

Lancashire County Council

Development Control Committee

**Minutes of the Meeting held on Tuesday, 23rd September, 2014 at 10.00 am
in Council Chamber, County Hall, Preston**

Present:

County Councillor Munsif Dad (Chair)

County Councillors

T Aldridge	R Newman-Thompson
M Barron	N Penney
P Buckley	A Schofield
P Hayhurst	K Sedgewick
S Holgate	K Snape
D Howarth	D Stansfield
M Johnstone	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 item 5 as his wife is a member of the Borough Council for the area concerned.

County Councillor T Aldridge declared a non pecuniary interest in agenda item 4 as a member of West Lancashire District Council.

County Councillor P Hayhurst declared a non pecuniary interest in agenda items 5 as a member of Fylde Borough Council and as the county councillor for Fylde West. Councillor Hayhurst also declared a non pecuniary interest in agenda items 4 and 5 as a member of Elswick Parish Council and Elswick Community Project both of which had received grants from the applicant.

County Councillor M Barron declared a non pecuniary interest in agenda item 4 as a member of the West Lancashire District Council, Tarleton Parish Council and the local county councillor for the area concerned.

3. Minutes of the last meeting held on 3 September 2014

Resolved: That the Minutes of the meeting held on 3 September 2014 be confirmed and signed by the Chair.

4. **West Lancashire Borough: application number. LCC/2014/0047 Retention of the site compound and access track for a further 3 years to allow pressure monitoring of the Hodder Mudstone and Bowland Shale rock formations, followed by plugging and abandonment of the existing exploratory well and site restoration. Becconsall Shale Gas Exploration Site, Banks Enclosed Marsh, Bonny Barn Road, Hundred End, Banks.**

A report was presented on an application for the retention of the site compound and access track for a further 3 years to allow pressure monitoring of the Hodder Mudstone and Bowland Shale rock formations, followed by plugging and abandonment of the existing exploratory well and site restoration at Becconsall Shale Gas Exploration Site, Banks Enclosed Marsh, Bonny Barn Road, Hundred End, Banks.

The report included the views of West Lancashire Borough Council, Sefton Council, North Meols Parish Council, the County Council's Developer Support (Highways), the Health and Safety Executive, the Environment Agency, Natural England, the county council's Specialist Advisor (Ecology) and details of 244 letters of representation received.

Stuart Perigo, Head of Development Management, presented a PowerPoint presentation showing an aerial view of the site, a site layout plan, a map of the proposed ecological mitigation areas and photographs of the site from various viewpoints including a photograph of the well head and views across the Ribble Estuary.

The committee visited the site on the 19 September 2014.

It was reported orally that following the publication of the agenda papers, further representations had been received objecting to the application. In addition, on Monday 22nd September 2014 the committee received presentations from four members of Ribble Estuary Against Fracking (REAF) and the applicant. Details of the further representations, presentations and the officer's advice in relation to both were set out in the update sheet (copy attached at Annex A to the Minute Book).

It was also reported that it was proposed to make a minor amendment to the 'Recommendation' in the report as follows:

'That subject to the applicant first providing a Unilateral Undertaking under section 106 of the TCPA 1990 in respect of the off-site ecological mitigation measures.....'

The committee was asked to note that contrary to the information reported on page 13 of the report, there was one well on the site and not two as specified.

A representative of Friends of the Earth, a West Lancashire Borough Councillor and two residents addressed the committee. They objected to the proposal for the following summarised reasons:

- There was a danger that polluted surface water from the site may be discharged via the pumping station into the Ribble and Alt estuaries Special Protection Area (SPA) and Ramsar site.
- The application posed an unacceptable threat to wildlife and the bird population.
- There were well integrity issues at the applicant's other site at Preese Hall. This showed the applicant was not capable of managing the site.
- The application conflicted with the County Council's own policies on climate change and renewable energy.
- Reducing the cost of gas in the UK should not be taken into account and was not a material planning consideration.
- The north of England should not be used as a trial area for outdated carbon fuel extraction.
- A further testing appraisal clearly demonstrated the intention to extract shale gas. Therefore a full Habitat Regulation Assessment should be undertaken and the application should be subject to an Environmental Impact Assessment.
- The applicant's agent's suggestion that it was not necessary to conduct a full Habitats Regulation Assessment showed a lack of concern and a minimalist approach to the operation.
- In the absence of a full Habitat Regulation Assessment, any decision taken may be unlawful.
- There was insufficient information about the proposed operations and evidence on both existing and future impacts including the pressure levels during the 'shut in' period.
- This and the other shale gas extraction projects would have an accumulative impact on the green belt.
- The site should have been restored in 2012.
- The operation lacked public support and therefore could not claim any social licence to operate.
- The well at Beconsall was now 3 years old – what steps had been taken to assess the current integrity of the well.
- There had been a lack of policing and enforcement by the county council.
- Natural England have raised questions for which uncertainty remained, including the residual impacts once mitigation had been taken into account.
- Planning conditions had been breached at this site and at the applicant's other sites.
- The County Council concluded that the application considered in isolation would not have an effect on the birdlife in the Ribble Estuary - it should have considered it in combination with other exploration in the area
- The proposal did not conform with policy DM2 because in the absence of a full Habitats Regulations Assessment, it wasn't known whether the impact could be reduced to acceptable levels.

- The previous application had been withdrawn at the 11th hour.

The committee was urged to defer the application until a full Habitats Regulations Assessment had been undertaken.

In response to questions raised by the members, the officer advised that:

- Any damage to property would be a civil matter, not a material planning consideration.
- Well integrity would be monitored by the regulators.
- The Council had been advised that the perforation of the well casing would involve the use of a small charge that would not create any detectable vibration at the surface.
- There were sufficient existing mitigation measures in place that have and would be sufficient to prevent the contamination of the water courses.
- No fluids other than saturated brine would be used in the process which would be contained within the site and which would be unlikely to cause contamination to the adjoining ditches of the SPA
- At the risk of duplicating the controls set by other regulatory authorities, a further condition relating to the protection of ground water as recommended initially by the Environment Agency but subsequently retracted on the basis it had become a permitting issue rather than a planning issue, could be added to the planning permission to prevent the pollution of groundwater. However, such condition could be challenged by the applicant.
- The application did not constitute fracking.
- The water to be disposed of would be surface water (rain water) and the quantity of such could easily be managed and disposed of within the locale to an appropriate waste water treatment facility without leading to a significant increase in HGV movements in the area.
- There were conditions proposed to protect the wildlife and bird population and enforcement action would be taken if necessary.
- A Habitats Regulations Screening Assessment had been carried out which demonstrated that there would be no significant effects on the wildlife and therefore there would be no reason to undertake a full appropriate assessment. The need for a Habitat Regulations Assessment would be kept under review, further details were set out in the report and the 'Update Sheet' circulated at the meeting.

Following lengthy debate, the committee agreed that the following condition be added to the proposed planning permission to prevent the pollution of groundwater:

'Prior to the commencement of the abandonment of the well and the ground water monitoring boreholes, full details of the proposed abandonment schedule, including any ground water monitoring, must be submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies - Part One and Policies GN3, EC2 and EN2 of the West Lancashire Local Plan 2012-2027.'

Resolved: That subject to the applicant first providing a Unilateral Undertaking under section 106 of the TCPA 1990 in respect of the off-site ecological mitigation measures, planning permission be **granted** subject to the conditions set out in the report to the committee and the inclusion of the additional condition as set out above.

**5. Fylde Borough: application number LCC/2014/0123
Variation of condition 1 of planning permission of 05/11/0431 to
extend the time period for restoration of the site to 30 April 2015,
Preese Hall exploration site, Preese Hall Farm, Weeton, Kirkham**

A report was presented on an application for the variation of Condition 1 of planning permission 05/11/0431 to extend the period of time for the restoration of the site to 30 April 2015 at Preese Hall Exploration Site, Preese Hall Farm, Weeton, Kirkham, Preston.

The report included the views of the County Council's Developer Support (Highways), the Environment Agency, The Health and Safety Executive and details of thirteen letters of representation received including one from Ribble Estuary Against Fracking (REAF).

Stuart Perigo, Head of Development Management, presented a PowerPoint presentation showing an aerial view of the site, site layout plans and photographs of the site, the well head assembly and the water collection facilities.

It was reported orally that following the publication of the agenda three further representations had been received objecting to the proposal. A summary of the objections over and above those summarised in the report together with officers advice in relation to such were set out in the 'Update Sheet' (copy attached at Annex A to the Minute Book).

A representative of Friends of the Earth, two residents and a representative of REAF addressed the committee. They objected to the proposal for the following summarised reasons:

- There were issues associated with the well that needed to be investigated before the site was restored.
- There should be a Public Inquiry into the cause of the seismic events in 2011.

- The proposals may create a number of well paid jobs but at what cost – children were more important.
- Proposed tax incentives for shale gas companies could put off-shore gas operations at risk.
- Off shore gas could be used to bridge the gap whilst cleaner energy alternatives to shale gas were explored.
- The proposal was contrary to the NPPF technical guidance that required mineral sites to be restored to high environmental standards at the earliest opportunity.
- A further time extension should be refused and enforcement action taken to restore the site.
- Concern was raised as to why neither the applicant nor the regulating bodies had put information into the public domain to explain the problems that had been encountered at the site, the risks involved and how they had been resolved.
- There was a lack of information as to why a further time extension was required.
- It was alleged the applicant had been carrying out further flow testing instead of progressing with the restoration of the site.

The committee was asked to make the protection of public health and safety a major concern and to support the request from Fylde Borough Council for an extension of the monitoring period.

A representative of the applicant addressed the committee and spoke in support of the application. It was explained that the process of restoring the site had to be done slowly and carefully and that the company was in the final stage of abandonment. Subject to favourable weather conditions, it was anticipated that the plugging of the well should be completed well within the proposed time extension following which the site would be landscaped and returned to its original agricultural use. Further monitoring of the site would take place for a further 12 months following the plugging and abandonment of the well.

The officer responded to concerns raised by the members in relation to the time extensions afforded to the applicant and whether it was feasible for the County Council to undertake the restoration of the site itself and charge the applicant accordingly. Questions were also raised with regard to the need for a Public Inquiry and whether the monitoring period of the site was sufficient.

Following debate it was agreed that the Cabinet Member for Environment, Planning and Cultural Services would write to the Environment Agency on behalf of the committee requesting that the water quality monitoring borehole(s) be retained and monitored for 5 years rather than 12 months to coincide with the five year aftercare period.

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

6. Urgent Business

There were no items of urgent business.

7. Date of Next Meeting

Resolved: The next meeting of the Committee will be held on Wednesday 15 October 2014.

I Young
County Secretary and Solicitor

County Hall
Preston