

APPLICATION NO	PA/2017/268
APPLICANT	Mr Mark Abbott, Egdon Resources UK Ltd
DEVELOPMENT	Application for variation of condition 24 of MIN/2013/0281 to allow the retention of the well site for a further twelve months
LOCATION	Lodge Farm, Clapp Gate, Appleby, DN15 0DB
PARISH	Broughton
WARD	Broughton and Appleby
CASE OFFICER	Andrew Law
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Cllr Ivan Glover – significant public interest)

POLICIES

National Planning Policy Framework: Paragraph 14 explains that a presumption in favour of sustainable development should be seen as a 'golden thread' running through decision-taking. It makes clear, in circumstances where there is no extant adopted plan or relevant plan containing no applicable policies, that planning permission should be granted unless adverse impacts of the development would significantly and demonstrably outweigh the benefits or where there are policies within the NPPF which indicate such development should be restricted.

Paragraph 17 identifies the core land use planning principles that should underpin decision-taking.

Paragraph 18 states that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meet the twin challenges of global competition and of a low carbon future.

Paragraph 19 states that the Government is committed to ensuring the planning system does everything it can to support sustainable economic growth and significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 20 states that local authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

Paragraph 28 advocates supporting economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

Paragraph 93 explains that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and infrastructure.

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment.

Paragraph 118 encourages local planning authorities to consider opportunities to incorporate biodiversity in and around developments.

Paragraph 120 states that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

Paragraph 121 requires that planning decisions also ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented. It is clear that land, once remediated, should not thereafter be capable of being determined as contaminated land.

Paragraph 122 expressly makes it clear that local planning authorities should focus on whether the development itself is an acceptable use of land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Authorities must “assume that these regimes will operate effectively”. It follows that where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraph 142 states minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite resource, and can only be worked where they are found, it is important to make the best use of them to secure their long term conservation.

Paragraph 144 relates specifically to decision-taking with regard to mineral applications and requires local planning authorities to:

- give great weight to the benefits of the mineral extraction, including to the economy;
- ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;
- ensure that any unavoidable noise, dust and particle emissions...are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties”; and
- provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.

Paragraph 147 states that minerals planning authorities should also:

- when planning for on-shore oil and gas development, including unconventional hydrocarbons, clearly distinguish between the three phases of development (exploration, appraisal and production) and address constraints on production and processing within areas that are licensed for oil and gas exploration or production;
- encourage underground gas and carbon storage and associated infrastructure if local geological circumstances indicate its feasibility; indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable;
- encourage capture and use of methane from coal mines in active and abandoned coalfield areas; and
- provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use.

Paragraph 186 states that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development.

Paragraph 187 states that authorities should look for solutions rather than problems, and...should seek to approve applications for sustainable development where possible and should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Paragraph 196 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It also establishes that the NPPF is a material consideration in planning decisions.

North Lincolnshire Local Plan:

Policy M1 (Applications for Mineral Workings)

Policy M3 (Residential Amenity and Protection Zones)

Policy M5 (Best and Most Versatile Agricultural Land)

Policy M21 (Oil and Gas Exploration Boreholes)

Policy M22 (Oil and Gas Appraisal Boreholes)

Policy RD2 (Development in the Open Countryside)

Policy DS1 (General Requirements)

Policy DS3 (Planning out Crime)

Policy LC7 (Landscape Protection)

North Lincolnshire Core Strategy:

Policy CS1 (Spatial Strategy for North Lincolnshire)

Policy CS2 (Delivering More Sustainable Development)

Policy CS3 (Development Limits)

Policy CS11 (Provision and Distribution of Employment Land)

Policy CS17 (Biodiversity)

Policy CS18 (Sustainable Resource Use and Climate Change)

Policy CS21 (Minerals)

National Planning Practice Guidance:

Minerals

Natural Environment

CONSULTATIONS

Highways: No objection.

Public Rights of Way: No objection.

Ecology: No objection provided that condition 23 of the existing consent still applies.

Archaeology: No objection.

Environmental Health: No objection.

Natural England: No objection.

TOWN COUNCIL

Broughton Town Council has no objections or comments to make.

PUBLICITY

Neighbouring properties have been notified by letter and site and press notices have been posted. Letters of objection have been received on the following material grounds:

- considering the rejection of the application (MIN/2016/810) for fracking at Wressle, there should be no reason for Egdon to retain their permission to process at this site
- the decision should be deferred until the appeal has been determined
- how can a temporary planning consent be extended past its expiry date? Surely this makes planning conditions redundant?
- the applicants have already had three years to undertake a 49-week 'exploratory' development
- this application is intrinsic to Egdon Resources' previous application at Wressle 1 well and should be refused on the same grounds

- prolonging of temporary impacts
- ground water monitoring compatibility with site restoration
- policy M21 of the local plan requires restoration to be carried out at the earliest opportunity
- the condition should not be open to variation based on the applicants' assumption that they will gain future planning consent at the same site
- groundwater monitoring could be undertaken after restoration and would give a more realistic baseline (less chance of surface water run-off etc.).

Many objections have been received in relation to proposals for the long-term production of oil and gas from the wellsite. These objections are listed below but are not relevant to this planning application and regard cannot be had to them in its determination:

- contamination of the aquifer and Ella Beck
- the risk of water contamination is very great and would be disastrous for employment in the area (i.e. British Steel)
- no amount of monitoring will offer protection to the steel plant since any problems discovered will already have happened and the water supply to the works will have been rendered unusable
- lack of compensation as this is not classed as 'fracking'
- traffic generation and safety of the site access
- this sort of development should not be allowed in this country
- concerns relating to global warming and the production of greenhouse gases
- developments of this type detract from the UK's ability to meet national and international targets for carbon reduction, while also failing to provide long-term energy security
- Lincolnshire is an earthquake prone zone
- health and environmental impacts of fracking
- unsustainable way of providing our energy needs.

ASSESSMENT

Site

The application site is a piece of land which forms part of a flat rectilinear field located approximately 1.6 kilometres to the north of Wressle and 1.7 kilometres north-east of Broughton. The site is outside of any defined development boundary and as such is located with the open countryside.

The site currently comprises an existing temporary, exploratory well site which was granted planning permission by North Lincolnshire Council on 18 June 2013 (MIN/2013/0281). The wellsite pad and earth bund is contained by a 2 metre high fence. Following drilling of the well in 2014, and subsequent flow testing operations during 2015, there is currently only a limited amount of equipment and facilities on site. The development on site at present comprises:

- a production tree (a system of valves to manage hydrocarbon flow and well entry) over the wellhead;
- four storage tanks situated within a temporary bund;
- a site office/cabin; and
- three storage containers.

The site is partially screened along its northern and western boundaries by existing earth bunds.

The surrounding landscape is characterised by a mix of flat agricultural land and areas of woodland. There are blocks of woodland located to the south, east and west of the application site. With regard to existing structures within the surrounding landscape, there are agricultural buildings to the north of the site and a sub-station to the north-east. Additionally, a network of pylons and electricity lines cross the agricultural fields to the north and east of the site.

The nearest residential property to the application site is North Cottage, located approximately 530 metres to the east. This dwelling forms part of a small residential development at Lodge Farm, to the west, which is centred around the original farmhouse. Decoy Cottage, located to the south, is approximately 580 metres away from the site.

Access to the site is currently obtained via an existing agricultural track. This track passes in a westerly direction from the B1208, through Lodge Farm courtyard and runs partly parallel to Ella Beck before crossing over an existing bridge into the existing arable field (in which the site lies). There are no public footpaths within the immediate vicinity of the site, with the nearest footpath 215 lying approximately 0.8 kilometres away.

Broughton Far Wood SSSI, lies to the north-west, approximately 700 metres away. Broughton Alder Wood, another SSSI, is located approximately 1.3 kilometres to the west of the application site. The nearest non-statutory site is Rowland Plantation, a Local Wildlife Site which is approximately 270 metres to the north of the application site.

The application site is not designated as an area of national or local archaeological importance. The closest designated heritage asset is a Scheduled Ancient Monument and Protected Wreck Site located approximately 1.5 kilometres to the north, known as Thornholme Augustinian Priory. The nearest listed building to the site is Broughton Grange Farmhouse, which is grade II listed and is located approximately 600 metres to the south. Approximately 10 metres to the east of Broughton Grange Farmhouse is the coach house and stables which are also grade II listed.

The site is not designated as being of special landscape importance and is located within flood zone 1 (low risk) of the Environment Agency's flood maps.

Proposal

North Lincolnshire Council granted temporary planning permission at Lodge Farm, Clapp Gate, Appleby on 18 June 2013 for “*the construction of a temporary wellsite for drilling of an exploratory borehole with associated structures and works*”. Condition 24 of that permission states that the site shall be restored to its former condition within three years of development commencing; this requires all buildings, structures and works to be removed, the use discontinued and the land restored to its former condition by 28 April 2017, unless otherwise agreed in writing by the local planning authority.

This application seeks planning permission to vary condition 24 to allow for the retention of the wellsite for an additional 12 months (28 April 2018).

Reason for the application

Following drilling of the exploratory borehole in 2014 and testing in 2015 the applicants have established that there are commercially viable reserves of hydrocarbons within the Ashover Grit, Wingfield Flags and the Penistone 3 and 3A formations. Egdon submitted a planning application in May 2016 to develop the Wressle-1 wellsite to enable long-term production of hydrocarbons from the site (MIN/2016/810), making use of the existing wellsite that is the subject of the current application. This application was refused on 11 January 2017. Following the refusal of planning permission the applicants have submitted a new planning application to North Lincolnshire Council for the long-term production of hydrocarbons at the site, addressing the previous reason for refusal (PA/2017/696); at the same time they have made an appeal against the refusal of planning permission (APP/Y2003/W/17/3173530).

Planning permission was granted on 11 January 2017 to install four groundwater monitoring boreholes at the site (PA/2016/808). This consent allows the applicants to undertake necessary groundwater monitoring to enable baseline and ongoing monitoring of groundwater quality.

The additional 12 months requested will enable the applicants to retain the borehole installations on site and undertake groundwater monitoring whilst the new planning permission and appeal are determined. Should either the new planning application, or the appeal, be successful then the borehole will be used for long-term production of hydrocarbons; if both are unsuccessful then the site can be restored on or before 28 April 2018. The proposed variation of condition does not entail any changes to the restoration scheme as approved under MIN/2013/0281; it will just delay the implementation of the restoration scheme by 12 months.

If approved, the variation of condition will not result in additional exploration or testing taking place on site; this work has already been carried out.

The main issue to consider in the determination of this planning application is whether the retention of the wellsite on site for an additional 12 months would have an unacceptable impact on the local area.

Principle

The principle of an exploratory wellsite has already been established by the existing consent (MIN/2013/0281).

Impact

The reason for the imposition of condition 21 of MIN/2013/0281 as stated on the decision notice was:

“To define the terms of the planning permission and ensure that the site is returned to its former condition”.

The proposed variation of condition 24 does not seek to retain the wellsite in perpetuity, but to extend the deadline for restoration for 12 months. The reason for this proposed extension is outlined above. Should the variation be approved the condition would still secure the restoration of the site to its former condition and would still define a specific and reasonable time frame for this restoration to take place.

As previously stated, only a limited amount of facilities and infrastructure remains on the site following drilling of the exploratory borehole and subsequent testing. The remaining facilities and infrastructure are not highly intrusive and do not have a significantly detrimental impact on the character and appearance of the area. Furthermore, no adverse comments have been received from the council’s ecologist or Historic Environment Record with regard to the impact of the existing development on ecology and cultural heritage in the area. For these reasons it is considered that the retention of the wellsite for an additional 12 months would have no unacceptable impact on the area with regard to landscape, ecology or cultural heritage.

As the proposed variation of condition would result in no additional development taking place on site there would be no further impact on residential amenity or highway safety.

It is acknowledged that policy M21 of the North Lincolnshire Local Plan requires that *“adequate proposals are made for the restoration of the site at the end of the exploratory phase”*; however the proposed variation of condition will not alter the restoration scheme agreed under MIN/2013/0281 and will still secure restoration of the site within a reasonable timeframe following its development for mineral exploration. On this basis it is considered that the proposal accords with policy M21 of the local plan.

Conclusion

It is considered that the retention of the exploratory wellsite for an additional 12 months will not have an unacceptable impact on the area and that the condition will still achieve its stated aim of defining the terms of the planning permission and ensuring that the site is returned to its former condition within a reasonable timeframe. Therefore the proposal is considered to be acceptable and it is recommended that the application should be supported.

RECOMMENDATION **Grant permission subject to the following conditions:**

1.

The development hereby permitted shall be carried out in accordance with the following approved plans: 3334 P 01, 3334 P 02, 3334 P 03, 3334 P 04, 3334 P 05, 3334 P 06, 3334 P 07, 3334 P 08, 3334 P 09, 3334 P 10, 3334 P 11 and 3334 P 12.

Reason

For the avoidance of doubt and in the interests of proper planning.

2.

Assembly and demobilisation of drilling rig equipment at the approved exploratory well site shall only take place during the hours of 07:00 hrs and 19:00 hrs Monday to Saturday.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

3.

Site preparation, earthworks, site construction and HGV deliveries shall only take place during the hours of 7:00 hrs and 17:30 hr Monday to Friday and Saturday 7:00 hrs to 13:00 hrs with no workings Sundays or Bank Holidays.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

4.

Exploratory drilling operations shall not exceed a total operational period of 8 weeks without prior written approval of the local planning authority. Records shall be retained on site, which provide contemporaneous evidence of the total operational drilling time spent on site.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

5.

There shall be no more than two shift change overs in any one 24 hour period during exploratory drilling operations except in the event of emergencies where there is an immediate and real risk to health, life property or the environment.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

6.

Production testing shall not exceed a period of 30 weeks without prior written approval of the local planning authority.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

7.

Noise from the approved exploratory well site shall not exceed 42dB LAeq5min when measured at any noise sensitive dwelling between 19:00 hrs to 7:00 hrs Monday to Sunday inclusive.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

8.

Noise from the approved exploratory well shall not exceed 60dB LAmax when measured at any noise sensitive dwelling between 19:00 hrs to 7:00 hrs Monday to Sunday inclusive.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

9.

Noise from the approved exploratory well site shall not exceed 55 LAeq, 1 h when measured at any noise sensitive dwelling between 7:00 hrs and 19:00 hrs Monday to Sunday inclusive.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

10.

Noise from the approved exploratory well site shall not exceed 70dB LAmax when measured at any noise sensitive dwelling between 7:00 hrs and 19:00 hrs Monday to Sunday inclusive.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

11.

The lighting layout for the scheme shall be as set out in drawing number 3334P 06 dated February 2013 and shall be implemented in order to ensure that there shall be no direct light source visible to residents of adjacent properties. There shall be no deviation from the approved scheme without prior written approval from the local planning authority.

Reason

To protect the amenities of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

12.

The site shall be constructed as a bunded, sealed site with sufficient containment capacity to prevent pollutants from discharging to land.

Reason

To prevent pollution of the local area in accordance with policy DS1 of the North Lincolnshire Local Plan.

13.

The development shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated January 2013. Specifically, the surface water runoff generated by the 100 year critical storm shall be limited to 5l/s so that the risk of flooding off site is not increased. Sufficient attenuation must be supplied in the ring ditch to prevent any negative impact on the site for the aforementioned storm event.

Reason

To prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site.

14.

The Biodiversity Management Plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority.

Reason

To protect features of recognised nature conservation importance in accordance with policies CS5 and CS17 of the Core Strategy.

15.

The buildings, structures and works hereby permitted shall be removed and the use hereby permitted shall be discontinued and the land restored to its former condition within 4 years of the development commencing, unless otherwise agreed in writing by the local planning authority.

Reason

To define the terms of the planning permission and ensure that the site is returned to its former condition.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

