

Development Control Committee
Meeting to be held on 25th October 2017

Electoral Division affected:
West Lancashire North

West Lancashire Borough: application number. LCC/2017/0064
Variation of condition 1 of planning permission LCC/2017/0016 to allow works to plug and abandon the borehole and to restore the site in accordance with condition 17 of permission LCC/2017/0016 to be undertaken between 1st April 2018 and 31st October 2018.

Becconsall Exploration Site, off Bonny Barn Road, Hundred End, Banks

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Executive Summary

Application - Variation of condition 1 of planning permission LCC/2017/0016 to allow works to plug and abandon the borehole and to restore the site in accordance with condition 17 of permission LCC/2017/0016 to be undertaken between 1st April 2018 and 31st October 2018.

Recommendation – Summary

That subject to the signing of a legal agreement under section 106 of the Town and Country Planning Act 1990 relating to ecological mitigation, planning permission be **granted** subject to conditions controlling time limits, working programme, highways matters, noise, ecology, hours of operation, restoration and aftercare.

Applicant's Proposal

Planning permission is sought to vary condition 1 of planning permission LCC/2017/0016 which relates to an existing hydrocarbon exploration well site located at Becconsall, West Lancashire.

Condition 1 of that permission requires the site to be restored by not later than 31st August 2017. The applicant has not been able to comply with the requirements of that condition and is therefore applying to vary the condition so that restoration works have to be completed by not later than 31st October 2018.

Description and Location of Site

The application relates to an existing hydrocarbon exploration well site located within an area of flat agricultural land approximately 1.5 km northwest of the Banks and

3km west of Beconsall. The site is located approximately 700 metres north of Marsh Road from which access to the site is gained via an agricultural track known as Bonny Barn Road.

The site covers an area of 1ha and consists of a hardcore drilling platform surrounded by fencing with soil storage mounds on two sides and the well head in the centre of the platform.

The nearest residential properties are located at Marsh Nurseries 200 metres to the west and at Marshfield Farm 400 metres to the north. Other properties are located off Marsh Road over 800 metres to the south east. A public right of way is located approximately 290 metres to the east of the drilling platform.

The site is located within the Marsh Farm Fields /North Meols Biological Heritage Site. The Ribble Estuary SSSI and Morecambe Bay SPA are located approximately 650 metres to the north beyond the embankment / flood defence that forms the edge of the agricultural land.

The site is also located within the Green Belt.

Background

History: Planning permission was originally granted on this site for an exploration well for hydrocarbons in 2010 (permission 8/10/973). In 2015 a further permission ref LCC/2014/0047 was granted for the retention of the well site for a further period of three years to allow for the pressure monitoring of the Bowland shale reservoir followed by plugging and abandonment and restoration of the site.

Planning permission ref LCC/2017/0017 was granted on 1st March 2017 for the variation of planning permission LCC/2014/0047 to allow the restoration of the site to be completed by not later than 31st August 2017.

Planning Policy

National Planning Policy Framework

Paragraphs 6 -14, 17, 90, 144 - 147 and 206 of the NPPF are relevant with regards to the definition of sustainable development, core planning principles, green belts, the control of mineral workings and the use of planning conditions.

Joint Lancashire Minerals and Waste Local Plan (JLMWLP)

Policy DM2 Development Management

West Lancashire Borough Local Plan

Policy SP1 A sustainable development framework for West Lancashire.

Policy GN3 Criteria for Sustainable Development

Policy EN2 Preserving and Enhancing West Lancashire's Natural environment.

Consultations

West Lancashire Borough Council: No objection. However the Borough Council are concerned at the delay in the restoration of this site and wish the County Council to ensure that the restoration works are undertaken as soon as the wintering bird season is over before any birds nest on the site.

Sefton Metropolitan Borough Council: No objection.

Environment Agency: No objection.

LCC Specialist Advisor (Ecology): If the site is to be retained for a further winter period, it will be necessary to provide mitigation for over wintering birds for a further winter period. The applicant should also take steps to deter birds from breeding on the site to avoid further delays to restoration.

LCC Highways Development Control; No observations received.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Three representations have been received which can be summarised as follows:-

Friends of the Earth object to the application as they note that this is the third time that an application has been made to extend the time periods for the restoration of the site. They are concerned that the site was originally permitted for an eighteen month period and it is now over six years since development commenced at the site. This delay will result in detriment to the green belt, grade 1 agricultural land, a flood zone, BHS and the Ribble Estuary SPA / Ramsar site. The County Council should therefore be taking enforcement action against the operator for failure to restore the site. The proposed time extension is excessive given that the works to restore the site can be completed in 12 – 14 weeks. In addition FoE consider that no evidence has been produced that ecological interests prevented the site being restored in 2017 and that the applicant has not submitted any information to address impacts on over wintering birds resulting from the site being retained over a further winter period. FoE are also concerned that the applicant has not submitted any details of how they would prevent birds from nesting on the site again in 2018. Consultation should also take place with Natural England relating to impacts on the Ribble Estuary SSSI, SPA and Ramsar site.

Two further representations have been received including one from Ribble Estuary Against Fracking objecting to the application on the basis of impact on residential amenity and nature conservation. In addition it is contended that the restoration of the site has been delayed for too long and that it could have been completed under the terms of the existing permission and that there is no need to further extend the restoration dates.

Advice

Planning permission was originally granted on this site in 2010 for the drilling of an exploration well to assess hydrocarbon potential in the Bowland Shale and other Carboniferous formations. Condition 1 of that permission required the site to be restored within a period of 18 months from the commencement of development. The borehole was drilled in 2011.

A further planning permission ref LCC/2014/0047 was granted in 2015 to allow the well site to be retained for a further period of three years to allow pressure monitoring of the well followed by plugging and abandonment of the borehole and restoration to return the land to agricultural use.

No pressure testing or other evaluation of the well was undertaken. Whilst there is no condition within the permission that stipulates a restoration timescale in the event that no testing is undertaken, the title of the permission allows for the site to be retained for a three year period and therefore, in the current circumstances of the site, it is considered that the restoration end date under this permission is 1st May 2018.

In January 2017, the applicant applied through application LCC/2017/0016 to vary the noise limits contained within condition 14 of planning permission LCC/2014/0047. These noise limits relate to the works to plug and abandon the borehole and restore the site. Approval of an application to vary conditions of an existing permission results in the granting of a completely new permission and therefore provides an opportunity for the local planning authority to review any other conditions that pertain to the original permission. In this case, the applicant proposed to complete restoration of the site by not later than 31st October 2017 but in response to representations that were made at the meeting of the Development Control Committee on 1st March 2017, the timescale for the restoration of the site was reduced to 31st August 2017. This date was incorporated within condition 1 of permission LCC2017/0016. Condition 3 of the permission also required that no site restoration should be undertaken between 1st March and 31st July unless the site had been previously checked and found to be clear of nesting birds.

In compliance with condition 3, the applicant carried out a survey for nesting birds on 16th June 2017 in preparation for commencing the plugging and abandonment and restoration works. The survey was undertaken by a qualified ecologist employed by an established environmental consultancy and identified a ground nesting bird (Little ringed plover) to be nesting approximately 12 metres from the well head. Therefore it was not possible to undertake the plugging and abandonment works without disturbing or destroying the nest contrary to the Wildlife and Countryside Act 1981. A further application has therefore been made to extend the time periods for restoration of the site – the applicant is now proposing that the site would be restored at the latest by 31st October 2018.

It is regrettable that this site was not restored during 2017. However, due to nesting birds being identified within the site, to continue with the restoration works would have been in breach of condition 3 of the permission and would also have contravened other wildlife legislation. For this species of bird, the eggs typically take 25 days to hatch and a further 27 days before the young fledge. The works to plug and abandon the borehole and to restore the site would take a total of around 14 –

16 weeks. Therefore these works could not be completed before the end date of 31st August 2017 and would have over run into the autumn when ground conditions are less suitable to undertake restoration works and when the works would have had potential impacts on the bird interests of the SPA. It is therefore considered that the applicant had little alternative but to request a further extension of the restoration timescales to allow restoration works to be carried out at an appropriate time of the year.

Whilst the site is within the Green Belt, it is distant from the public highway, other public vantage points and large numbers of residential properties. The site is presently comprised of a hardcore hardstanding with a soil mound on its northern side and surrounded by security fencing and is therefore not particularly prominent in the landscape. The site does not give rise to any noise or other pollution impacts. Although it is unfortunate that the site was not restored in 2017, the harm to visual and local amenity arising from the retention of the site for a further period is not considered to be unacceptable. No further testing or stimulation of the well is proposed and an extension of time will not prejudice the ability to restore the site to best and most versatile agricultural land.

Nevertheless, it is acknowledged that the site must be restored as soon as practicably possible. The applicant has been asked to provide details of the measures that could be employed to prevent birds from nesting on the site and has explained a range of measures that could be installed to effect such. If planning permission is granted, it is considered that it should be subject to a condition requiring a scheme to be submitted providing details of such measures and requiring their implementation as from March 2018. These measures would minimise the likelihood of any further delay to site restoration.

The site is located close to the Ribble Estuary Special Protection Area, designated for its value for wading and overwintering birds. The site is also within a Biological Heritage Site which is designated for its value as foraging habitat for various species of birds for which the SPA is designated. The retention of the site for a further winter period would involve a loss of foraging habitat which will need to be mitigated to avoid impacting upon the bird interests for which the SPA is designated. This issue has been considered during the determination of previous applications on this site and has been addressed through a legal agreement requiring supplementary feeding and other land management measures to offset the loss of habitat due to the retention of the site. Subject to the submission of a satisfactory unilateral undertaking requiring the employment of such measures during winter 2017/18, it is considered that the ecological impacts can be satisfactorily addressed and that the application is acceptable in terms of Policy EN2 of the West Lancashire Local Plan.

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

Recommendation

That subject to the signing of a legal agreement under section 106 of the Town and Country Planning Act 1990 relating to ecological mitigation, planning permission be **granted** subject to the following planning conditions:-

Time Limits

1. The works to plug and abandon the borehole and to restore the site in accordance with the requirements of condition 19 below shall be completed by 31st October 2018.

Reason: To ensure the plugging and abandonment of the borehole and restoration of the site within a reasonable timescale in the interests of the visual amenities of the area and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan and Policies GN3 and EN2 of the West Lancashire Local Plan 2012-2027

Working Programme

2. 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 ref LCC/2014/0047 received by the County Planning Authority on 27 March 2014 as amended by the planning application forms received on the 17 April 2014, planning application ref LCC/2017/0064 received on 3rd August 2017 and non material amendment application ref LCC/2014/0047/NM received on 30th January 2017.
 - b) Submitted Plans received by the County Planning Authority on 27 March 2014:

Drawing No. Figure 1 - Planning Application Boundary
Drawing No. Figure 2 - Planning Application Boundary
Workover rig drawing received with non material amendment application ref LCC/2014/0047/NM
 - c) All schemes and programmes approved in accordance with this permission.

Reason: For the avoidance of doubt and to enable the County Planning Authority to control the development and to minimise its impact on the amenities of the local area and to conform with Policies NPPF 1 and DM2 of the Joint Lancashire Minerals and Waste Local Plan and Policies SP1, GN1, GN3, EC2 and EN2 of the West Lancashire Local Plan.

Ecology

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

Reason: To provide mitigation to nesting birds and to conform with Policy EN2 of the West Lancashire Local Plan.

4. Within three months of the date of this planning permission, a scheme of bird deterrent measures to be employed on the site shall be submitted to the County Planning Authority for approval in writing. The approved measures shall be employed from 1st March 2018 until such time as the plugging and abandonment works commence on the site.

Reason ; In order to minimise the opportunities for birds to nest on the site and to minimise further delays to the restoration of the site and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

Soils and Overburden

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.

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 and Policies GN1, GN3, EC2 and EN2 of the West Lancashire Local Plan.

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

Reason: To ensure the effective restoration of the site in the interests of the visual amenity of the area and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local and Policies GN1, GN3, EC2 and EN2 of the West Lancashire Local Plan.

Hours of Working

7. No works associated with the plugging and abandonment of the borehole shall take place except between the hours of:

07.00 to 19.00 hours Mondays to Fridays (except public holidays)
07.00 to 13.00 hours on Saturdays (except Public Holidays)

Restoration works shall not take place except between the hours of:

07.30 to 18.30 Mondays to Fridays (except public holidays)
07.30 to 13.00 Saturdays

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

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

Reason: In the interests of the amenities of the area and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Highway Matters

8. Heavy goods vehicles to and from the site shall follow the route provided in accordance with the Transport Assessment submitted with application LCC/2014/0047 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.

9. Measures shall be taken at all times during the plugging and abandonment works 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.

10. 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.

11. All vehicles associated with the plugging and abandonment work or restoration phase of the development shall park in the site. No vehicles associated with the development shall park on Bonny Barn Lane or Marsh 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.

Control of Noise

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

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the

Joint Lancashire Minerals and Waste Local and Policies GN3 and EN2 of the West Lancashire Local Plan.

13. Noise emitted from the site shall not exceed 50 dB LAeq (1 hour) (free field), as defined in this permission, when measured at any noise sensitive property.

Reason: To safeguard the amenity of local residents and to prevent disturbance to birds and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan and Policies GN3 and EN2 of the West Lancashire 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 throughout the lifespan of the development.

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 and Policies GN3, EC2 and EN2 of the West Lancashire 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 Joint Lancashire Minerals and Waste Local Plan and Policies GN3, EC2 and EN2 of the West Lancashire 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 Joint Lancashire Minerals and Waste Local Plan and Policies GN3, EC2 and EN2 of the West Lancashire Local Plan.

17. Buffer zones with a width of not less than 5 metres shall be maintained between the perimeter mounds or edge of the drilling compound and the ditches on the boundaries of the site within which there shall be no vehicle movements, storage of materials, excavation, or other construction activity.

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 and Policies GN3, EC2 and EN2 of the West Lancashire Local Plan.

18. Prior to the commencement of the works to plug and abandon the well and the ground water monitoring boreholes, full details of the proposed abandonment schedule including any ground water monitoring shall be submitted to and approved in writing by the County Planning Authority. The approved scheme shall be implemented at all times during the plugging and abandonment of the well.

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 and Policies GN3, EC2 and EN2 of the West Lancashire Local Plan.

Restoration

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

- a) All plant, buildings, hardstandings, aggregates/ hardcore and lining systems shall be removed from the land.
- b) All perimeter fencing and gates shall be removed.
- c) 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.
- d) 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.
- e) Measures to relieve compaction or improve drainage.

Reason: To secure the proper restoration of the site and to conform with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan - Site Allocation and Development Management Policies - Part One and Policies GN1, GN3, EC2 and EN2 of the West Lancashire Local Plan.

Aftercare

20. 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) 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 and Policies GN1, GN3, EC2 and EN2 of the West Lancashire Local Plan.

Definitions

Completion of Restoration: The date the County Planning Authority certifies in writing that the works of restoration in accordance with condition 19 have been completed satisfactorily.

Notes

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 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.

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

Paper	Date	Contact/Directorate/Ext
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LCC/2017/0064		
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Jonathan Haine Planning and Environment 534130		
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Reason for Inclusion in Part II, if appropriate N/A		
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