information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, planning permission be **granted** subject to the conditions set in the report and the addendum to the Committee.

Minutes - 29 June 2015.

Apologies were received on behalf of County Councillor D Howarth.

The Committee, officers and members of the public stood in silent tribute to the victims of the terrorist shootings in Tunisia.

Agenda Item 6 – Preston New Road (Continued)

In addition to the written advice from David Manley QC, individual members of the Committee had over the weekend, also received representations from counsel acting for the objectors sent to them personally from barristers acting on behalf of Friends of the Earth and the Preston New Road Action Group (copies attached at Annex 6 & 7 to the Minute Book). A short adjournment took place to ensure all Members had received and read the circulated advice.

The Clerk explained that at least one member had asked if the representations could be taken into account and it was the Clerk's view that it was appropriate that members did so and in fact it would be unrealistic to expect them not to do so. The advice should however be considered in the context of the response provided by officers.

The Clerk outlined the statutory test as set out in section 38(6) of the Planning and Compulsory Purchase Act 2004 and emphasised that members were acting in a quasi-judicial capacity and therefore must make a decision on the evidence presented to them and that the decision must be based on objective evidence. It was clear from the advice issued by Mr Manley QC that whilst a refusal not backed by substantial evidence could not be described as unlawful it could be described as unreasonable in planning terms. It was his view that a refusal based on DM2 would not be reasonable and would likely result in a successful appeal with the potential for an award of costs against the Council.

The Clerk advised that the apparent conflict with the different legal opinions which had been circulated, was that Counsel, acting for the objectors, took a contrary view to Mr Manley QC but they accepted that the decision, whether to approve or refuse, must be backed by evidence.

The Committee was advised that the context was also important and the advice provided by Mr Manley QC related only to a proposed reason for refusal being contrary to DM2, and, specifically in relation to grounds relating to landscape and visual amenity. The opinions subsequently presented on behalf of objectors appeared to cover a broader range of considerations which were not part of the motion before the Committee.

Notwithstanding the commentaries circulated on behalf of objectors, in which no issue of substance was taken, whilst it was clearly a matter for the Committee to determine, the advice from officers remained unchanged, that based on the evidence presented to the Committee there were no substantive planning reasons which justified the Committee reaching a decision to refuse the application.

The committee was advised that if they disagreed with that advice then according to Mr Manley QC, the Council would lose any legal challenge and there would be a high risk of a costs penalty being imposed. However, whilst it was important that the Committee was aware of the consequences of any unreasonable refusal of planning permission, the Clerk emphasised that the threat of a costs

application was not a land use planning impact and/or a material consideration for the purposes of section 38(6).

Following further debate, it was Moved and Seconded that the application be refused for the following reasons:

1. "The development would cause an unacceptable adverse impact on the landscape, arising from the drilling equipment, noise mitigation equipment, storage plant, flare stacks and other associated development. The combined effect would result in an adverse urbanising effect on the open and rural character of the landscape and visual amenity of local residents contrary to policy DM2 Lancashire Minerals and Waste Local Plan and Policy EP11 of the Fylde Local Plan.
2. The development would cause unacceptable noise impacts resulting in a detrimental impact on the amenity of local residents which could not be adequately controlled by condition contrary to Policy DM2 of the Lancashire Minerals and Waste Local Plan and Policy EP27 of the Fylde Local Plan".

On being put to the vote the Motion was Carried whereupon it was:

Resolved: That the application be refused for the following reasons:

1. The development would cause an unacceptable adverse impact on the landscape, arising from the drilling equipment, noise mitigation equipment, storage plant, flare stacks and other associated development. The combined effect would result in an adverse urbanising effect on the open and rural character of the landscape and visual amenity of local residents contrary to policy DM2 Lancashire Minerals and Waste Local Plan and Policy EP11 of the Fylde Local Plan.
2. The development would cause unacceptable noise impact resulting in a detrimental impact on the amenity of local residents which could not be adequately controlled by condition contrary to Policy DM2 of the Lancashire Minerals and Waste Local Plan and Policy EP27 of the Fylde Local Plan.

Agenda Item 7

7. **Fylde Borough: application number. LCC/2014/0097
Application for monitoring works in a 4 km radius of the proposed Preston New Road exploration site comprising: the construction, operation and restoration of two seismic monitoring arrays comprising of 80 buried seismic monitoring stations and 10 surface seismic monitoring stations. The seismic monitoring stations will comprise underground installation of seismicity sensors; enclosed**

equipment and fenced enclosures. The surface array will also comprise monitoring cabinets. The application is also for the drilling of three boreholes, each installed with 2 monitoring wells, to monitor groundwater and ground gas, including fencing at the perimeter of the Preston New Road exploration site near Little Plumpton

A report was presented on an application for the installation of monitoring works in a 4 km radius of the proposed Preston New Road exploration site comprising: the construction, operation and restoration of two seismic monitoring arrays comprising of 80 buried seismic monitoring stations and 10 surface seismic monitoring stations. The seismic monitoring stations would comprise underground installation of seismicity sensors; enclosed equipment and fenced enclosures. The surface array would also include the siting of monitoring cabinets. The application was also for the drilling of three boreholes, each installed with 2 monitoring wells, to monitor groundwater and ground gas, including fencing at the perimeter of the Preston New Road exploration site near Little Plumpton.

The application was associated with application LCC/2014/0096 reported above. The applications were supported by a planning statement and an Environmental Statement that assessed the potential impacts of the proposals on the application site and surroundings; a description of the proposed development; scheme alternatives; air quality, archaeology and cultural heritage, greenhouse gas emissions; community and socio economics; ecology; hydrogeology and ground gas; induced seismicity; land use; landscape and visual amenity; lighting; noise; resources and waste; transport; water resources and public health.

The report included the views of the Department of Energy and Climate Change, the Ministry of Defence (Safeguarding), Blackpool Borough Council, Fylde Borough Council, Westby-with- Plumptions Parish Council, Kirkham Town Council, Medlar-with-Wesham Parish Council, the Health & Safety Executive, Public Health England (PHE), the Environment Agency, the Highways Agency, National Air Traffic Services Civil Aviation Authority, Blackpool Airport Ltd, National Grid Gas, United Utilities PLC, Police Emergency Planning, Natural England, the Campaign to Protect Rural England, Community Association for the Protection of Wrea Green, the RSPB: Friends of the Earth, the County Council's Developer Support (Highways), Public rights of way, Emergency Planning, Specialist Advisory Services: Landscape, Ecology and Archaeology and the County Council's Director of Public Health. In addition the report included details of 125 letters of representation received, 7 in support of the proposal and 118 objecting to the proposal.

The Development Management Officer reported that as part of presentations received on 23 January and 18 June 2015, objections were raised to the proposed array(s) and which had already been raised in objections summarised in the report.

Since the 1 June 2015 and up to 12.00am Friday 19 June a further 121 representations objecting to the proposal had been received. The reasons for objecting reflected those already reported in summary in the report.

The Officer also reported that an addendum to the report had been circulated reporting an additional condition to be inserted after condition 2 and a correction to the condition numbering on page 395.

The Committee had heard representations on the 23 June from individuals objecting to the application. They reiterated the concerns raised in the Committee report and at the presentations in relation to the loss of agricultural land; that the roads were unsuitable for HGVs and that the proposal was contrary to policies of the development plan. It was also maintained that the proposal would establish the principle of development for industrial shale gas activities in designated countryside permanently and that there would be cumulative impact on the countryside.

Following brief debate, it was Moved and Seconded that the application be refused.

On being put to the vote the Motion was Carried.

The meeting was adjourned to enable the Committee members to consider the grounds for refusal. Following which the meeting reconvened and it was Moved and Seconded that:

The application be **refused** for the following reason:

'The proposal is contrary to Policy EP11 of the Fylde Local Plan in that the cumulative effects of the proposal would lead to an industrialisation of the countryside and adversely affect the landscape character of the area.'

On being put to the vote the Motion was Carried. It was therefore:

Resolved: The application be **refused** for the following reason:

The proposal is contrary to Policy EP11 of the Fylde Local Plan in that the cumulative effects of the proposal would lead to an industrialisation of the countryside and adversely affect the landscape character of the area.

10. Urgent Business

There were no items of urgent business.

11. Date of Next Meeting

The next meeting of the Committee will be held on Thursday 16 July 2015.

I Young
Director of Governance, Finance
and Public Services

County Hall
Preston

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