

## Appendix A

### Development Control Committee

Meeting to be held on 20<sup>th</sup> May 2015

Electoral Division affected: Fylde West
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#### **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.**

Appendix 1 – Application Report to Development Control Committee 25/2/15.

Appendix 2 – Minute of Item 5 to the Development Control Committee meeting of 25/2/15

Appendix 3 – Development Plan Policies

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#### **Executive Summary**

Application - 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.

The application was considered by the Development Control Committee at the meeting of 25<sup>th</sup> February 2015. The Committee resolved that it was minded to refuse the application for the following reason:

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.

It was also resolved 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.

This report includes a summary of the presentations received as reported on the update sheet to the Committee and considers the policies referred to by the Committee.

#### **Recommendation – Summary**

Based upon the Committee's conclusion that the impacts of the proposal are considered so great as to render the proposal unacceptable, then the application be refused for the following reason:

The proposal is contrary to Policy CS5 of the Lancashire Minerals and Waste Development Framework Core Strategy DPD (Managing our Waste and Natural Resources) and Policy DM2 of the Lancashire Minerals and Waste Local Plan (Site Allocation and Development Management Policies – Part One) in that the retention of the site in its current form and scale would adversely affect the landscape character of the area.

## **Background**

This application was considered by the Development Control Committee at the meeting on the 25<sup>th</sup> February 2015. The Committee resolved to refuse the application having concluded that it is contrary to Policy SP2 of the Fylde Borough Local Plan, Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan (Site Allocation and Development Management Policies – Part 1) and Policy CS5 of the Joint Lancashire Minerals and Waste Development Framework Core Strategy Framework DPD (Managing our Waste and Natural Resources).

It was also resolved that the details of the reason(s) for refusal would be reported back to the Development Control Committee for approval.

## **Applicant's Proposal**

The details of the proposal are set out in the report to the Development Control Committee meeting of 25<sup>th</sup> February 2015 (**Appendix 1**).

## **Planning Policy**

The following policies were considered to be the most relevant to the proposal (**Appendix 1**):

National Planning Policy Framework (NPPF)

Paragraphs 11 – 14, 17, 56 – 66, 87 – 90, 109, 120 – 125, 142, 144 and 147 are relevant with regard to the requirement for sustainable development, core planning principles, the requirement for good design, conserving and enhancing the natural environment and facilitating the sustainable use of minerals.

Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One

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

Fylde Borough Local Plan

Policy SP2 Development in Countryside Areas

Policy EP11 Building Design and Landscape Character  
Policy EP15 European Wildlife Sites  
Policy EP16 Development affecting SSSI's  
Policy EP23 Pollution of Surface Water  
Policy EP24 Pollution of Ground Water  
Policy EP26 Air Pollution  
Policy EP27 Noise Pollution  
Policy EP28 Light Pollution

## **Consultations**

A summary of the consultations and representations received is included in the officer report to the Development Control Committee on 25<sup>th</sup> February 2015 (**Appendix 1**).

The following summarised additional consultee response was reported on the Committee update sheet as follows:

**LCC Ecology:** If the applicant can demonstrate that the proposed schedule is compatible with avoiding disturbance during the wintering bird season then, and as indicated in Natural England's response (dated 11/02/15), Lancashire 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 has been discussed with Natural England, who confirm that where their response (dated 11/02/15) refers to development being carried out in strict accordance with the submitted details; this is a reference to the commitment to avoid undertaking disturbing works during winter, and not to allow spring commencement unless it is clear that spring commencement would be compatible with avoiding disturbance during the wintering bird season.

## **Representations**

Representations received from Friends of the Earth on behalf of Singleton Against a Fracked Environment (SAFE) were summarised on the Committee update sheet as follows:

Friends of the Earth maintain the grant of planning permission would be unlawful in respect of ecological matters, that the officer report is flawed in respect of matters relating to noise, that there are unanswered questions regarding well integrity and ground water and that alternatives have not been properly considered. The matters raised were also included in the presentation made to Members of the Development Control Committee by SAFE and were summarised on the update sheet.

## **Presentations**

SAFE made a presentation to Members of the Development Control Committee on Monday 23<sup>rd</sup> February a summary of which was reported on the update sheet as follows.

The first part of the presentation maintained that no EIA has been carried out and therefore assessments regarding Special Protection Area species (particularly pink footed geese and whooper swans) are inadequate and faulty; that the application to collect seismic data is linked to applications at Roseacre Wood and Preston New Road which have not been determined and therefore this application is premature; and that the application is for a change of use in the initial application, that pressure monitoring is an appraisal activity which has the potential to lead to production and as such the site needs to be assessed with this in mind and if so would require EIA.

The second part of the presentation maintained the regulatory regime for developments of this nature is inadequate; that wells leak, fugitive emissions of gasses from the well can migrate through various routes to atmosphere and ground water; no cement bond logs were made for the well; nobody has a full understanding of the integrity of the well; the well should not be allowed to be abandoned until more details of it are understood; the application should be rejected as other regulators have confirmed they will not be monitoring abandoned wells.

## **Public Speaking**

The committee received presentations from 14 speakers opposing the application, 1 speaker in support of the application and from the applicant. The issues raised are summarised as follows:

The speakers opposing the proposal reiterated many of the issues raised in the representations received and as part of the presentation made by SAFE. It was maintained that there were conflicts of officers views with the applications at Preston New Road and Roseacre Wood; that the proposal is contrary to policies SP2, SP5, CS5 and DM2; no alternatives had been considered; the application is premature and should be refused; no assessment against other projects in the area had been made to assess cumulative impacts; there would be impacts on protected species and the SPA for which there is too little information despite it being available; the long term impacts should be assessed at the appraisal stage; horizontal drilling from less sensitive locations should be considered; what long term monitoring of the well would be carried out; this would be a storage well to dispose of waste water; the well is split and there are too few details to ensure safety; Only one of the Royal Society's recommendations have been implemented; the applicant has not demonstrated high standards with reference to leakages and abandonment at Preese Hall; migration of gas and water contamination; there is no risk of supply of gas; this will perpetuate the reliance on hydrocarbons in the future will all the negative impacts

The speaker in support of the proposal was of the view that the application is for the use of an existing borehole for monitoring purposes and to provide seismological information that would not generate any issues and would not be noisy or dangerous.

The applicant maintained that the proposal would provide geological and seismological information to meet one of the Royal Society's recommendations; it would not involve fracking; no fluids would be used and no gas would be extracted; principle works would be carried out over a 2 week period; cement bond logs have been carried out; there would be limited views of the principle activities; there is good access with limited HGV usage; noise levels would be short term and low; ground water is protected by the well casings and a protective ground membrane; there

would be no ecological impacts on the SPA as a result of project timing and the proposal accords with the policies of the development plan and should be supported.

Further details of the presentations are recorded in the minutes of the meeting an extract of which is appended to this report (**Appendix 2**).

### **Advice**

After hearing the officer presentation and the public speakers opposing and supporting the proposal the Committee 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.

The policies referred to in the resolution are set out in full in **Appendix 3**.

Policy CS5 of the Lancashire Minerals and Waste Development Framework was not listed in the policy section to the report although was referred to in the advice section to the report (**Appendix 1**).

Policy CS5 was referred to in presentations made objecting to the proposal; it was maintained that the application was in breach of this policy as it does not accord with the specified criteria.

The first part of the policy relates to transport and alternatives to roads. The second part of the policy refers to the development of criteria for the site identification process and for considering proposals brought forward outside the plan-making process to ensure they meet specified environmental criteria. These criteria have been developed as part of the Lancashire Minerals and Waste Local Plan Site Allocation and Development Management Policies – Part One.

Policy CS5 is set out in full in **Appendix 3**. With regard to those criteria:

- (i) There is no evidence that the proposal would have an unacceptable impact on natural resources including water, air, soil or biodiversity. The borehole has been drilled to meet the requirements of the Health and Safety Executive. The proposal is for pressure testing of the well. No fracking is proposed and there would be no release of shale gas other than in the immediate area of the perforated casing. The site has been developed, soils are being stored for restoration purposes and the site is lined with a controlled drainage system to protect ground and surface water from contamination. Mitigation measures are proposed to ensure major works are carried out outside the wintering wildfowl season. There would not be any further impacts on biodiversity and Natural England and the county Ecologist has raised no objection subject to the employment of mitigation measures.

- (ii) The site does not fall within close proximity to or within any feature or landscape of historic and cultural importance.
- (iii) The proposal would not adversely contribute to fluvial flood risks or surface water flooding.
- (iv) It is proposed to retain the site as a hard secure surface for a further two year period after which it would be restored in a similar way to the sites at Preese Hall and Annas Road. Whilst there would be some extended visual impact it would still be temporary and in the long term would not adversely affect the character of Lancashire's landscapes. However, whilst temporary, the development would (in total) have existed for some 7 years and the Committee gave significant weight to criteria (iv) of the Policy; that "*proposals for mineral workings incorporate measures to conserve, enhance and protect the character of Lancashire's landscapes*"
- (v) The borehole has already been drilled. The development works proposed would be over two, two week periods with the plugging and abandoning of the well over a 4 week period. These works and the monitoring operations would not adversely affect the amenity, health, economic wellbeing and safety of the population. High operating standards on the site have been employed to date along with sensitive working practices, environmental management systems that have and would continue to minimise harm and nuisance to the environment and local communities throughout the life of the development and which could be controlled by condition.
- (vi) No essential infrastructure and services to the public would be affected.
- (vii) Restoration of the site could be controlled by condition in a similar way to those sites at Preese Hall and Annas Road that have been abandoned and successfully restored.

Given the weight that the Committee gave to the site being retained in its current state for a further temporary period with the resulting visual impact, the Committee could come to a view that the proposal is contrary to criteria (iv) of the policy.

Policy SP2 of the Fylde Borough Local Plan was referred to in the policy section of the report and the application was assessed against this policy (**Appendix 1**). The conclusion was that the proposal is not contrary to this policy.

Fylde Borough Council raised no objection to the proposal but requested that a scheme of appropriate restoration be carried out within the three year development period and that the County Council reconsider the need for the submission of an updated EIA. Conditions were proposed requiring restoration of the site and a 5 year period of aftercare on completion of the development. A screening opinion of the current application was carried out; it was concluded that the development does not constitute EIA development. Fylde Borough Council does not consider the proposal to be contrary to Policy SP2 of their local plan.

The Committee heard in representations that the application was in breach of this Policy as mineral extraction does not fall within any of the accepted categories in a countryside area.

The policy is aimed at controlling development in the countryside and sets out those development types that may be found acceptable, essentially those associated with

agriculture, horticulture, forestry, tourism, re use of old buildings, redevelopment of existing sites and minor extensions to dwellings and other buildings. The policy does not (and should not) refer to mineral developments. Mineral developments can only be carried out where the mineral occurs and are assessed against the policies of the Lancashire Minerals and Waste Development Framework and the Lancashire Minerals and Waste Local Plan Site Allocation and Development Management Policies – Part One.

The proposal relates to the exploration of mineral reserves; minerals can only be worked where they occur and inevitably given the nature of such are usually undertaken in open countryside areas. However, it is not unusual for mineral operations to still have some adverse impacts and the acceptability of such must be weighed against the benefits of exploring, appraising and winning minerals in such areas. The principle of development in this location, albeit for a temporary period, has already been established. It is therefore a question of balance as to whether the impacts associated with the continued presence of the site for a further temporary period would be acceptable. Whilst some reference has been made to directional drilling from what may be considered more appropriate locations within or on the periphery of urban areas, this does not take into account the geological conditions and the likely passage of any drilled borehole through fault lines potentially giving rise to seismic movement and contamination pathways, issues that have been raised by other objectors and who are keen to prevent such risks. The borehole has been drilled on this site and there would be no further impacts associated with such.

It is therefore concluded that the retention of the site for a further temporary period would not be contrary to Policy SP2 of the Fylde Borough Local Plan and to refer to such in any reason for refusal would not be sustainable.

Policy DM2 of the Lancashire Minerals and Waste Local Plan is a central policy against which all minerals developments are considered. The policy supports minerals developments providing the minerals planning authority is satisfied that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels.

When assessing proposals the policy requires account to be taken of the proposal's setting, baseline environmental conditions and neighbouring land uses, together with the extent to which its impacts can be controlled in accordance with current best practice and recognised standards.

In accordance with Policy CS5 and CS9 of the Core Strategy, developments will be supported for minerals or waste developments where it can be demonstrated to the satisfaction of the mineral and waste planning authority, by the provision of appropriate information, that the proposals will, where appropriate, make a positive contribution to the:

- Local and wider economy
- Historic environment
- Biodiversity, geodiversity and landscape character
- Residential amenity of those living nearby
- Reduction of carbon emissions
- Reduction in the length and number of journeys made

This will be achieved through for example:

- The quality of design, layout, form, scale and appearance of buildings
- The control of emissions from the proposal including dust, noise, light and water.
- Restoration within agreed time limits, to a beneficial after use and the management of landscaping and tree planting.
- The control of the numbers, frequency, timing and routing of transport related to the Development.

The Committee heard in presentations that the application was in breach of this Policy as the application had not demonstrated that all material, social economic and environmental impacts have been sufficiently addressed in order to reduce those impacts to an acceptable level.

The site has been present since 2010, planning permission having been initially granted for the drilling of a borehole and subsequent fracking. The borehole has been subsequently drilled but the site was not fracked and has been held in abeyance since. Given the nature of the proposed works it is considered that the retention of the site would not generate social, economic or environmental impacts that could not be eliminated or reduced to acceptable levels.

However, in light of representations received and the weight that the Committee attached to the site being retained in its current state for a further temporary period maintaining its current visual appearance and the visual impact associated with such, the Committee could come to a view that the proposal is contrary to the policy in that it would adversely affect the landscape character of the area.

## **Human Rights**

The proposal raises issues relating to the protection of amenity and property under Article 1 of the 1<sup>st</sup> Protocol of the Human Rights Act 1998.

In view of the scale, location and nature of the proposed development it is considered that no Convention rights as set out in the Human Rights Act 1998 would be affected. However, if the application is to be refused, the rights of the applicant must also be considered.

Article 6 is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## **Conclusion**

It is considered that notwithstanding the resolution of the committee it would be unsustainable to refuse the application on the basis it is contrary to Policy SP2 of the Fylde Borough Local Plan. Given the weight the Committee attached to the criteria of policies CS5 and DM2, it could conclude that the retention of the site in its current form and scale for a further temporary period would be visually unacceptable and would adversely affect the landscape character of the area contrary to these policies:



## **Recommendation**

If the Committee concludes that the impacts of the proposal are considered so great as to render the proposal unacceptable, then the application be refused for the following reason:

The proposal is contrary to Policy CS5 of the Lancashire Minerals and Waste Development Framework and Policy DM2 of the Lancashire Minerals and Waste Local Plan in that the retention of the site in its current form and scale would adversely affect the landscape character of the area.

## **Local Government (Access to Information) Act 1985 List of Background Papers**

Paper	Date	Contact/Directorate/Ext
LCC/2014/0084		Jonathan Haine/Planning & Environment/54130
05/12/0003		
05/10/0091		

Reason for Inclusion in Part II, if appropriate

N/A

## Appendix 1

### Development Control Committee

Meeting to be held on 25<sup>th</sup> February 2015

Electoral Division affected: Fylde West
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#### **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.**

Contact for further information:

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#### **Executive Summary**

Application - 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 the south side of Grange Road, Singleton.

#### **Recommendation – Summary**

That planning permission be **granted** subject to conditions relating to time limits, working programme, highway matters, control of noise, hours of working, safeguarding of water, restoration and aftercare.

#### **Applicant's Proposal**

Planning permission is sought to retain the drilling platform and associated highways access at the Grange Road Shale Gas Exploration Site for a further three years to undertake pressure testing and seismic monitoring of the Bowland Shale rock formation. Following the testing, the well would be plugged and abandoned and the site restored back to agriculture.

The pressure testing procedure would involve perforating the well casing by the use of a small contained charge. The perforation would extend up to two metres beyond the well casing into the rock formation to allow any gas to flow from natural pathways/ fractures within the rock to the well. The section/s of the perforated well would then be isolated by the use of 'packers' to create a pressurised test zone which would then be monitored by equipment within the test zone for a period of approximately 2 years. The process would not involve the injection of fluids into the well but existing fluids within the well would be re-circulated. After the testing period, the packers and monitoring equipment would be removed, the well plugged and

abandoned and the exploration site restored. The seismic monitors would be installed at the same time as the pressure monitors but sealed in packers in separate but adjoining zones in the well.

The pressure testing and monitoring equipment would take 2 weeks to install followed by a monitoring period of approximately 78 weeks (a year and a half). The monitoring equipment would then be removed from the well, checked and the data downloaded. This process would take a maximum of 2 weeks. The monitors would then be re-installed into the well and shut in for a second monitoring period of approximately 56 weeks. After completion of the second pressure monitoring period, the well would be plugged and abandoned taking approximately 4 weeks. This would then be followed by a 12-14 week period to fully restore the site. This would equate to a 3 year total timeframe.

The applicant has stated that the monitoring equipment would (subject to planning permission being granted) be installed in early spring which would allow all site activities including abandonment and restoration works to be undertaken in the summer period.

### **Description and Location of Site**

The site is an existing hydrocarbon exploration site located in a field on the south side of Grange Road approximately 460m to the west of its junction with the A585(T), 0.8 km to the north-west of the village of Singleton and 2.6km to the east of Poulton-le-Fylde. The surrounding area is flat and predominantly agricultural.

The surface area of the exploration site measures 0.99ha and consists of the drilling platform, site access and perimeter soil mounds and fencing. Access to the site is via an existing field access and associated track, which have been upgraded with a tarmacadam surface for the first 10m. The edge of the working platform is approximately 25m south of Grange Road, with a 3.5m high soil bund located between the road and the platform.

The nearest residential properties are approximately 450m away to the west and north.

The site does not directly affect any higher tier ecological or landscape designations but is approximately 1.2 km south east of the Wyre Estuary SSSI which in turn forms part of the Morecambe Bay Special Protection Area and Ramsar site.

### **Background**

Planning permission for the temporary change of use of land from agriculture to a site for drilling an exploratory borehole and testing for hydrocarbons including the construction of a drilling platform and highways access was granted on the 21<sup>st</sup> April 2010 (ref. 05/10/0091). Condition 2 of the permission required the site development works, drilling operations and restoration to be completed within a period of eighteen months from the commencement of the development, with the drilling operations to be completed within a period of three months from the date of their commencement.

An application to extend the time periods for the completion of well testing and restoration was submitted on 20th December 2011 (ref. 05/12/0003). The application

proposed that the well testing operations by fracking and site restoration be completed by 20th July 2013. This application has now been withdrawn as it has been superseded by the present proposals.

## **Planning Policy**

National Planning Policy Framework (NPPF)

Paragraphs 11 – 14, 17, 56 – 66, 87 – 90, 109, 120 – 125, 142, 144 and 147 are relevant with regard to the requirement for sustainable development, core planning principles, the requirement for good design, conserving and enhancing the natural environment and facilitating the sustainable use of minerals.

Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One

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

Fylde Borough Local Plan

Policy SP2 Development in Countryside Areas  
Policy EP11 Building Design and Landscape Character  
Policy EP15 European Wildlife Sites  
Policy EP16 Development affecting SSSI's  
Policy EP23 Pollution of Surface Water  
Policy EP24 Pollution of Ground Water  
Policy EP26 Air Pollution  
Policy EP27 Noise Pollution  
Policy EP28 Light Pollution

## **Consultations**

Fylde Borough Council: No objection but requests that a scheme of appropriate restoration is carried out within the three year development period and that the County Council reconsider the need for the resubmission of an updated EIA.

Natural England (NE): Initially were of the view that the application did not contain sufficient information to determine the impacts on European wildlife sites. In response to further information from the applicant, NE has confirmed that the proposal is unlikely to have a significant effect on the Morecambe Bay Special Protection Area and Ramsar site and can therefore be screened out from any further assessment.

Environment Agency: No objection subject to a condition being imposed regarding well abandonment, including groundwater monitoring, to ensure there would be no discharge of pollutants to groundwater.

Singleton Parish Council: No objection but wish the operations to be conducted as safely as possible.

Health and Safety Executive: No objection.

Department for Energy and Climate Change: No objection. The applicant has a PEDL licence to explore for hydrocarbons. The activities for which permission is sought include well abandonment. DECC will give consent for well abandonment before which they will review the well data in the event that future access is required.

Representations: The application has been advertised in the press and site notice posted on the site. The nearest residential properties have been notified by letter.

Three hundred and one representations have been received objecting to the proposal for the following summarised reasons:-

- The application site and adjacent areas are used by over wintering birds associated with the Wyre Estuary; the proposed development would impact on those birds and the application does not contain sufficient information to allow the impacts to be assessed.
- A full assessment of the impacts of the development should be undertaken through the EIA process. At present there is insufficient understanding about the impacts of the proposal.
- The site is located close to the Preese Hall site where fluids were injected into a fault. The exact location of the fault is not known and the precautionary principle should be adopted until such time as better information has been collected.
- The site has now been active for 7 years and a full assessment of the cumulative impacts has never been carried out.
- What would happen to the fluids that are currently contained within the well.
- There are risks to the nearby ethylene pipeline
- The planning conditions on the previous permission were breached.
- The application does not consider cumulative impacts.
- There is no information on how the site is drained, how leakage of pollutants, gas or fluid will be monitored post restoration or any risk assessment of unpredictable build up of gas or fluid build up.
- There should be priority given to renewable energy projects and not to schemes to further exploit fossil fuels.
- The proposal does not comply with the policies of the Lancashire Minerals and Waste Core Strategy.
- There should be no repeated time extensions to existing sites.
- The development along with other shale gas activities will result in damage to highways and transport of toxic chemicals along the public highway with consequent risks for public safety.
- What would be the impacts of the gas flare?
- There would be contamination of drinking water supplies.

The representations include a letter from REAF (Ribble Estuary Against Fylde Fracking) who object to the application on the basis that it should be subject to Environmental Impact Assessment, that the testing procedures would result in migration of gas and pollutants into the environment, that the site is located close to the Wyre Estuary SPA and a number of Great Crested Newt ponds and that full information as to the nature of these impacts should therefore be known prior to considering the application.

Approximately 220 of the representations are cyclostyle letters that object to the application for the following summarised reasons:

- The perforation of the well may lead to well failure and the application should therefore be subject to Environmental Impact Assessment.
- The proposed development could result in fluids being injected into a fault which would cause earth tremors similar to those experienced at the nearby Preese Hall site.
- The proposed development along with other shale gas proposals should be considered together as there is a danger of industrialisation and loss of habitat and environmental quality.

## **Advice**

Planning permission (ref 5/10/0093) was granted on 21<sup>st</sup> April 2010 for the drilling of an exploratory borehole and testing for hydrocarbons on land south of Grange Road. The development provided for the drilling of a borehole into the Bowland Shale horizon together with associated hydraulic fracturing operations to assess the potential for the shale to release gas. The borehole was completed in May 2011 but no hydraulic fracturing was carried out due to the moratorium that was imposed on such operations at that time by the Department for Energy and Climate Change.

A further application (ref 5/12/0003) was then submitted seeking additional time to complete the development including the hydraulic fracturing of the well and testing the flow of shale gas. However, the applicant has now confirmed that it is no longer the intention to fracture this well and has withdrawn this application. The applicant now wishes to retain the well site for a further temporary period of three years to allow it to be used for pressure monitoring and to provide background seismic information.

The purpose of the pressure testing is to understand initial reservoir pressures within the Bowland Shale so as to predict future well performance and the recoverability of the shale gas reserves. The application is also to undertake seismic monitoring to obtain background data that is needed to establish the natural levels of seismicity in the area to be better able to understand and differentiate between seismic events that are naturally occurring and those that are man-made as a consequence of shale gas exploration. The application does not provide for any fracturing of the well or other fracturing of the shale beyond that required to perforate the well casing and a short distance into the shale beyond.

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.

Government policy supports the exploration, testing (appraisal) and production of economic onshore hydrocarbon reserves. This application relates to the first two phases; exploration and testing (appraisal). The site would then be restored. The National Planning Practice Guidance in relation to minerals seeks to ensure that

minerals sites are reclaimed to a high standard through the imposition of appropriate conditions.

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

Policy CS5 of the LMWDF seeks to ensure, amongst other criteria, that our natural resources including water, air, soil and biodiversity are protected from harm and opportunities are taken to enhance them; workings will not adversely contribute to surface water flooding; proposals for mineral workings incorporate measures to conserve, enhance and protect the character of Lancashire's landscapes; the amenity, health, economic well-being and safety of the population are protected by the introduction of high operating standards, sensitive working practices and environmental management systems that minimise harm and nuisance to the environment and local communities throughout the life of the development, and 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 developments for mineral 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. In assessing proposals, account will be taken of the proposal's setting, baseline environmental conditions and neighbouring land uses, together with the extent to which its impacts can be controlled in accordance with current best practice and recognised standards. Impacts and issues to be considered are the quality of design, layout, form, scale and appearance of buildings; the control of emissions from the proposal including dust, noise, odour, light and water; the control of the numbers, frequency, timing and routing transport related to the development and, the restoration within agreed time limits, to a beneficial after use and the management of landscaping.

The site is located within a countryside area as designated in the Fylde Borough Local Plan. Policy SP2 requires that development within countryside area will not be permitted except where it relates to that essentially required for agriculture, horticulture or forestry of other uses appropriate to a rural area and development essentially needed for the continuation of an existing enterprise facility or operation of a type and scale which would not harm the character of the surrounding countryside. The development is related to the exploration and exploitation of mineral reserves and since such reserves can only be worked were they are found must inevitably be undertaken in countryside areas. The development is therefore considered acceptable in terms of policy SP2 of the Fylde Local Plan.

Policy EP10 of the Fylde Local Plan states that the distinct character and important habitats of the Fylde will be protected. Policy EP11 requires that new development in rural areas should be sited in keeping with the distinctive landscape character types and that development must be of a high standard of design and that matters of scale, features and building materials should reflect the local vernacular style.

Policy EP15 states that development proposals which may affect a European wildlife site will be the subject of the most vigorous examination and that development proposals not directly connected with the management of the site and which would affect the integrity of the site will not be permitted unless it can be demonstrated that there is no satisfactory alternative or that there are imperative reasons of overriding public interest for the development. Policy EP16 provides a similar level of protection for SSSI's

Policy EP19 requires that proposals which would have an adverse impact upon protected wildlife species will not be permitted

Policy EP23 and EP24 requires that proposals that would have an adverse impact on surface or ground water resources will not be permitted and that where development is permitted, the resources will be protected through appropriate planning conditions.

Policies EP26 and EP27 relates to air and noise pollution and require that development that would give rise to unacceptable noise or air quality impacts will not be permitted.

#### General Amenity and Visual Impact Issues

The drilling compound and well has now been present on this site since 2010. The site compound is surrounded by fencing with a soil mound on its northern side which provides some screening of the site from Grange Road. The proposed development would involve the retention of the existing hardcore compound perimeter fencing and soil mound for a further three year period. The installation of the monitoring equipment including the perforation of the existing well casing would require various infrastructure, including a work over rig, temporary office and welfare facilities, a mud tank and service rig. Whilst some of this equipment, in particular the work over rig, would be of substantial scale, it would only be required for two weeks at the commencement of the development and for a further two weeks during the mid-point equipment check and during well abandonment and therefore the major visual impacts of the development would be of a short term temporary nature. The other visual impacts relate to the retention of the site compound for a further three year period. Whilst the overall compound is visible from certain viewpoints including from local footpaths and from some locations on Grange Road, the landscape of the area is generally flat which limits the visual impacts of the compound surface and surrounding fencing. The proposed development would not increase the difficulties of restoring the site adequately and provided that any permission is subject to the same restoration conditions as those attached to planning permission 5/10/0093, it is considered that the site can be adequately restored to its previous use as an agricultural field.

The applicant estimates that active operations on the site would be take place for 25 days over the total 3 year testing period (not including the restoration works). The 25 day timescale would consist of two periods each lasting approximately two weeks over which a rig and other infrastructure would be present on the site. These operations would be likely to generate some noise and traffic but such impacts would be considerably reduced compared to when the drilling of the original borehole took place. Given their relatively small scale, distance of the site from residential properties and short duration, it is considered that the noise levels from the testing



and monitoring activities would not be unacceptable. The active operations relating to the installation of testing and monitoring equipment would be undertaken during normal working hours and which can be the subject of a planning condition. Some noise would also result from the restoration operations but such impacts would occur in any event as a result of the implementation of the restoration requirements contained in the existing planning permission. Provided that conditions are also imposed regarding silencing of plant and the retention of the existing earth screening mounds, the development is considered acceptable in terms of noise and local amenity and complies with policy DM2 of the Lancashire Minerals and Waste Local Plan.

### Highways

The main traffic impacts of the development would occur during the mobilisation of the plant required to install and remove the monitoring equipment. These operations would generate a maximum of 20 HGV trips per day with 12 light vehicles associated with site personnel. Over the monitoring period there would be a requirement for personnel to visit the site on an occasional basis. The other main traffic impacts would relate to the restoration of the site including the removal of the aggregate surfacing materials for the compound and other equipment. However, these vehicle movements would have to take place in any event in order to comply with the restoration conditions of the existing planning permission.

The site is located only a short distance from the A585 and the road junction with Grange Road is of a relatively high standard with good visibility. This access was used when the site was first developed and therefore it is considered that the highway network could accommodate the levels of traffic now proposed without causing detriment to highway safety or capacity. Provided that conditions are imposed regarding wheel cleaning during the restoration operations, it is considered that the development is acceptable in terms of highway issues.

### Nature Conservation interests

In relation to nature conservation interests, the site is located in an area of agricultural land used for arable / grazing purposes. In addition there are a number of ponds in the area which may be of value for Great Crested Newts.

The site has already been constructed and the proposal does not involve the size of the compound being extended or require the removal of any further vegetation or landscape features. The development is of a temporary nature after which the site can be restored to its previous use as agricultural grazing / arable land. Great Crested Newt surveys were undertaken as part of the original planning application for this site and no such species were recorded at that time. Given that the proposed operations would all take place within the boundaries of the existing exploration compound which is contained, there would be no possibility of Great Crested Newts being affected even in the event that their distribution has changed since the original surveys were undertaken.

However, the site is located relatively close to the Wyre Estuary SPA and therefore due to this proximity, the area around the site may be of value as supporting habitat to the SPA particularly to the various over wintering bird species for which the SPA is designated. Some of these bird species use areas of the surrounding agricultural

land as grazing and foraging habitat and development which affects the ability of the birds to use this supporting habitat can therefore impact upon the special interest features of the SPA. The noise, general disturbance arising from the installation of testing and monitoring equipment together with the retention of site compound for a longer period would have the potential to affect such species by reason of disturbance or physical loss of grazing habitat.

Natural England initially raised objection to the application due to an absence of information to demonstrate the value of the site and surrounding areas to birds interests associated with the SPA. Without such information Natural England considered it would not possible to determine that the proposals would not have a likely significant effect on the interest features for which the SPA is designated. Natural England therefore requested the applicant to submit data showing the value of the site and surrounding areas to bird life prior to them developing the exploration site. Whilst the applicant has been able to source some data from organisations such as the Fylde Bird Club, the information is not comprehensive and does not demonstrate to the required degree of confidence that the site and surrounding areas are not of value to the protected bird species. The Habitats Regulations which apply to development affecting European Wildlife sites and their qualifying features requires that projects may only be authorised where authorities have made certain that there will be no adverse impact on the integrity of such sites and where no reasonable scientific doubt remains as to the absence of such effects.

The ecological issues on this site relate to the possible use of surrounding land by over wintering wildfowl associated with the SPA. These constraints can be overcome by timing of works likely to generate noise and disturbance such that they are undertaken at times of the year outside of the over wintering periods. Such controls could be imposed through conditions to any planning permission. However, the legal framework within the Environmental Impact Assessment Regulations and Habitats Directive requires that the assessment as to whether development would have a likely significant effect cannot have regard to whether it would simply be possible to impose conditions to remove the likelihood of such an effect; the mitigation measures must be part of the development itself so that there is some certainty as to the likely impacts of the development when assessed at the screening stage.

To address this legal requirement, the applicant has therefore provided further information in support of the application regarding the phasing of the proposed works to demonstrate how the activities can be managed to avoid the overwintering period. The applicant proposes to install the monitoring equipment in early spring following which there would be a 78 week monitoring period, then a 2 week mid-point equipment check followed by a further 56 week monitoring period followed by a further 11 weeks for well abandonment and site restoration. Such a timescale would allow the intrusive works including site restoration to be undertaken outside of the overwintering period. As there would still be some activity on the well site during the overwintering period (small numbers of personnel visiting the site to check equipment), the applicant is also proposing to erect fine mesh netting on the existing security fencing to obscure site activities together with a number of other good practice measures.

The proposal would involve the site compound being present for a further 3 year period which by itself could result in the ongoing loss of bird habitat. However, the site is located immediately adjacent to Grange Road and therefore has historically

been subject to disturbance through passing road traffic which will have restricted its use by birds associated with the SPA.

On the basis of the further information submitted by the applicant, Natural England consider that the project is unlikely to have a significant effect on the Morecambe Bay Special Protection Area and Ramsar site and therefore can be screened out from any requirement for further assessment. Therefore subject to conditions being imposed in relation to the mitigation measures being implemented, the development is considered acceptable in terms of ecology and complies with Policy DM2 of the LMWLP and policies EP15 and EP16 of the Fylde Borough Local Plan.

#### Pollution of surface and ground water resources

The site construction involved laying an impermeable membrane over the whole compound area to prevent any accidental spillage and rainwater from entering the underlying soils, groundwater and nearby water courses. The working platform is bound by an open ditch, for the purpose of pollution prevention control, on all sides except for the northern side where the majority is piped and covered to allow access on to the platform.

The well has been drilled to a particular design to avoid affecting any ground water resources through which it passed. To prevent surface water pollution, conditions are proposed for the provision for the collection, treatment and disposal of all water entering or arising on the site, that all foul drainage shall be discharged to either a public sewer or to a sealed watertight tank and that any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls. Subject to the imposition of such conditions, the development is considered to be acceptable in relation to pollution control matters and would accord with Paragraphs 109, 120 – 121 and 123 – 125 of the NPPF.

The pressure monitoring procedure would first involve re-circulating the existing fluid (sodium chloride brine) within the well to ensure that there is sufficient pressure within the well to prevent it from collapsing. If pressure within the well is required to be increased, then more fluids in the form of clean water or brine fluid would be added to the well. The suspension fluid is not required to undertake the pressure monitoring although the fluid would remain in the well throughout the monitoring period.

The process of pressure monitoring does not involve the use of fracking fluids and does not require the pressurising of the well to create fractures in the surrounding rock. There would therefore be no increased risk of gas migrating to and contaminating ground water.

The well is designed to prevent, on a permanent basis, the transfer of any gas from the underground rock formations via the well and so avoid fugitive gas emissions to the air and the contamination and pollution of ground and surface waters.

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 Environment Agency have requested that a condition be imposed relating to the details of the well abandonment schedule including groundwater monitoring to be undertaken in order to ensure there will be no discharge of pollutants into groundwater bearing strata during the well abandonment process. The details of the well abandonment process would normally be controlled by DECC and the HSE under their relevant regimes. However a condition can be imposed to address this issue in order to ensure that the abandonment of the borehole including any cementing and capping works do not give rise to a risk of pollution from any fluids that might be retained in the well.

### Seismic activity

A number of representations have commented upon the seismic (earthquake) impacts that arose from the shale gas exploration operations that were undertaken at the nearby Preese Hall site and are concerned that similar impacts would be created by the current proposals. However, the proposed pressure monitoring process would not create fractures in the surrounding rock in the same manner as those generated by full hydraulic fracturing operations. It is therefore very unlikely that the proposed testing would result in any form of earth movement that would result in ground vibrations other than those which may be experienced with the perforation of the well casing with a small charge and which would be minor.

### Representations

A number of representations have been received from individuals and groups objecting to the proposal and which are set out above.

The concerns about the proximity of the proposal to ecological designations are understandable as is the potential risks of pollution to such. However, it is considered that the development contains mitigation measures to minimise the impacts on ecology and particularly wintering wild fowl and which could be reinforced through conditions. An assessment of the impact on ecology has been carried out and which concludes the proposal would not have any adverse impact and which is acceptable to Natural England.

In relation to impacts on water resources, only water and brine will continue to be used in the well and which is acceptable. No fracking is proposed and there is no flaring, flow testing exploitation of shale gas, merely pressure testing to establish the presence and pressure of any gas. There would be no risk of unacceptable earth tremors given there would be no fracking. Minor amounts of vibration may be generated associated with the perforation of the well but it is highly unlikely that such vibration would be experienced at the surface. Health and safety procedures on the site are a matter for the HSE.

The site is close to an existing ethylene pipeline but the site would not encroach closer to the pipeline nor would the proposed activities have any greater impacts on the pipeline over those that have previously taken place at this site. It should be noted that the HSE have not raised objection to the application in relation to pipeline impacts.

With regards to Environmental Impact Assessment, the proposal would be for a further temporary period and would not generate significant environmental effects of a level to require EIA including when considered alongside other existing and proposed shale gas or other developments in the vicinity of the site.

### Conclusion

The proposed pressure monitoring and testing of the rock formations within the borehole at this site is part of a hydrocarbon exploration activity which is generally supported by Government policy. The development is for a temporary period of three years following which the site can be restored to its former agricultural use. The development would not have any significant unacceptable impacts in terms of seismic activity, traffic, noise, visual impacts or pollution. The development incorporates mitigation measures to ensure that there would be no impacts on ecological interests associated with the nearby European protected wildlife sites. On that basis the development is considered to comply with the policies of the NPPF and those 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. The development shall commence not later than 3 years from the date of this permission.

*Reason: Imposed pursuant to Section 91 (1)(a) of the Town and Country Planning Act 1990.*

2. The testing and monitoring operations authorised by this permission shall cease and the site be restored in accordance with condition 18 by not later than 3 years from the date of this permission.

*Reason: Imposed pursuant to schedule 5 of the Town and Country Planning Act 1990 and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and Policy SP2 of the Fylde Borough Local Plan.*

#### **Working Programme**

3. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents:
  - a) The Planning Application and supporting statement received by the County Planning Authority on 23rd May 2014 as amended by the letter from Arup Ltd dated 30th January 2015.

- b) Submitted Plans and documents:
- Figure 1
  - Figure 2
  - Figure 3
  - Drawing showing stratigraphy in Grange Road borehole
- c) All schemes and programmes approved in accordance with this permission.

*Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan and policies SP2, EP15, EP16, EP19, EP23, EP24, EP26 and EP27 of the Fylde Borough Local Plan.*

4. No works involving the installation, removal or maintenance of the pressure and seismic monitoring equipment or well abandonment and site restoration operations shall take place except between 31st March and 31st October in any year. Outside of those times, visits to the site shall be limited to those occurrences described in the letter from Arup Ltd dated 30th January 2015.

The mitigation measures for ecology described in the letter from Arup Ltd dated 30th January 2015 shall be employed at all times during works undertaken during the over wintering period.

*Reason : To ensure the protection of ecological interests and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and Policies EP15 and EP16 of the Fylde Borough Local Plan.*

5. No topsoils or subsoils shall be exported from the site. All such soils shall be retained for use in the restoration of the site and shall be stored in mounds retained in a fully grassed weed free condition throughout the duration of their storage.

*Reason: To ensure the proper removal and storage of soils to ensure satisfactory restoration and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.*

### **Hours of Working**

6. No delivery or removal of materials, plant or equipment, site development or well abandonment or 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, plant or equipment, site development or well abandonment or site restoration works shall take place at any time on Sundays or public holidays.

This condition shall not apply to operations requiring the installation of a work over rig including installation and removal of monitoring equipment and perforation of the casing or 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 - Part One.*

## **Highway Matters**

7. Heavy goods vehicle traffic to and from the site shall follow the route provided in accordance with the submitted Transport Assessment throughout the lifespan of the development.

Works and routing signage shall be provided in accordance with the submitted Transport Assessment throughout the lifespan of the development.

*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 - Part One.*

8. All vehicles associated with the development, operational or restoration phase of the development shall park in the site. No vehicles associated with the development shall park on Grange 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 - Part One.*

9. All vehicles shall enter or leave the site in a forward direction.

*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 - Part One.*

10. Measures shall be taken at all times during the site construction, operational and restoration phases of the development to ensure that no mud, dust or other deleterious material is tracked onto the public highway by vehicles leaving the site.

*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 - Part One.*

## **Control of Noise**

11. 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 Lancashire Minerals and Waste Local Plan and Policy EP27 of the Fylde Borough Local Plan.*

12. Noise from site operations between the hours of 23.00 – 07.00 shall not exceed a level of 42dB(A) Laeq free field when measured at the boundary of the following properties at a point closest to the noise source.

- a) Pointer House, Fleetwood Road
- b) Singleton Grange, Grange Road.

*Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and Policy EP27 of the Fylde Borough Local Plan.*

### **Floodlighting**

13. Flood lighting shall only be utilised at the site during the works necessary to install and remove the pressure and seismic monitoring equipment and those works associated with the perforation of the borehole. At such times the floodlighting of the site shall be managed so that it is the minimum necessary to illuminate the working area and shall be orientated to minimise light spill to locations outside of the site boundary.

*Reason: To minimise light pollution from site activities and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan.*

### **Safeguarding of Watercourses and Drainage**

14. 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 Lancashire Minerals and Waste Local Plan.*

15. 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 Lancashire Minerals and Waste Local Plan.*

16. 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 Lancashire Minerals and Waste Local Plan.*

17. 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 DM2 of the Joint Lancashire Minerals and Waste Local Plan*

## **Restoration**

18. Site restoration shall take place in accordance with the following:-
- a) All plant, buildings, hardstandings, aggregates/ hardcore, lining systems and fencing 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 access from Grange Road shall be removed and reinstated to an agricultural access including the reinstatement of any roadside hedge.

*Reason: To secure the proper restoration of the site and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.*

## **Aftercare**

19. 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 for a period of five years 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.
- c) Measures to relieve compaction or improve drainage.
- d) Management of any tree or hedge planting including replacement of failed plants, maintenance of protection measures and weed control.
- e) 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.

*Reason: To secure the proper restoration and aftercare of the site and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.*

## **Definitions**

Completion of Restoration: The date the County Planning Authority certifies in writing that the works of restoration in accordance with condition 18 have been completed satisfactorily.

## **Notes**

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.

## **Local Government (Access to Information) Act 1985**

### **List of Background Papers**

Paper	Date	Contact/Directorate/Ext
LCC/20140084		Jonathan Haine/Environment/54130
05/12/0003		
05/10/0091		

Reason for Inclusion in Part II, if appropriate – N/A

## Appendix 2

### **Minute of Item 5 to the Development Control Committee meeting of 25 February 2015**

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 Earths 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 wildfowl 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 downhole 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 road works 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:**

- iii) 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.
- iv) 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.



### Development Plan Policies

#### Support text and Policy SP2 of the Fylde Borough Local Plan:

#### Development in Countryside Areas

- 2.16 A fundamental element of the urban concentration strategy is the need to strictly control development in the open countryside. Policies of restraint in rural areas will, on the one hand, encourage development and investment in existing settlements and, on the other hand, will help to protect the intrinsic value and rural character of the countryside.
- 2.17 This approach is commensurate with the objective of sustainable development, the Government's policies of safeguarding the countryside for its own sake and protecting non-renewable and natural resources.
- 2.18 However, whilst acknowledging the duty placed on local planning authorities to protect the character of the countryside, certain forms of development are necessary to support rural life and maintain or enhance the rural economy. Policy [SP2](#) defines the categories of development which are acceptable in the open countryside in appropriate circumstances.
- 2.19 Most development allowed in the open countryside will be for agricultural, horticultural or forestry purposes where this is necessary for the efficient and effective running of the enterprise. The Council consults the Land Agency Manager of Lancashire County Council's Property Consultancy in respect of most agricultural development proposals to establish whether there is a genuine need for development. Applications for agricultural workers dwellings are considered in relation to Policy [SP10](#).
- 2.20 Some forms of tourism development can be appropriate within the rural areas. These include small-scale tourist accommodation, caravan sites and very exceptionally larger scale tourism development. The Council's policies in respect of these matters are included in [Chapter 6](#).
- 2.21 The re-use of substantial brick or stone buildings, which are structurally sound, may be an appropriate way of preserving an important local feature in the landscape or providing for a rural use which otherwise may have required a new building.
- 2.22 Where large developed sites already exist within open countryside, it is appropriate to allow their re-use or redevelopment for purposes that are appropriate in a countryside setting and which would not prejudice the rural character of the area. Policy [SP7](#) gives further guidance on this issue.
- 2.23 Minor extensions to existing dwellings and other non-residential buildings are also acceptable in principle, providing they do not prejudice the character of the countryside and are appropriately designed.

2.24 Whilst Policy SP2 below deals with the principle of development in Countryside Areas, the Council recognises the importance of obtaining high standards of design reflecting, where appropriate, local building styles and traditions and the character of the landscape. Policy [EP11](#) covers the issue of quality of development.

## **POLICY SP2**

*IN COUNTRYSIDE AREAS, DEVELOPMENT WILL NOT BE PERMITTED EXCEPT WHERE PROPOSALS PROPERLY FALL WITHIN ONE OF THE FOLLOWING CATEGORIES:-*

- 1. THAT ESSENTIALLY REQUIRED FOR THE PURPOSES OF AGRICULTURE, HORTICULTURE OR FORESTRY; OR OTHER USES APPROPRIATE TO A RURAL AREA, INCLUDING THOSE PROVIDED FOR IN OTHER POLICIES OF THE PLAN WHICH WOULD HELP TO DIVERSIFY THE RURAL ECONOMY AND WHICH ACCORD WITH POLICY [SP9](#);*
- 2. THE REHABILITATION AND RE-USE OF PERMANENT AND SUBSTANTIAL BUILDINGS WHICH ARE STRUCTURALLY SOUND, IN LINE WITH POLICIES [SP5](#) AND [SP6](#);*
- 3. THE RE-USE, REFURBISHMENT OR REDEVELOPMENT OF LARGE DEVELOPED SITES IN LINE WITH POLICY [SP7](#);*
- 4. MINOR EXTENSIONS TO EXISTING RESIDENTIAL AND OTHER BUILDINGS.*
- 5. DEVELOPMENT ESSENTIALLY NEEDED FOR THE CONTINUATION OF AN EXISTING ENTERPRISE, FACILITY OR OPERATION, OF A TYPE AND SCALE WHICH WOULD NOT HARM THE CHARACTER OF THE SURROUNDING COUNTRYSIDE.*

## **Policy CS5 of the Lancashire Minerals and Waste Development Framework**

*Alternatives to the bulk transportation of minerals by road will be encouraged. Existing or potential transport, storage, handling or reprocessing facilities will be safeguarded where they offer the potential for the use of rail, water or other means to transport minerals.*

*Criteria will be developed for the site identification process, and also for considering other proposals brought forward outside the plan-making process, to ensure that:*

- i) our natural resources including water, air, soil and biodiversity are protected from harm and opportunities are taken to enhance them;*
- ii) features and landscapes of historic and cultural importance and their settings are protected from harm and opportunities are taken to enhance them;*
- iii) workings will not adversely contribute to fluvial flood risks or surface water flooding;*
- iv) proposals for mineral workings incorporate measures to conserve, enhance and protect the character of Lancashire's landscapes;*
- v) the amenity, health, economic well-being and safety of the population are protected by the introduction of high operating standards, sensitive working practices and environmental management systems that minimise harm and*

*nuisance to the environment and local communities throughout the life of the development;*

- vi) essential infrastructure and services to the public will be protected;*
- vii) sensitive environmental restoration and aftercare of sites takes place, appropriate to the landscape character of the locality and the delivery of national and local biodiversity action plans. Where appropriate, this will include improvements to public access to the former workings to realise their amenity value.*

*Concurrent mineral working will be encouraged where it will maximise the recovery of the materials worked, including secondary materials. Waste materials will be used positively wherever appropriate and will not constitute a nuisance before a suitable use can be found.*

### **Policy DM2 of the Lancashire Minerals and Waste Local Plan Site Allocation and Development Management Policies – Part One:**

*Development for minerals or waste management operations will be supported where it can be demonstrated to the satisfaction of the mineral and waste planning authority, by the provision of appropriate information, that all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels. In assessing proposals account will be taken of the proposal's setting, baseline environmental conditions and neighbouring land uses, together with the extent to which its impacts can be controlled in accordance with current best practice and recognised standards.*

*In accordance with Policy CS5 and CS9 of the Core Strategy developments will be supported for minerals or waste developments where it can be demonstrated to the satisfaction of the mineral and waste planning authority, by the provision of appropriate information, that the proposals will, where appropriate, make a positive contribution to the:*

- *Local and wider economy*
- *Historic environment*
- *Biodiversity, geodiversity and landscape character*
- *Residential amenity of those living nearby*
- *Reduction of carbon emissions*
- *Reduction in the length and number of journeys made*

*This will be achieved through for example:*

- *The quality of design, layout, form, scale and appearance of buildings*
- *The control of emissions from the proposal including dust, noise, light and water.*
- *Restoration within agreed time limits, to a beneficial afteruse and the management of landscaping and tree planting.*
- *The control of the numbers, frequency, timing and routing of transport related to the Development*