

Development Control Committee
Meeting to be held on 26th February 2014

Electoral Division affected:
Fylde West

Fylde Borough: Application ref 05/12/0729
Variation of Condition 2 of planning permission 05/10/0634 to extend the time limits for the restoration of the site to 31 July 2014 and excluding any drilling or hydraulic fracturing. Annas Road Exploration Site, Annas Road, off Peel Road, Westby, Blackpool.

Contact for further information:
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Executive Summary

Application - Variation of Condition 2 of planning permission 05/10/0634 to extend the time limits for the restoration of the site to 31 July 2014 and excluding any drilling or hydraulic fracturing. Annas Road Exploration Site, Annas Road, off Peel Road, Westby, Blackpool.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling working programme, control of noise, hours of operation, highway matters, protection of water resources, restoration and aftercare.

Applicant's Proposal

Planning permission is sought to vary condition 2 of planning permission 05/10/0634 to extend the time limits for the restoration of the site to 31 July 2014 excluding any drilling or hydraulic fracturing.

Permission 05/10/0634 was granted on 19th November 2010 for the temporary change of use from agriculture to a site for the drilling an exploratory borehole and testing for hydrocarbons including construction of a drilling platform and a highway access point. Condition 2 of the permission requires the site development works, drilling operations and restoration to be completed within a period of eighteen months from the date of the commencement of the development.

The development commenced on the 19 September 2011 and hence the site development works, drilling operations and restoration should have been restored by the 18 March 2013. Problems with the drilling of the borehole resulted in the abandonment of a partially drilled well to a shallow depth. The current application was therefore originally made to extend the time period within which the site had to

be completed to 18 September 2013 to allow the drilling of another well and subsequent restoration of the site. However, the applicant no longer wishes to drill another borehole and the application has now been modified so that it only requests additional time to restore the site to an agricultural after use by the 31 July 2014.

Description and Location of Site

Annas Road Exploration Site is a drilling platform located on an area of flat agricultural land, known as Lytham Moss, on the south side of Anna's Road 4km north of Lytham and 2.1km to the east of Blackpool Airport. Anna's Road is south of the A583 and is accessed from Peel Road. Access to the site is approximately 500m along the south side of Anna's Road from Peel Road; the first 250m from Peel Road being tarmaced and the remaining 260m being via a farm track that has been resurfaced with tarmac.

The site measures 77m x 110m and is a fenced compound surfaced with crushed stone with a 3m high landscaped mound located on its south side. An impermeable membrane has been laid beneath the platform to protect groundwater and nearby water courses. An open ditch for the purpose of pollution prevention control is located on the west side of the platform. A 2m high mesh security fence surrounds the perimeter of the whole of the site along with 2m high double site access gates

The site is surrounded by agricultural land. An area of ponds and wetland which are designated as a Biological Heritage Site is located approximately 200m to the east with Westby Landfill Site located another 90m beyond. On the opposite and northern side of Anna's Road is the former Westby Brickworks, now in use as a glass recycling plant. Kite Hall Wood, a small mature woodland is located 130m to the south of the site. The closest residential properties are situated some 250 metres to the north-east of site. Peel Hall Business Units are located 200 metres to the east on the opposite side of Peel Road. There are residential properties to the south and north-east of the site some 500m distant. There are drainage ditches running along the northern and western sides of the site.

The site is within a large area of agricultural land designated as Lytham Moss Biological Heritage Site due to its value as foraging land for overwintering birds that are associated with the Ribble and Alt Estuary Special Protection Area, an area of European importance for wildlife.

Background

Planning permission for the temporary change of use from agriculture to site for drilling an exploratory borehole and testing for hydrocarbons including construction of a drilling platform and a highway access point was granted on 19th November 2010 (ref. 05/10/0634).

A scoping request to determine the matters to be included within an Environmental Statement to accompany a proposed planning application for the testing and hydraulic fracturing ('fracking') of an exploratory lateral (horizontal) borehole was withdrawn on 7th January 2013 (ref. 05/13/0018).

A planning application for the drilling of a horizontal borehole for the purposes of hydrocarbon exploration including core sampling but excluding hydraulic fracturing was withdrawn on 11th December 2013 (ref. 05/13/0021).

Planning Policy

National Planning Policy Framework (NPPF)

Paragraphs 11 – 14, 17, 109, 113, 118, 120, 122, 123, 125, 143, 144 and 147 are relevant with regard to the requirement for sustainable development, core planning principles, conserving and enhancing the natural environment and facilitating the sustainable use of minerals.

Technical Guidance to the National Planning Policy Framework – Flood Risk and Minerals Policy.

Paragraphs 33 – 48 are relevant with regards to the restoration and aftercare of minerals sites.

Joint Lancashire Minerals and Waste Development Framework Core Strategy DPD (LMWDF)

Policy CS5 Achieving Sustainable Minerals Production

Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies (LMWLP)

Policy NPPF 1 Presumption in favour of sustainable development
Policy DM2 Development Management

Fylde Borough Local Plan

Policy SP2 Development in Countryside Areas
Policy EP15 Nature Conservation – European Protected Sites
Policy EP16 Sites of Special Scientific Interest
Policy EP17 Biological Heritage Sites

Consultations

Fylde Borough Council – No objection.

Weeton-with-Plumpton Parish Council – No objection.

LCC Developer Support (Highways) – No objection.

LCC Specialist Advisor (Ecology) – No objection. The time extension would allow the site to be restored outside of the winter wildfowl period (October – March) when land surrounding the site is used by birds foraging for food. The birds are qualifying features of the nearby Ribble and Alt Estuary Special Protection Area.

Environment Agency (EA) – No objection subject to details of the restoration of the site which should include details of the well bore abandonment.

Blackpool Airport Ltd. - No observations received.

Civil Aviation Authority - No observations received.

National Air Traffic Services Ltd. - No objection.

The Health and Safety Executive (HSE) – The HSE do not propose to comment on the application.

The Department for Energy and Climate Change (DECC) - No observations received.

Natural England – No objection subject to the requirement for a restoration plan to be submitted for approval. There should be proposals for post restoration monitoring of the site to ensure it is a suitable habitat for feeding birds.

Representations – The application has been advertised by site and press notice and the nearest residential properties have been notified by letter. No representations have been received.

Advice

Planning permission for the temporary change of use from agriculture to site for drilling an exploratory borehole and testing for hydrocarbons including construction of a drilling platform and a highway access point was granted on 19th November 2010 (ref. 05/10/0634). Condition 2 of the planning permission required the site development works, drilling operations and restoration to be completed within a period of eighteen months from the date of the commencement of the development.

The site development works commenced on the 19th September 2011 and hence the site should have been restored by the 18th March 2013. The drilling works commenced on 6th October 2012 but were suspended due to technical difficulties encountered in the upper elevations of the borehole. The borehole only extended to approximately 2000' and did not reach the target geological horizon of shale. The applicant decided to abandon the partially drilled well and to drill another well from the same platform. The current planning application was therefore submitted to extend the time periods to allow the drilling of another well and for the time periods for restoration of the site to be extended until 18th September 2013. The applicant has now decided not to drill another well and proposes to restore the site back to its former agricultural use by the 31 July 2014.

The abandonment of the partially drilled well process would involve cementing and plugging the well. This would protect any ground water resources that the well dissects. The applicant has advised that the well abandonment would be undertaken in accordance with the regulatory requirements of the HSE.

The well head would be sealed, all surface and subsurface features of the drilling platform would be removed and the subsoil and topsoil (currently stored as a landscaped screen mound on the edge of the site) would be reinstated so that the site could return to agricultural use. The restoration works are expected to take a maximum of three months but the application includes a contingency period of six

weeks for adverse weather conditions, particularly given the nature of the ground and its moss like condition. This would allow for restoration to continue into the drier months of June and until the end of July, should it be required.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In considering the issues that arise from the proposed development, it is necessary to take into consideration the relevant policies of the Development Plan and the planning history of the site and all other material planning considerations. Government policy is a material consideration that should be given appropriate weight in the decision making process.

The Development Plan for the site is made up of the Joint Lancashire Minerals and Waste Development Framework Core Strategy development plan documents (LMWDF), Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies (LMWLP) and the Fylde Borough Local Plan.

Paragraph 33 of the National Planning Policy Framework Technical Guidance requires that planning authorities should provide for restoration and aftercare of mineral working sites to high environmental standards at the earliest opportunity through the application of appropriate conditions.

Policy CS5 of the LMWDF seeks to ensure that sensitive environmental restoration and aftercare of sites takes place, appropriate to local landscape character and the delivery of national and local biodiversity action plans.

Policy DM2 of the LMWLP supports proposals for mineral extraction operations, including hydrocarbons, where it can be demonstrated that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels. Impacts and issues to be considered are the restoration of a site, within agreed time limits, to a beneficial afteruse and the management of landscaping.

The proposed time extension would mean that the visual impacts of the site would exist for a longer period in the open countryside than was previously considered acceptable. However, the drilling rig and supporting infrastructure have been removed leaving only a small well head structure, the stone compound and perimeter fencing. The site is not in a prominent location and the infrastructure to be retained over the extended period would have only a very limited landscape impact.

In terms of ecology, the restoration works would be undertaken before the end of July and therefore would not result in a further winter season of potential disturbance to the bird species that use the adjacent fields and which are associated with the nearby Ribble and Alt Estuary Special Protection Area. The restoration proposals and ability to require the aftercare of the site for a period of five years through a planning condition would ensure that the site can be restored to its previous agricultural afteruse which would ensure that the site is able to resume its former function as supporting habitat to the bird species that are associated with the SPA. The comments of Natural England regarding the need to undertake monitoring of bird populations on the restored site are therefore not supported. The ecological and

visual impacts arising from the proposed extension of time are therefore considered acceptable in terms of paragraph 33 of the National Planning Policy Framework Technical Guidance and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

The plugging and abandonment of the partially drilled well are matters for the HSE and the Department for Energy and Climate Change (DECC) and their respective regulatory regimes. It should be noted that this well was never drilled to its full depth and was never subject to fracking activities. The technical issues associated with the plugging and abandonment of the well are therefore less complex than might otherwise be the case.

The existing permission (05/10/0634) was granted subject to conditions some of which sought to address impacts from noise, on highways, floodlighting and the safeguarding of ground and surface waters from pollution, partially from the integrity of the construction of the borehole, and the restoration and aftercare of the site. The conditions to permission 05/10/0634 have been reviewed and carried forward where appropriate and amended to require approved scheme and programmes to be adhered to. The EA has requested details to be required for the restoration of the site including details of the well bore abandonment. However, the precise methods for abandoning and capping the borehole are regulated by the HSE and the County Council only needs to control the restoration of the compound once the borehole has been capped. A condition is proposed specifying the restoration works that should be carried out. The EA is also suggesting a condition should be imposed requiring details of the provisions to be made for the collection, treatment and disposal of all water entering or arising on the site to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters. The site is already enclosed by a number of pollution control barriers which will be retained until the later stages of restoration. Therefore it is considered unnecessary to require further details to be submitted and a condition requiring the existing measures to be retained will suffice. Subject to the imposition of these conditions, the development complies with the policies of the NPPF and the policies of the Development Plan.

In view of the scale, location and nature of the proposed development it is considered no Convention Rights as set out in the Human Rights Act 1998 would be affected.

Recommendation

That planning permission be **granted** subject to the following conditions:

Time Limits

1. No works other than those associated with the plugging and abandonment of the well and for the restoration of the site shall be carried out on the site. The site shall be restored in accordance with condition 16 of this permission by not later than 31 July 2014.

Reason: To provide for the completion and restoration of the site within a reasonable timescale in the interests of the visual amenities of the area and to

conform with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan documents, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

Working Programme

2. The abandonment of the well and subsequent restoration of the site shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents:

- a) Planning permission 05/10/0634 as amended by the planning application ref 05/12/0729 received by the County Planning Authority on 30 November 2012 and the letter from ARUP dated 11 December 2013.
- b) Submitted Plans received by the County Planning Authority on 30 November 2012:

Drawing No. 003_AR_Rev0_060710 - Location Plan

Drawing No. 005_AR_Rev1_160810 - Planning Application Area

Figure 03a - HGV Vehicle Route and Signage Plan

Figure 03b - Highway Signage Plan

Reason: For the avoidance of doubt and to enable the County Planning Authority to control the development and to minimise its impact on the amenities of the local area and to conform with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan documents, Policies NPPF 1 and DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

Soils and Overburden

3. No topsoils or subsoils shall be exported from the site. All such soils shall be retained for use in the restoration of the site.

Reason: To ensure the proper removal and storage of soils to ensure satisfactory restoration and to conform with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan documents, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

4. All topsoil and subsoil mounds shall be retained in a grassed, weed free condition prior to their use in the restoration of the site.

Reason: To ensure the effective restoration of the site in the interests of the visual amenity of the area and to comply with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan documents, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

Hours of Working

5. No well abandonment or capping or site restoration works shall take place except between the hours of:

07.30 to 18.30 hours Mondays to Fridays (except public holidays)
07.30 to 13.00 hours on Saturdays (except Public Holidays)

No well abandonment or capping or site restoration works shall take place at any time on Sundays or public holidays.

This condition shall not apply to the carrying out of essential repairs to plant and equipment used on the site.

Reason: In the interests of the amenities of the area and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies.

Highway Matters

6. The access from Annas Road to the exploration site shall be removed following the restoration of the site and thereafter the ground shall be restored to its former condition within the approved time period provided for in condition 1.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and to conform with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan documents, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

7. Measures shall be taken at all times during the well abandonment, capping or restoration of the site to ensure that no mud, dust or other deleterious material is carried onto the public highway by vehicles leaving the site.

Reason: In the interests of highway safety and to safeguard the amenity of local residents and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies.

8. The traffic to and from the site during well abandonment, capping and restoration works shall be managed in accordance with the following details received by the County Planning Authority on 30 November 2012:

Figure 03a - HGV Vehicle Route and Signage Plan
Figure 03b - Highway Signage Plan

The details shall be complied with at all times during the duration of the well abandonment, capping and restoration works. The signage shall be retained in position until completion of the restoration works. The details shall only be varied in accordance with proposals submitted to and approved in writing by the County Planning Authority.

Reason : In the interests of highway safety and local amenity and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies.

9. All vehicles associated with the abandonment and capping of the borehole or restoration phase of the development shall park in the site. No vehicles associated with the abandonment or capping of the borehole or restoration phase of the development shall park on Anna's Road or Peel Road.

Reason: In the interests of highway safety and local amenity and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies.

Control of Noise

10. All plant, equipment and machinery used in connection with the abandonment and capping of the borehole and restoration of the site shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and shall be maintained in accordance with that specification at all times throughout the development.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies.

11. Noise emitted from the site shall not exceed 55 dB Laeq (1 hour) (free field) as defined in this permission when measured at either of the following properties at a point closest to the noise source.

- a) Coppice Farm NGR 354 303
- b) Archers Farm NGR 357 314

Reason: To safeguard the amenity of local residents and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies.

Safeguarding of Watercourses and Drainage

12. Provision shall be made for the collection, treatment and disposal of all water entering or arising on the site to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters.

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 DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies EP23 and EP24 of the Fylde Borough Local Plan.

13. All foul drainage shall be discharged to a public sewer or else to a sealed watertight tank fitted with a level warning device to indicate when the tank needs emptying. Upon emptying the contents of the tank shall be removed from the site completely.

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 DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies EP23 and EP24 of the Fylde Borough Local Plan.

14. Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container or containers' total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls. Double skinned tanks may be used as an alternative only when the design and construction has first been approved, in writing, by the County Planning Authority.

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 DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies EP23 and EP24 of the Fylde Borough Local Plan.

Ecology

15. The overwintering bird mitigation measures shall be implemented in accordance with the timescales set out in the letter from ARUP dated 11 December 2013. Such mitigation measures shall be implemented until the completion of restoration.

Reason: In the interests of nature conservation and the local environment and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies EP15, EP16 and EP17 of the Fylde Borough Local Plan.

Restoration

16. Site restoration shall take place in accordance with the following:-

- a) All plant, buildings, hardstandings, aggregates/ hardcore and lining systems shall be removed from the land.
- b) The upper layers of the subsoil material shall be subsoiled (rooted) to a depth of 600mm with a heavy-duty subsoiler (winged) prior to the replacement of topsoils to ensure the removal of material injurious to plant life and any rock, stone, boulder or other material capable of preventing or impeding normal agricultural land drainage operations, including mole ploughing and subsoiling.
- c) Following the treatment of the subsoil, topsoil shall be placed over the site to a minimum depth of 150mm and shall be ripped, cultivated and left in a state that will enable the land to be brought to a standard reasonably fit for agricultural use.
- d) Measures to relieve compaction or improve drainage
- e) The perimeter fencing and all foundations shall be removed.

Reason: To secure the proper restoration of the site and to conform with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan documents, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

Aftercare

17. Within 3 months of the certification in writing by the County Planning Authority of the completion of restoration, as defined in this permission, a scheme and programme for the aftercare of the site to promote the agricultural afteruse of the site shall be submitted to the County Planning Authority for approval in writing.

The scheme and programme shall contain details of the following:

- a) Maintenance and management of the restored site to promote its agricultural use.
- b) Weed control where necessary to control invasive weeds.
- c) Measures to relieve compaction or improve drainage.
Maintenance of protection measures and replacement of failed plants.
- d) An annual inspection to be undertaken in conjunction with representatives of the County Planning Authority to assess the aftercare works that are required in the following year.

The aftercare works shall be carried out in accordance with the approved scheme and programme for a period of five years from the date of completion of restoration.

Reason: To secure the proper aftercare of the site and to conform with Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Development Plan documents, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2, EP15, EP16 and EP17 of the Fylde Borough Local Plan.

Definitions

Completion of Restoration: The date the County Planning Authority certifies in writing that the works of restoration have been completed satisfactorily.

Free field: At least 3.5 metres away from the facade of a property or building.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Ext
05/12/0729 05/10/0634	30 November 2012	Rob Jones, Environment, Ext. 34128

Reason for Inclusion in Part II, if appropriate

N/A