

Lancashire County Council

Development Control Committee

Minutes of the Meeting held on Wednesday, 25th February, 2015 at 10.00 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Munsif Dad (Chair)

County Councillors

T Aldridge	D Howarth
P Buckley	M Johnstone
M Devaney	N Penney
K Ellard	P Rigby
G Gooch	K Sedgewick
P Hayhurst	K Snape
S Holgate	B Yates

1. Apologies for absence

None Received.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor P Buckley declared a non pecuniary interest in agenda items 4 & 5 as his wife is a member of the Borough Council for the area concerned.

County Councillor P Hayhurst declared a non pecuniary interest in agenda items 4 & 5 as a member of Fylde Borough Council and in item 5 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.

County Councillor D Howarth declared a non pecuniary interest in agenda item 6 as a member of South Ribble Borough Council and as a county councillor for the area concerned.

County Councillor B Yates declared a non pecuniary interest in agenda item 6 as a member of South Ribble Borough Council.

County Councillor P Rigby declared a pecuniary interest in agenda item 5 as the applicant had been allowed to access his land for testing purposes.

3. Minutes of the last meeting held on 21 and 28 January 2015

Resolved: That the Minutes of the meeting held on the 21 and the 28 January 2015 be confirmed and signed by the Chair.

4. Fylde and Preston Boroughs: Application number LCC/2014/0162 Variation of conditions 1 and 2b of permissions 05/09/0376 and 06/09/0395 to allow landfilling and landraising activities to continue until 31st December 2035 with restoration within 12 months of cessation of landfilling and landraising and to amend the final restored landform. Clifton Marsh Landfill Site, Preston New Road, Newton with Clifton, nr Preston.

A report was presented on an application for the variation of conditions 1 and 2b of permissions 05/09/0376 and 06/09/0395 to allow landfilling and landraising activities to continue until 31 December 2035 with restoration within 12 months of cessation of landfilling and landraising and to amend the final restored landform at Clifton Marsh Landfill Site, Preston New Road, Newton with Clifton, near Preston.

The report included the views of Preston City Council, Newton-with-Clifton Parish Council and the Health and Safety Executive.

The Development Management Officer presented a PowerPoint presentation showing an aerial view of the site and the nearest residential properties. The committee was also shown a site layout plan and photographs of the site from various aspects.

Following debate during which concerns were raised at the length of the proposed time extension, it was Moved and Seconded that:

"Conditions 1 and 2b of permissions 05/09/0376 and 06/09/0395 be varied to allow landfilling and landraising activities to continue until 31 December 2020".

On being put to the vote the amendment was Lost.

Following further debate it was Moved and Seconded that:

"Conditions 1 and 2b of permissions 05/09/0376 and 06/09/0395 be varied to allow landfilling and landraising activities to continue until 31 December 2025".

On being put to the vote the amendment was Lost.

Following further discussion and questions to the officers with regard to the ongoing requirement for the disposal of general waste together with low level radioactive wastes it was:

Resolved: That planning permission be granted subject to the conditions set out in the report to the Committee and to the applicant entering into a section 106 agreement in relation to the extension of the aftercare period to a total period of 15 years.

**5. Fylde Borough: Application number LCC/2014/0084
Retention of the site compound and access track for a further three years to allow pressure testing and seismic monitoring of the Bowland Shale reservoir, followed by plugging and abandonment of the existing exploratory well and site restoration. Grange Road Shale Gas Exploration Site, Land on south side of Grange Road, Singleton.**

Councillor P Rigby left the room during consideration of this application as he had declared a pecuniary interest in the item.

A report was presented on an application for the retention of the site compound and access track for a further three years to allow pressure testing and seismic monitoring of the Bowland Shale reservoir, followed by plugging and abandonment of the existing exploratory well and site restoration at Grange Road Shale Gas Exploration Site, land on the south side of Grange Road, Singleton.

The report included the views of Fylde Borough Council, Natural England, the Environment Agency, Singleton Parish Council, the Health and Safety Executive, the Department for Energy and Climate Change and details of three hundred and one letters of representation received including approximately 220 cyclostyle letters.

The Committee visited the site on the 23 February 2015.

The Head of Development Management presented a PowerPoint presentation showing an aerial view of the site and the nearest residential properties. The committee was also shown a site layout plan and photographs of the site from various aspects.

The Head of Development Management reported orally that the County Council's Ecology officer was of the view that if the applicant could demonstrate that the proposed schedule was compatible with avoiding disturbance during the wintering bird season then, and as indicated in Natural England's response (dated 11/02/15), the County Council would be able to screen the project for the likelihood of significant effects (Habitats Regulations Assessment) and should be able to conclude no likely significant effect on the European site either alone or in combination.

This had been discussed with Natural England, who confirmed that where their response (dated 11/02/15) referred to development being carried out in strict accordance with the submitted details; this was a reference to the commitment to avoid undertaking disturbing works during winter (bullet point 1), and NOT to spring commencement and completion within a three year period (bullet point 2) unless it is clear that spring commencement would be compatible with avoiding disturbance during the wintering bird season.

It was also reported that representations had been received from Friends of the Earth on behalf of Singleton Against a Fracked Environment (SAFE). They maintained that:

- The grant of planning permission would be unlawful in respect of ecological matters;
- The officer report was flawed in respect of matters relating to noise;
- There were unanswered questions regarding well integrity and ground water;
- That alternatives have not been properly considered.

The matters raised were also included in the presentation made by SAFE and summarised below.

A presentation was received from SAFE on Monday 23rd February. The committee was informed that:

- No Environmental Impact Assessment (EIA) had been carried out and therefore assessments regarding Special Protection Area species (particularly pink footed geese and whooper swans) were inadequate and faulty;
- The application to collect seismic data was linked to applications at Roseacre Wood and Preston New Road which had not been determined and therefore this application was premature;
- The application was for a change of use in the initial application;
- Pressure monitoring was an appraisal activity which had the potential to lead to production and as such the site needed to be assessed with this in mind and if so would require EIA.
- The regulatory regime for developments of this nature was inadequate;
- Wells leak, fugitive emissions of gasses from the well could migrate through various routes to atmosphere and ground water; no cement bond logs were made for the well; nobody had a full understanding of the integrity of the well; the well should not be allowed to be abandoned until more details of it were understood; and
- The application should be rejected as other regulators had confirmed they would not be monitoring abandoned wells.

In response to the matters raised by SAFE via Friends of the Earth and in their presentation, the committee was advised that:

Ecology - The applicant had provided confirmation of the project design in terms of timing of the proposed works that would ensure avoidance of the winter wildfowl season other than for monitoring.

With regard to Friends of the Earth's comments on behalf of SAFE - a screening opinion had concluded that the proposed development was not EIA development and that by the applicant not undertaking key works on the site as part of the project design during the winter wild fowl season, this would be sufficient to minimise effects; that those effects would be negligible due to the location of the site; and there was no uncertainty about the efficiency of the proposed mitigation. It was considered unnecessary to have the results of wintering bird surveys to come to any other view; the conclusions drawn were to the satisfaction of Natural England. There was therefore no requirement for an appropriate assessment prior to the determination of the application. It would be unreasonable to compare this site and Becconsall regarding the impacts on wintering wildfowl or mitigation measures proposed. The two sites were very different and must be assessed on their own merits.

Noise - It was not accepted that the report was flawed in its assessment of noise or that it should reflect the recommendations to the applications for Preston New Road and Roseacre Wood. The circumstances were very different both in terms of proximity of the nearest properties to the site and the nature and duration of the proposed key works. Nevertheless, a proposed amendment to conditions 6 and 12 was proposed.

Well Integrity and ground water – Should planning permission be granted then the well operator would be required to submit a well notification of the operations that would be conducted to the Executive (compliance with the Borehole Site and Operation Regulations 1995 – BSOR)

The notification would be inspected by a Well Operations Inspector. The Inspector would expect the detailed programme of work to include a demonstration of the continued pressure containing envelope of the well – this would include, amongst others, a pressure test prior to entering the pressure containing envelope of the well (compliance with the Offshore Installation and Wells (Design and Construction etc.) Regulations 1996 – DCR).

The proposed operations for “pressure testing” consisted of the recording of down hole pressures for further analysis and the path for recording these pressures was by the perforation of the casing at the points of interest (shale sections).

Ground water - The Environment Agency had reviewed their previous comments and concluded there was no longer a requirement for the submission of details of the well abandonment schedule and that this would not be necessary or relevant to planning, having regard to paragraph 206 of the National Planning Policy Framework. They therefore

no longer requested the inclusion of a condition requiring such. The Agency had developed a Regulatory Position LIT9054 which applied to oil and gas wells which were drilled before 1 October 2013 where the only new activity that would require a mining waste permit was the management of extractive waste, not involving a waste facility, generated by well abandonment. This set out the requirements that must be complied with in full to benefit from the position that a permit for a mining waste operation was not required. It was limited to the management of waste generated by well abandonment provided the management of this waste did not involve a waste facility. Temporary storage of waste on site as part of collection and transportation only did not, in their view, amount to a waste facility. Any such wastes must be removed from site at the earliest opportunity.

If the abandonment process could lead to a discharge occurring then a groundwater activity permit may be required in line with Schedule 22 to the Environmental Permitting Regulations 2010. The company would be contacted directly about this. The Environmental Permitting (England & Wales) Regulations 2010 (Regulation 38(1)) makes it an offence to cause or knowingly permit a groundwater activity (discharge of a pollutant that might lead to its direct or indirect input into groundwater) except under and to the extent authorised by an environmental permit or an exemption as provided for in the Regulations. Any testing activities associated with the proposed development that generate waste may constitute mining waste operations and require a Permit under the Environmental Permitting (England and Wales) Regulations 2010.

Local plan/alternatives - It was not accepted that the application had been incorrectly assessed against the policies of the development plan or that alternatives the subject of other applications, should be taken into account. The application must be considered on its merits and in any event was a very different monitoring practice and at greater depth in target formations than those proposed and associated with Preston New Road and Roseacre Wood sites, neither of which in any event had the benefit of planning permission at this stage.

It was proposed to delete condition 1 to avoid conflict with condition 2.

The noise generative operations were proposed over a short period of time but would have to be carried out on a 24 hour basis. It was considered that the proposed limit of 42dB (A) Laeq free field between the hours of 22.00 and 0700 would reflect the NPPF and would be acceptable, particularly given the short duration of the operations and the distances of the site from the nearest properties. It was therefore proposed to amend condition 6 and 12 to exclude the restriction on operations and amend the hours.

In view of advice from the Environment Agency, it was proposed to delete condition 17.

Fourteen members of the public addressed the committee including local residents and representatives from Ribble Estuary Against Fracking (REAF) and Residents Action on Fylde Fracking (RAFF). They reiterated the concerns set out above and on pages 38 and 39 of the committee report in relation to noise, well integrity and ground water, the degradation of habitats, the lack of enforcement, the lack of information regarding the location of faults in that area, the requirement for an EIA and the impacts on Special Protection Area (SPA) species. They also reiterated that the application was premature with regard to the collection of seismic data and that the mitigation measures and the regulatory regime were inadequate. In addition, it was maintained that:

- The application fell short of satisfying the requirements of policy CS5 of the Lancashire Minerals and Waste Development Framework as it did not ensure that natural resources including water, air, soil and biodiversity were protected from harm and failed to conserve, enhance and protect the character of Lancashire's landscapes.
- The application was contrary to policy DM2 of the Lancashire Minerals and Waste Local Plan in that it did not demonstrate that all material, social economic or environmental impacts had been sufficiently addressed in order to reduce those impacts to an acceptable level.
- The application was in breach of Policy SP2 of the Fylde Borough Local Plan as mineral extraction does not fall within the accepted category in an agricultural area.
- The application failed to take account of the cumulative impacts of other developments nearby namely the Highways Agency roadworks and the extension to the County Council's Highways Depot on Grange Road.
- The long term suitability of the site should be taken into account at this appraisal stage.
- There was no information as to whether the applicant had assessed alternative locations for the surface works in areas approved for this type of activity.
- There was no information about who would assume responsibility for the long term monitoring of the well and its integrity.
- The monitoring is not required in addition to that proposed for Preston New Road and Roseacre Wood.
- The well is split into two wells below ground, no details have been provided and the information supporting the application is unreliable.
- The site was intended to be temporary. This application would allow the site to be present for 7-8years beyond which further planning permissions may be sought for more permanent development.

Members of the public also raised questions with regard to the disposal of the waste water and fluid following the abandonment process; whether the boreholes would be used for the storage of nuclear waste and if the charge proposed to be used to perforate the well would contain depleted uranium.

Three individuals addressed the committee and spoke in support of the application. Two individuals spoke on behalf of the applicant and informed the committee that:

- The pressure testing would provide sub-surface geological reservoir information of the Bowland Shale and the seismic monitoring would provide valuable information on the baseline seismicity.
- There will be no need for any additional drilling. The existing well would not be hydraulically fractured.
- Following the monitoring programme the well would be sealed with cement plugs and abandoned in accordance with the oil and gas UK guidelines and the site returned to the greenfield condition.
- No fluid would be injected into or produced from the shale, and no gas would be produced or flow from the well.
- The site was already established and had an impermeable membrane to provide containment for any spilled liquid and surface water run-off.
- The integrity of the well was fully understood and a total of five cement bond logs were carried out during the drilling of the well.
- There were limited views of the site available, given the topography and existing tree screening.
- Any lighting on site would be kept to a minimum and directed in a way which minimised spillage beyond the site. Visual impacts therefore minimal
- The site had good access and visibility, with the A585 only a short distance away.
- Experience showed that the monitoring activity itself was a very low noise activity. It would not be audible in the immediate locality of the site.
- Groundwater would be protected from the contents of the well during monitoring operations by a combination of steel casings and cemented annulae, which were put in place as part of the original well construction. The impermeable membrane would also protect groundwater.
- The risk of any adverse impact from the well testing process on groundwater and local water courses was highly unlikely.
- There would be minimal potential impact on the ecology and over-wintering birds. The ecological assessment and this proposed approach had been agreed with LCC's ecologist and Natural England.
- The proposal would not generate significant environmental effects and given the low level of impact it does not require an EIA.
- The development complies with the NPPF as the benefits of the proposal outweigh the minor environmental impacts.

In response to concerns raised by the Committee with regard to the proposed noise levels, the officer advised that the well had already been drilled and that as far as he was aware, no complaints had been received at that time. The

proposed works were expected to take two weeks and he was satisfied this would not result in an unacceptable loss of amenity.

The officer also responded to further concerns raised by the committee with regard to the impact on the SPA species and the long term well integrity monitoring regime following the plugging and abandonment of the well.

Following lengthy debate and further questions to the officer, it was Moved and Seconded that:

"The application be deferred to investigate whether noise levels at the nearest residential properties could be reduced below 42db".

On being put to the vote the Motion was Lost.

Following which it was Moved and Seconded that the application be approved.

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

Resolved: i) That the application be **refused** as it is contrary to policies SP2 of the Fylde Borough Local Plan, CS5 of the Lancashire Minerals and Waste Development Framework and DM2 of the Lancashire Minerals and Waste Local Plan.

ii) That a further report setting out draft reasons for refusal be reported back to the committee for confirmation of the reasons why the proposal is contrary to policies SP2, CS5 and DM2.

**6. South Ribble Borough: application number LCC/2015/0007
Replacement of two existing gates/barriers with 2.4m high security gates, installation of additional gates adjacent to the garage and additional 2.4m high weld mesh security fencing at the rear of the tennis courts and to part of the boundary at Penwortham Girls High School, Cop Lane, Penwortham, Preston**

A report was presented on an application for the replacement of two existing gates/barriers with 2.4m high security gates, installation of additional gates adjacent to the garage and additional 2.4m high weld mesh security fencing at the rear of the tennis courts and to part of the boundary at Penwortham Girls High School, Cop Lane, Penwortham, Preston.

The report included the views of South Ribble Borough Council and details of one letter of representation received.

The Development Management Officer reported orally that two further letters of representation had been received objecting to the proposal, including one from County Councillor David Howarth. County Councillor Howarth was of the view

that the communal footpath from Alcester Avenue to Cop Lane had been used as a public right of way and advised that it would be subject to a claim for a public right of way.

The Officer presented a PowerPoint presentation showing an aerial view of the site and the nearest residential properties. The committee was also shown a site layout plan together with a diagram showing an alternative route from Alcester Avenue to Cop Lane and photographs of the site from various aspects.

Mrs Bell, a local resident addressed the committee. Mrs Bell informed the committee that the proposed new gates would block a communal right of way used by local residents to access local shops, the bus stop and farmers market. It was pointed out that the proposed diversion was much longer and therefore less convenient. It was appreciated that the school wished to secure the site but it was suggested that an alternative path should be provided. The committee was urged to defer the application pending the outcome of the claim for a public right of way.

County Councillor Howard, the local councillor for the area, addressed the committee. He informed the committee that:

- The route had been used by members of the public for over 40 years.
- The route was used by elderly residents to access local amenities such as the health centre and the church hall.
- The school would not be secure even with the benefit of the additional fencing and gates, as access was available at other points of the boundary.
- The application should be deferred as the route was likely to be the subject of an application to be designated a formal right of way in the near future.

Councillor Howard had previously expressed a view on the application and therefore left the room once he had spoken.

Following debate and questions to the officers by the Members, it was agreed that the officers would write to the applicant on behalf of the committee to advise that the requirements to secure the site to protect pupils and prevent unauthorised public access were recognised and that the erection of the proposed fencing was supported. However, it was felt that the applicant should also be advised that the committee was concerned that:

- The proposed fencing and the replacement of two existing gates/barriers with 2.4m high security gates and installation of additional gates adjacent to the garage would not have the desired effect of securing the school grounds in their entirety.
- The replacement of two existing gates/barriers with 2.4m high security gates and the installation of additional gates adjacent to the garage would prevent public access between Cop Lane and Alcester Avenue along what is considered to be a well-established route.

- The route was likely to be the subject of an application to be designated a formal right of way in the near future.

The Committee whilst recognising that gates could be erected to a height of 2m with the benefit of permitted development rights, felt that the applicant should be encouraged not to erect such until an application for a public right of way could be submitted and considered to avoid unnecessary restriction on members of the public and costs incurred by the erection of the gates/barrier in the event such an application were to be successful.

Resolved: That, subject to the conditions set out in the report to the committee, planning permission be granted for the erection of 2.4m high weld mesh security fencing to the rear of the tennis courts and to part of the boundary at Penwortham Girls High School, Cop Lane, Penwortham, Preston.

**7. Lancaster City: Application Number LCC/2015/0006
Formation of internal road along and inside the northern boundary of the school between the vehicle entrance and the west side of the infant and junior playground to create a one-way system within the school site, and the creation of a new parking area to provide 3 minibus parking spaces. Morecambe Road School, Morecambe Road, Morecambe.**

A report was presented on an application for the formation of an internal road along and inside the northern boundary of the school between the vehicle entrance and the west side of the infant and junior playground to create a one-way system within the school site, and the creation of a new parking area to provide 3 minibus parking spaces at Morecambe Road School, Morecambe Road, Morecambe.

The report included the views of Lancaster City Council, the County Council's Developer Support (Highways) and Specialist Adviser (Ecology), and details of three letters of representation received.

Resolved: That planning permission be granted subject to the conditions set out in the report to the committee.

8. Planning Applications determined by the Executive Director for Environment in accordance with the County Council's Scheme of Delegation.

It was reported that since the last meeting of the Development Control Committee on the 28 January, 2015, six planning applications had been granted planning permission by the Executive Director for Environment in accordance with the County Council's Scheme of Delegation.

Resolved: That the report be noted.

9. Urgent Business

There were no items of urgent business.

10. Date of Next Meeting

Resolved: That the next meeting of the Committee be held on Wednesday 8 April 2015.

I Young
County Secretary and Solicitor

County Hall
Preston