

Development Control Committee

Meeting to be held on 23 September 2014

Electoral Division affected:
Fylde West

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

Contact for further information:

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Executive Summary

Application - 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. Preese Hall Exploration Site, Preese Hall Farm, Weeton, Kirkham, Preston.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling time limits, working programme, soils and overburden, hours of working, highway matters, control of noise, safeguarding of watercourses and drainage, landscaping, restoration and aftercare.

Applicant's Proposal

Planning permission is sought to vary condition 1 of planning permission 05/11/0431 to extend the period of time for the restoration of the Preese Hall exploratory shale gas drilling site to 30 April 2015. The extended period is to allow restoration to be undertaken in suitable ground conditions.

Planning permission for the variation of condition 2 of planning permission 05/09/0572 to extend the period of time for the restoration of the site to 30th July 2014 was granted on 26th February 2014 (ref 05/11/0431).

Since planning permission was granted, the well has been plugged and abandoned. However, the applicant ran out of time to complete the restoration of the site and has now requested a further extension of time to complete such. The restoration works involve the removal of the borehole cellar, site operational surface and replacement of the soils to return the land back to its original agricultural use. Since the expiry of the previous planning permission further restoration works on the site have been suspended pending the outcome of this application.

Description and location of Site

Preese Hall Exploration Site is located on agricultural land near to Weeton Barracks approximately, 2km north of Weeton and 500m north of Preese Hall Farm. Lucas Flash Wood is on the east side of the site and controlled watercourses are located approximately 85m to the north and 240m to the west (Main Dyke). The nearest residential properties are at Weeton Camp, approximately 450m to the east and, at Preese Hall, 500 metres to the south east.

The site extends over an area of approximately 1ha and was constructed to facilitate exploratory drilling operations to investigate the potential of geological formations to contain shale gas.

The exploration site measures 80m x 128m and contains a drilling platform measuring 60m x 105m which has a crushed stone surface. The well head is located in the centre of the platform. A 5m wide drainage ditch is located along the west side of the platform. The soils that were removed during the construction of the platform are stored in mounds along the north and east sides of the platform.

Access to the site is from the B5260, onto the access road to Preese Hall Farm and then north across two fields via an upgraded access track with two passing places. A 25m section of hedge has been removed part way along the access road to Preese Hall Farm so as to create a passing place for HGV's.

Background

Planning permission for the temporary change of use of land from agriculture to the construction of a drilling platform, upgrade of farm track and removal of hedges to create one of three passing places to allow for the drilling of an exploratory borehole and testing for hydrocarbons was granted on 30th October 2009 (ref. 05/09/0572).

Planning permission for the variation of condition 2 of permission 05/09/0572 to extend the time for the restoration of the site to 31 December 2013 was granted on 23rd January 2013 (ref. 05/11/0431).

Planning permission for the variation of condition 1 of permission 05/11/0431 to extend the time for the restoration of the site to 30th July 2013 was granted on 26th February 2014 (ref 05/13/0800).

Planning Policy

National Planning Policy Framework (NPPF)

Paragraphs 11 – 14, 17, 100, 103, 109, 120- 125, 143, 144 and 147 of the NPPF are relevant with regard to the requirement for sustainable development, core planning principles, flood risk, 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 EP12 Conservation of Trees and Woodlands

Consultations

Fylde Borough Council – No observations received.

Weeton-with-Preese Parish Council – No observations received.

LCC Developer Support (Highways) – No objection.

Environment Agency – No objection subject to the imposition of conditions requiring provision for the collection, treatment and disposal of all water entering or arising on the site and, details to be submitted of restoration, including well bore abandonment.

National Grid Gas - No observations received.

National Grid Company P.L.C. - No observations received.

United Utilities - No observations received.

The Health and Safety Executive – No comments to make on the application.

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

Representations – The application has been advertised by site and press notice and the nearest properties have been notified by letter.

Twelve letters of representation and a representation from Ribble Estuary Against Fracking (REAF) have been received objecting to the proposal for the following summarised reasons:

- It has taken too long to restore the site; this is the third application to extend the life to restore it with a lack of respect and ability to comply with the planning process by the company.
- The lack of respect for the planning system by the applicant should be a material consideration in the determination of any other applications by them which should be held in abeyance until such time as this site is completely restored.
- There has been a lack of policing and enforcement by the County Council.
- The lack of enforcement offers no confidence in the monitoring and enforcement that may be needed on other sites.
- There are issues associated with the well that have not been disclosed in the public domain.
- The application should be refused and enforcement action taken to restore the site.
- The proposal is contrary to the NPPF technical guidance that requires mineral sites to be restored to high environmental standards at the earliest opportunity.
- The applicant does not appear to have the expertise to properly undertake a development of this nature.
- What was initially presented as an 18 month temporary operation has become a 5 year presence on the site.

Advice

Planning permission for the drilling of an exploratory borehole to investigate the potential of geological formations to contain shale gas was granted at this site on 30th October 2009 (ref. 05/09/0572). Condition 2 of the planning permission required site restoration to be completed within eighteen months from the date of the commencement.

The site development works commenced on the 16th November 2009 and hence the site should have been restored by the 15th May 2011. The borehole was drilled between August and December 2010. Testing involving hydraulic fracturing (fracking) then commenced on 26th March but was suspended following two seismic events that occurred on 1st April and 27th May 2011. All activities at the site, including site restoration, were then suspended pending the carrying out of a study into the relationship between the earth movement and the fracking process and the consideration of that study by the Department for Energy and Climate Change (DECC). On 13th December 2012, DECC announced that exploratory fracking for shale gas could resume in the UK, subject to new controls to mitigate the risks of seismic activity.

However, the applicant decided not to undertake any further testing or fracking on this site but to restore the site. Application 05/11/0431 was subsequently amended and then planning permission granted to allow the restoration timescales for the site to be extended until 31 December 2013. The works were not completed by the deadline and a further application was granted in February 2014 to allow the site to be restored by the end of July 2014.

The well has now been plugged and abandoned in accordance with the requirements of the HSE, DECC and the EA. However, the applicant ran out of time to complete the restoration of the site and has now requested a further extension of time to complete such. Since the expiry of the previous planning permission further restoration works on the site have been suspended pending the outcome of this application.

Restoration would involve removing all surface and subsurface features of the drilling platform and replacing the subsoil and topsoil (currently stored as landscaped screens around the site) to return the site to agricultural use. The stone access road and passing places would be restored to their previous condition as an agricultural access track to the field. The restoration works are expected to take a maximum of three months. This time period includes a contingency period of six weeks for adverse weather.

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 DPD (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 imposition of appropriate conditions.

Policy CS5 of the LMWDF seeks to ensure that the sensitive environmental restoration and aftercare of sites take place, appropriate to the landscape character of the locality 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 longer than was previously considered acceptable. However, the proposal to extend the time limits for site restoration until the end of April 2015 is considered to be acceptable. The site is well screened by the adjacent woodland, is remote from any residential properties and has a relatively low visual impact now that the drilling rig and other infrastructure have been removed from the site. The visual impacts arising from the proposed extension of time are therefore considered acceptable.

The development is therefore considered acceptable in terms of paragraph 33 of the National Planning Policy Framework Technical Guidance and Policy SP2 of the Fylde Borough Local Plan.

The well has been plugged and sealed in accordance with the requirements of the HSE, DECC and the Environment Agency to ensure that the section of the borehole that was perforated as part of the fracking operations and the section that deformed following the subsequent seismic activity are secure. The concreting is designed to prevent, on a permanent basis, the transfer of any gas from the shale via the borehole and would also prevent the migration of any fracking fluids from the well to both the surrounding rock and the surface. Preventing the escape of fracking fluids and fugitive gas emissions is designed to avoid the contamination and pollution of ground and surface waters.

The ground water is currently monitored via four boreholes located at the site. Three of the boreholes are to be plugged and abandoned. A single borehole would be left to monitor the groundwater quality and gas concentrations for up to 12 months. The monitoring frequency is and would continue to be conducted on a quarterly basis. Each quarterly visit would incorporate methane emissions monitoring of the atmosphere above the plugged and abandoned well.

Paragraph 122 of the NPPF requires that planning authorities should not seek to control processes or emissions where these are subject to approval under separate pollution control regimes and that LPA's should assume that these regimes will operate effectively. In this case, the impacts and techniques of well abandonment are regulated through other legislation and it is considered that the planning system should focus on ensuring that the site is restored in a manner that allows the former agricultural activities on this site to resume. The planning application is to allow an extension of time for the restoration of the site. It has previously been concluded that EIA was not required for the development when planning permission was first granted or when planning permission was granted for a time extension to restore the site. It was concluded at the time of the last application that there was sufficient regulation in place to ensure that the well could be capped and that the risks associated with the migration and fluids used as part of the fracking process and the gasses within such could be managed in a satisfactory way within existing legislation without the need for EIA. It is considered that there are no material changes in circumstances to change this view.

The previous planning permissions were 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 have been reviewed and carried forward where appropriate and amended to require approved scheme and programmes to be adhered to. The Environment Agency consider that the conditions attached to the previous permission relating to the collection, treatment and disposal of all water and site restoration should be re-imposed on any further permission for the site. Subject to the imposition of these conditions, the development complies with the policies of the NPPF and the policies of the Development Plan.

The concerns expressed in the objections received are understood. It is disappointing that the site has not been restored in the permitted timescales but considerable work has been undertaken to date to try and achieve them leaving the residual restoration of the surface of the site to be completed. It is therefore considered reasonable to provide a further opportunity for these works to be completed but in the restricted time period applied for.

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 borehole 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 30th April 2015.

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 DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policy SP2 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 05/11/0431 as amended by the planning application ref 05/13/0800 received by the County Planning Authority on 19 December 2013.
- b) Submitted Plans received by the County Planning Authority on 19 December 2013:

Area Plan
Location Plan
Existing Site Layout
Vehicle Route Plan
Preese Hall Exploration Site - Restoration 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 DPD, Policies NPPF 1 and DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policies SP2 and EP12 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 DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policy SP2 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 Policy SP2 of the Fylde Borough Local Plan.

Hours of Working

5. No delivery or removal of materials 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 delivery or removal of materials 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 stone access road and passing places leading to the drilling platform 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 DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policy SP2 of the Fylde Borough Local Plan.

7. Measures shall be taken at all times during the 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 and restoration works shall be managed in accordance with the scheme and programme submitted to the County Planning Authority pursuant to condition 10 of planning permission 5/09/0572 and approved in writing on the 14 December 2009. The approved details are contained in the following correspondence:

Email dated 2nd November 2009 enclosing details of routing instructions to be sent to principle contractor.

Email dated 23rd November 2009 containing details of the signage to be erected in the access track passing place.

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

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

9. All plant, equipment and machinery used in connection with the operation and maintenance 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 and Policy EP27 of the Fylde Borough Local Plan.

10. Noise emitted from the site as part of the well abandonment and site restoration operations shall not exceed 55 dB Laeq (1 hour) (free field) as defined in this permission when measured from any of the following properties at a point closest to the noise source.
 - a) Grantham Road, Weeton Camp NGR 380 366
 - b) Preese Hall Farm NGR 377 361

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 and Policy EP27 of the Fylde Borough Local Plan.

Safeguarding of Watercourses and Drainage

11. 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.

12. 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.

13. 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.

Landscaping

14. All hedges and trees forming part of the site boundaries shall be retained and protected from any damage and maintained throughout the restoration and aftercare period.

Reason: In the interests of visual and local amenity and the local environment 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 and EP12 of the Fylde Borough Local Plan.

15. No development shall commence or be carried out during the bird-breeding season between 1 March and 31 July inclusive unless the site has been previously checked and found clear of nesting birds in accordance with Natural England's guidance and if appropriate, an exclusion zone set up around the site to be protected. No work shall be undertaken within the exclusion zone until birds and any dependant young have vacated the area.

Reason: 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 and EP12 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) Following completion of the works in a) - d) above, the stone access road and two passing places shall be removed and the access road reinstated to its previous condition as an

agricultural access track. The restoration of the passing places shall include the reinstatement of any hedgerow that was removed in order to create the passing places.

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 DPD, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies and Policy SP2 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.
 - d) Maintenance of any hedgerow planting undertaken to include weed control, 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 Policy SP2 of the Fylde Borough Local Plan.

Definitions

Completion of Restoration: The date the County Planning Authority certifies in writing that the works of restoration in accordance with condition x 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

LCC/2014/0123 Stuart Perigo/Environment/531948
05/13/0800
05/11/0431

Reason for Inclusion in Part II, if appropriate

N/A