

BY EMAIL

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10th August 2017

Dear Mr Ashworth,

Application Ref: CM4/0517/10 – Land adjacent to Bramley Moor Lane, near Marsh Lane. Construction of a well site and creation of a new access track, mobilisation of drilling, ancillary equipment and contractor welfare facilities to drill a vertical hydrocarbon exploratory core well and mobilisation of workover rig, listening well operations, and retention of the site and wellhead assembly gear for a temporary period of 5 years on land adjacent to Bramley Moor Lane, near Marsh Lane.

We write to **object** the above application currently being considered by the minerals planning authority on the following matters:

- Matter 1: Potential for ‘disturbance’ to protected species (including bats)**
- Matter 2: Landscape and Visual Impact (including visibility from the setting of heritage assets)**
- Matter 3: Inconsistency with Water Framework Directive**
- Matter 4: Air Quality and incompatibility with climate change adaptation and mitigation**
- Matter 5: Incompatibility with NPPF climate change adaptation and mitigation objectives**
- Matter 6: Transport**

Matter 1: Potential for ‘disturbance’ to protected species (including bats)

1. The submitted Environmental Report states that a phase 1 walk-over was undertaken in January 2017, well outside the optimal survey window for bats. Bat Conservation Trust 2016 guidelines (Bat Surveys for Professional Ecologists) state that:

“The bat period is generally considered to be between April and October, inclusive (although the season is likely to be shorter in more northerly latitudes)”¹

2. Table 8.3 of BCT guidance is clear that even where it is identified a site is in an area with low suitability for bats, transect surveys/spot counts/ time search surveys should be undertaken **at least one survey visit per season** (i.e. Spring: April/May; Summer: June/July/August; Autumn: September/ August) in appropriate weather conditions for bats. Despite the undertaking of an “aerial tree survey”/“additional visit” for bat roosts in February², these were still undertaken *outside*

¹ Para 7.71 – Bat Surveys for Professional Ecologists (<http://www.bats.org.uk/pages/batsurveyguide.html>)

² Table 4-6 – Environmental Statement.

of the bat season. This is a huge omission; especially in light of bats' Schedule 2 status within the Conservation of Habitat and Species Regulations 2010.

Disturbance

3. It is our view that Derbyshire County Council (together with Natural England) has a duty to minimise disturbance³ to Schedule 2 species. Due to the lack of survey work undertaken at the correct time of year (i.e. when bats are on the wing) to establish the presence of bats, it's difficult to substantiate whether or not allowing the development to proceed would run the risk of 'disturbance'. This is especially relevant, as some species of UK bat, such as noctule, are known to fly long distances away from woodland areas to forage⁴. Such risk has not been adequately surveyed or established in our opinion, despite survey evidence provided by the applicant; albeit undertaken in the winter months. As such, we support the Derbyshire Wildlife Trust's view that further survey work, undertaken at the right time of year is needed to establish real risks to species at the site and within habitats surrounding the site.

Lighting

4. In addition to the omission of bat and bird surveys undertaken during bat season, the lighting details provided with the application also fail to demonstrate how 'disturbance' to bats would be minimised. In order to assess such impact, further information is required to show light levels over the site and adjacent land for the different stages of the development. Data should be provided as isolux contours (particularly for 10 lux and 2 lux levels which are likely to affect bat activity). These can then be compared with plans showing records for the different species of bat, which utilise different habitats and have different sensitivities to light, to allow the proper assessment of impacts, and hence allow the design of protective measures.

Location within IRZ

5. While the site is located away from the Moss Valley Woods, Moss Valley and Moss Valley Meadows SSSIs (situated between 1.9km and 2.3km from the site), it is however located within a SSSI Impact Risk Zone (IRZ), defined as:

"areas where the proposed planned change to the environment could either create significant damage to a local SSSI or alternatively those projects could require more planning and consultation in order to avoid impacting on those sites".

6. Despite the council's Screening Opinion referencing the site's location within the IRZ, little appears to have been submitted to address this fact. What adverse impacts will the development have on species associated with the SSSIs, or indeed on areas of woodland situated to the periphery of the site? (e.g. Leak's Plantation 160m north of the site). The phase 1 assessment has not evaluated possible impacts on either the IRZ or woodland adjacent the application site.
7. We would ask the application to be refused in its current form, in line with saved policy MP4 which states proposals for mineral development will not be permitted where:

"development would cause significant disturbance to other sites of importance for nature conservation including local nature reserves, county wildlife sites, regionally important geological sites and the habitats of locally rare or endangered species"⁵

8. The possibility of disturbance to bats, lack of lighting mitigation, together with no consideration of species utilising woodland further north and the site's location within the IRZ should weigh heavily

³ **Disturbance** of animals includes in particular any disturbance which is likely—

(a) to impair their ability— (i) to survive, to breed or reproduce, or to rear or nurture their young, or (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate;

(b) to affect significantly the local distribution or abundance of the species to which they belong.

⁴ http://www.bats.org.uk/publications_download.php/217/noctule.pdf

⁵ Pg 16 – [Saved Derby and Derbyshire Minerals Local Plan - 2000](#)

against the scheme in the planning balance. Further evidence should be provided to address these concerns, including surveys during bat season; details of lighting specifications to minimise 'disturbance' to bats and consideration of any linkages to species using Leak's plantation further north

Matter 2: Landscape and Visual Impact (including visibility from the setting of heritage assets)

9. Friends of the Earth's view is that exploratory drilling rigs and their associated infrastructures (e.g. site accommodation, fencing, bunding, access roads, lighting, waste storage areas (et al)) are highly industrialising developments, especially within rural contexts. As an example, the Preston New Road fracking site in Lancashire⁶ is set in pastoral land to the west of Preston, where now intensive construction works are heavily industrialising what was green pasture. While the Secretary of State overturned the Lancashire County Council planning committee refusal on the 5th October 2016, the impact was recognised and limited mitigation imposed by limiting the drilling and fracturing rig height to 36m (instead of the proposed 56m) via an amended planning condition. This recognised the very real landscape and visual concerns from the local community. The drilling and fracking rigs – however temporary – would after all be operational 24 hours a day (and require lighting at night time).
10. The applicants have based their Landscape and Visual Impact Assessment on a 60m drilling rig, over 24m higher than the limit the SoS imposed at Preston New Road. This site is within 300m of a Special Landscape Area (and Area of Multiple Environmental Sensitivity); which requires the local authority to apply a higher test on landscape impact than otherwise. In the worst case scenario, Ineos' proposed drilling activities are scheduled for a period of 5 months or more (when including the 60m drill rig 32km work-over rig⁷), and will be highly visible, including from parts of the Special Landscape Area, and other sensitive receptors such as heritage assets (including 4 conservation areas). In addition, the rig will be lit at night as 24 hour drilling would be allowed. The submitted LVIA states that:

"The main source of effect during the drilling period will be the 24-hour operation of a 60 m-high mobile drilling rig, which will be seen above the skyline in views to the south-east at a distance of 360 m... The size/scale of the effect is considered to be high. Effects during the drilling period will be short term, temporary and reversible. The overall magnitude of change in the view is judged to be high.

11. Such impact represents a *significant acknowledged effect* in the vicinity of the Wooded Hills and Valleys LCT, as defined within the Derbyshire Landscape Character Assessment (2014). The area has a medium sensitivity; with its gently undulating elevated landform (210m AOD), with low lying hedgerows and open views into the site from the adjacent road network, public rights of way (one located beyond the south east corner of the wider ownership) and from receptors in the immediate area and distance.

Policy Context

12. Saved Policy MP1 (saved Derby and Derbyshire Minerals Plan – 2000) states that minerals development will "*only be permitted provided impact is acceptable having regard to:*

3) the visual effect of the proposals

4) the effect on the character and quality of the landscape including the effects on trees, hedgerows woodland and topographical features...

*7) the effect on the built environment and especially features of architectural, historical or heritage importance, and their settings*⁸

13. Saved North East Derbyshire Local Plan Policies NE1 and NE2 are also relevant:

⁶ <http://planningregister.lancashire.gov.uk/PlanAppDisp.aspx?recno=6586>

⁷ The planning statement states following removal of the 60m drill, a workover rig of 32m in height will then be installed; although operating during the daytime at 12 hours a day for 3 weeks.

⁸ [Saved Derby and Derbyshire Minerals Local Plan - 2000](#)

NE1 Landscape Character

The varied and distinctive landscape character of the District should be conserved and/or enhanced. Development proposals that would result in the loss of distinctive features that contribute towards and add value to the landscape character of an area will not be permitted.

NE2 Special Landscape Areas

Within Special Landscape Areas as defined on the Proposal Maps, development will be permitted where:

... (c) it would not unduly disturb or detract from the visual amenity of an area by the attraction of large numbers of people or excessive traffic.

In addition, new development or extensions to existing development on land adjoining a Special Landscape Area will be permitted provided it would not have a detrimental effect on the visual amenity, character and function of the Special Landscape Area.⁹

14. The LVIA supplied by the applicant also somewhat deficient in terms of non-compliance to some of the Guidelines for Visual and Landscape Impact Assessment (3rd edition – or GLVIA) methodology issued by IEMA, including its approach to photomontages. Although not an EIA level application, the GLVIA state:

“To meet the rigorous requirements of planning applications and public inquiries photomontages must be technically accurate, to a degree appropriate to the nature of the project and reflecting discussions with the competent authority.”

15. We are concerned that the photomontages supplied only illustrate **existing views**, thereby omitting how the proposed rig would appear in the landscape both day and night – especially by its own admission this period is when the development would have the most adverse visual and landscape effect. Without montages showing how the site would look fully developed (or at its worst) e.g. well pad, bunding, site machinery and infrastructure, site accommodation and the 60m drilling rig, how can assessment be made of the visual impacts?
16. It is well known that for other types of temporary development (including wind turbines¹⁰ and solar farms), Local Planning Authorities usually require *proposed* photomontages (i.e. those that demonstrate how the development will appear) with all development present in the photomontage and with an indication of where the site is located within the photo. We are of the view that neither the public nor the authority’s landscape/planning officers when looking at the images provided will be able to sufficiently judge the extent of visual and landscape impact - as these currently simply show the *existing* view towards the site. While the report’s author has provided commentary and analysis of receptor sensitivity and estimated the magnitude of effect, we would ask how these subjective interpretations and conclusions been reached without suitable visual aids showing (at the very least) the proposals set in the landscape.
17. Our view is the minerals authority should request *proposed* montages that demonstrate the true impact of the development at its worst extent (i.e. showing the 60m tower). We remind the authority that GLVIA guidance states:

*“If images are also prepared simply to provide a general impression of a proposal the same degree of accuracy may not be required **but attention to detail and fair representation of what is proposed remains important**”¹¹*

⁹ <http://www.ne-derbyslocplan.net/chapter2.html>

¹⁰ Even for those under 35m in height

¹¹ Para 9.20 – GLVIA: 3rd Edition

Dark Night Skies Assessment

18. The GLVIA would also suggest that a dark night skies assessment is needed for this application, as the proposal includes 24hr drilling (and lighting at night) for a period of between 3-5 months (including the work over rig timeframe):

“For some types of development the visual effects of lighting may be an issue. In these cases it may be important to carry out ‘dark’ nighttime surveys of the existing conditions in order to assess the potential effects of lighting (para 7.11)”

19. The submitted LVIA has failed to provide any such assessment, indeed - as highlighted above - there is no indication of what the scheme will look like during the day or night. While the drilling aspects of the development are more temporary, surely the sensitivity of the LCA, the policy remit, the site’s proximity to the SLA and AMES, as well as a Moss Valley Conservation Area (240m north) would justify such a request?
20. Further information would enable better interpretation of the visual impacts from sensitive receptors (including houses, heritage assets, roads, places of work and PROWs) would be affected, as well as landscape impacts.

Cumulative Assessment

21. GLVIA guidelines state that LVIA’s *“must deal with cumulative effects”, “and interpret what this means in the context of landscape and visual effects of specific projects...referred to as CLVIA”*¹². The cumulative landscape and visual effects are cited as those that:

“...result from changes to the landscape or visual amenity caused by the proposed development in conjunction with other developments (associated with or separate to it), or actions that occurred in the past, present or are likely to occur in the foreseeable future”.¹³

22. As far as we can see, no assessment of CLVIA as to the interaction of the 60m drill tower and any other developments (*“associated or separate to it”*) has been undertaken to any acceptable degree. The planning statement states at section 7.10 that *“Ineos are not aware of any other minerals developments – that either have planning permission or are being applied for - occurring either concurrently or successively, that when combined with this proposal, would have an unacceptable cumulative effect”*. While this may have been the case when the application was submitted, (and as the council may be aware) Ineos have now submitted an applications for a similar exploratory fracking development at Harthill, Rotherham¹⁴ just over 10km east of the site (see plate 1.1 below). Harthill also proposes the use of a 60m rig, requiring lighting at night. We would also note that INEOS have also submitted a screening opinion request from Rotherham Metropolitan Council for a site at Woodsetts, for an additional exploratory site¹⁵.
23. We would ask the council to request further information in terms of an assessment that looks at cumulative (re in-combination and successive effects) with the Harthill application, Woodsetts, as well as *“other developments”* as required by GLVIA (3rd Edition) - such as wind turbines/wind farms of a similar height or higher i.e. Penny Hill Lane Wind Farm, east of Sheffield¹⁶.

12 Para 8.2 – GLVIA: 3rd Edition

13 See footnote 3

14 See [Application link](#) (Ref: RB2017/0805)

15

http://www.rotherham.gov.uk/info/200074/planning_and_regeneration/1152/shale_gas_and_hydraulic_fracturing_fracking/2

16 <http://www.bbc.co.uk/news/uk-england-south-yorkshire-22134851>

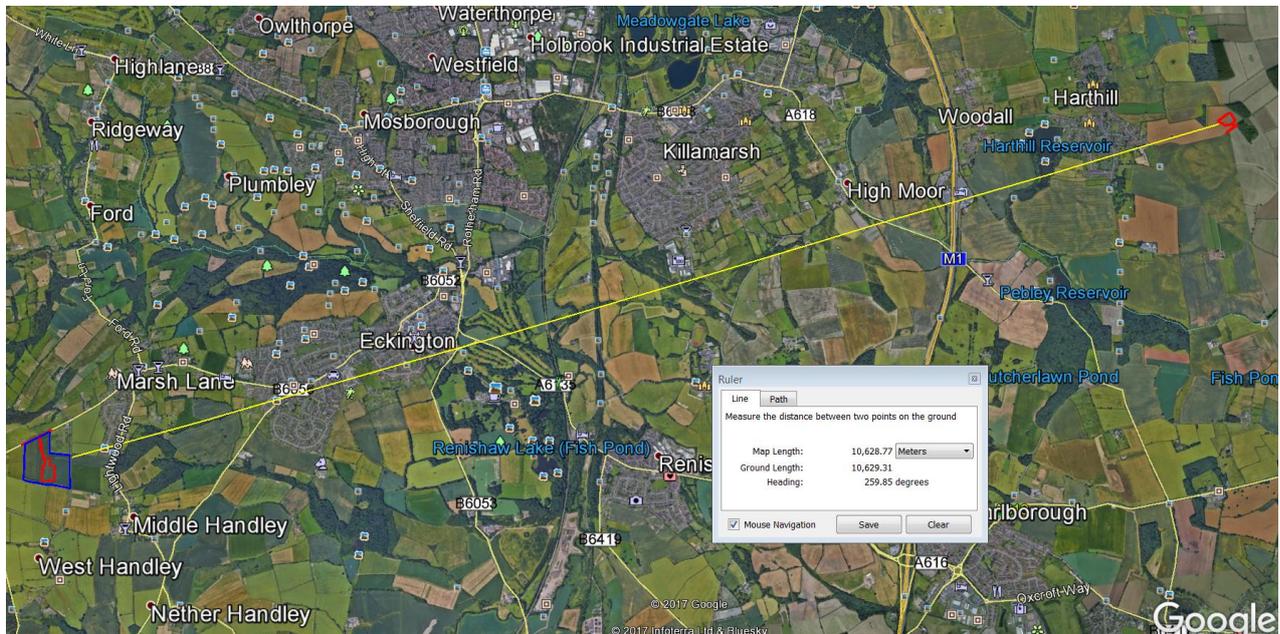


Plate 1.1. – Distance of 10.6km between Bramblemoor Lane (west) and Harthill (east)

ZTV

24. It is hard to discern from the ZTV the location of sensitive receptors, including heritage assets (e.g. Moss Valley and West Handley Conservation Areas to the north and south; as well as other listed buildings in the immediate area). Without coverage of these and other receptors (e.g. PROWs, landscape designations, dwellings etc.) being indicated on the ZTV and subsequent photomontages, it is much harder to establish whether the development would be visible from these sensitive receptors and therefore its impact. The authority should request that photomontages of the proposed development be submitted by the applicant from a range of viewpoints including the West Hadley Conservation Area, the Special Landscape Area 300m north, settlements, additional public rights of way, outdoor leisure areas (etc.) where visibility of the 60m tower is likely.
25. Such sensitive receptors, including significant heritage assets, should be included within an additional iteration of the ZTV, so that members of the public and statutory bodies (such as Historic England) can better judge the level of theoretical coverage. This would then inform the identification of suitable vantage points, and with proposed montages enable a more robust assessment of the level of visual impact (no matter how temporary the developers suggest the most adverse effects will last, the authority must consider the precedents being set).
26. From our own analysis (see plate 1.2 below), it is evident there is potential for theoretical coverage from least 4 out of 5 conservation areas within 4km, as well as numerous listed buildings and other heritage assets. We would query then why only **three** vantage points have been chosen in total to establish visual impact from an rural area of medium sensitivity which includes a range of sensitive receptors. Of these, only one of the **three vantage points** includes one of the two closest conservation areas located near to the site.

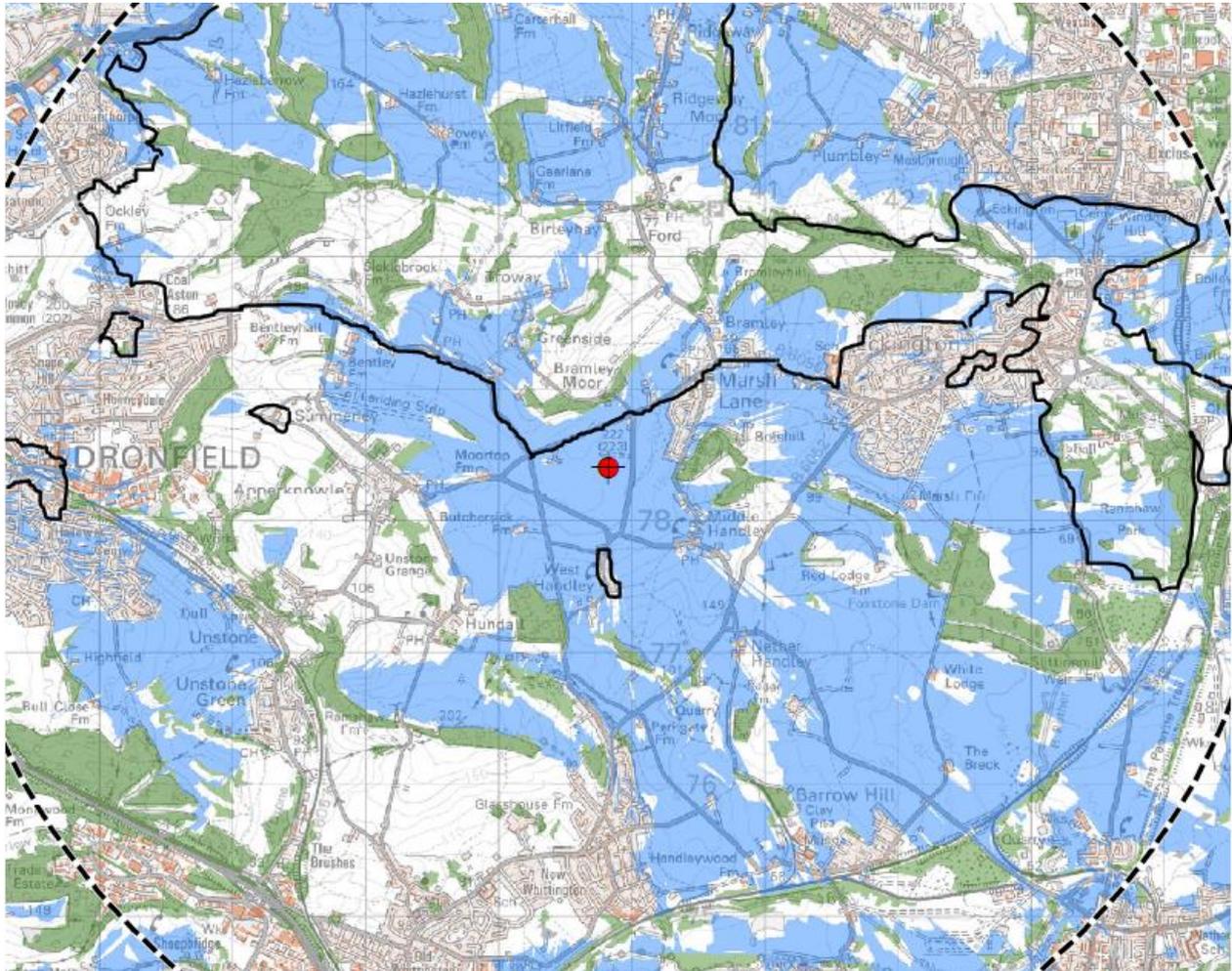


Plate 2.1 – Plotting of Derbyshire Conservation Areas notably Moss Valley (north of site) and West Handley (south of site), as well as those west (60m coverage - FOE analysis)

27. Overall, the applicant’s LVIA suggests that the substantial (i.e. significant) landscape and visual effects will only be “*short term and temporary*”¹⁷. However the scheme will introduce a substantial level of effect for both visual and landscape impact in the immediate and wider area landscape area during phases 1 and 2, as well as reduced impacts at other stages. This represents significant landscape and visual effect, no matter how short a period of time the drilling rig is mobilised. The supporting evidence has however included only a limited number of viewpoints, and in lacking any ‘proposed’ montages (therefore objective evidence as to how the scheme will appear) the report draws its conclusions of visual impact from existing photos; which is not in line with best practice (re GLVIA).
28. In light of the site’s location within an open rural landscape, proximity to a sensitive landscape designation and sensitive heritage designations, and without any analysis of cumulative effect (and bearing in mind the lowering of the height of the Preston New Road rig height to 38m), the LVIA in its current form does not establish the likely impacts that such a relatively new type of development (re 24 hour drilling, fracturing) could introduce within what is a rural area. In our view the development should be refused in line with policy MP1 (saved Derby and Derbyshire Minerals Plan – 2000) and policies NE1 Landscape Character and NE2 Special Landscape Areas of the North Derbyshire Local Plan.

Matter 3: Inconsistency with the Water Framework (EU) Directive

29. Planning Practice Guidance states that water quality....:

"...is only likely to be a significant planning concern when a proposal would:

indirectly affect water bodies - for example, as a result of new development such as the redevelopment of land that may be affected by...**mineral workings**, water or wastewater treatment, waste management facilities and transport schemes including culverts and bridges; (paragraph 016) (our bold)

30. Online planning practice guidance also states:

“Adequate water and wastewater infrastructure is needed to support sustainable development. A healthy water environment will also deliver multiple benefits, such as helping to enhance the natural environment generally and adapting to climate change.

The EU Water Framework Directive applies to surface waters (including some coastal waters) and groundwater (water in underground rock). It requires member states, among other things, to prevent deterioration of aquatic ecosystems and protect, enhance and restore water bodies to ‘good’ status.” (001 Reference ID: 34-001-20161116)

31. Saved Minerals Plan policy MP1 states:

“Proposals for mineral development will be permitted provided that their impact on the environment is acceptable having regard to:

... the effect on the quality and quantity of water resources including the ecology of water courses and wetlands, and on water supply and flood protection interests.”

Groundwater Impact:

32. The submitted planning statement summarises the findings of the hydrogeological statement, summarising that:

“There is expected to be

“A neutral effect on the groundwater vulnerability of the surrounding area due to the nearest Source Protection Zone (SPZ- used for public drinking water supplies) being greater than 1km distant from the proposal;

A neutral effect on pressures on water resources in the surrounding area, due to the small number of existing abstractions in the immediate area.”¹⁸

33. It is our view that the Water Framework Directive and the precautionary principle are relevant in interpreting such conclusions, which we would argue do not constitute absolute scientific justification that groundwater contamination will not occur as set out by the Directive:

“The case of groundwater is somewhat different. The presumption in relation to groundwater should broadly be that it should not be polluted at all...But for general protection, we have taken another approach. It is essentially a precautionary one. It comprises a prohibition on direct discharges to groundwater, and (to cover indirect discharges) a requirement to monitor groundwater bodies so as to detect changes in chemical composition, and to reverse any anthropogenically induced upward pollution trend. Taken together, these should ensure the protection of groundwater from all contamination, according to the principle of minimum anthropogenic impact.”¹⁹

34. The authority should consider the precautionary approach as justified by the Water Framework Directive. Despite no objection from the Environment Agency with regards groundwater, there have been concerns raised from other government bodies regards the ability of UK regulators to assess fracking’s impacts so deep underground. Unconventional vertical and horizontal drilling is

18 Section 6.6 – Hydrogeology – Planning Statement

19 Water Framework Directive - http://ec.europa.eu/environment/water/waterframework/info/intro_en.htm

undertaken at relatively deeper levels and (although not yet planned until the next appraisal stage) any eventual fracking would leave unknown volumes of drilling/fracking fluids deep within the ground. The British Geological Survey suggested as recently as 2015:

“The existing frameworks and supporting risk-based tools provide a basis for regulating the industry but there is limited experience of their suitability for large scale on-shore activities that exploit the deep sub-surface. The tools for assessing risks may not be adequate as many have been designed to consider the risks from surface activities.”²⁰

35. The applicants have stated that water monitoring boreholes will be installed towards the edge of the site, in locations to be agreed with the EA (under permitted development rights). Arguably there are doubts as to the effectiveness of how water monitoring boreholes can assess hydrogeological impacts much deeper underground – in this instance the application drilling to 2,403m. While EA groundwater monitoring is no doubt a useful tool to measure effects on aquifers nearer to the surface, the effectiveness of a 50m borehole to ascertain impacts over 2,353m further below the ground and the possible interplay with the old coal mine workings should be properly evidenced.
36. The coal mine risk area location of the site should be factored into the consideration of water resources. While mitigation is proposed in terms of “appropriate well and borehole design”, and incorporation of a geomembrane and storage of drilling fluids in tanks, no mitigation is fool proof, and in light of the importance placed upon ground water within the Water Framework Directive (i.e. “*it should not be polluted at all*”), we would encourage the authority to invoke the precautionary principle and refuse the development. This would ensure compliance with online planning practice guidance and the Authority’s own saved policy MP1.

Matter 4: Air Quality

37. The application contains insufficient information regarding fugitive emissions, with potentially unknown impacts for air quality. The authority should request further information in order to feed into its air quality monitoring statistics going forward. It should be noted that Cheshire East Council²¹ were last week found to have made “*serious mistakes*” in its air quality data reporting to DEFRA based on data manipulation – this has resulted in the possibility of knock-on impacts on planning decisions made across the plan area.
38. We would suggest - in light of the absence of how much methane (or other gases) this proposal could emit - the applicants are asked to undertake more research and come back with more reliable data and indication as to whether or not there would be any likely significant effect.

AQMAs

39. While the applicant’s Planning Statement mentions the lack of any Air Quality Management Areas (AQMA) surrounding the site there appears to have been no analysis of the routing of HGVs/AILVs (going to and from the site) and whether or not this will pass through settlements where AQMAs are present. Public Health England have begun raising this issue with minerals applications in other parts of the UK²² (including in Cheshire East) and so we believe there is no reason why such a requirement should not apply in this instance.

Matter 5: Incompatibility with NPPF climate change adaptation and mitigation objectives

40. No information has been provided regards quantities of escaping gas (leakage). It is known that methane escapes from onshore oil production processes²³. Methane is an extremely potent heat

20 British Geological Survey (2015)

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/environmental-audit-committee/environmental-risks-of-fracking/written/17352.html>

21 <http://www.planningresource.co.uk/article/1441060/cheshire-council-check-hundreds-decisions-air-quality-data>

22 Silica Sand Application – Application ref 16/4274W - Cheshire East Council

23 The Truth about Tight Oil, Methane from Unconventional Oil Extraction Poses Significant Climate Risks, Union of

trapping greenhouse gas and thus leakage of methane from onshore oil sites should be part of risk assessment.²⁴ In this case, the application simply states:

“As the well is only being cored, there is very limited potential for hydrocarbon gas (methane) to be released during the drilling process” (P.Statement 6.8.1).

41. Despite the proposals set out in the planning statement for emergency venting of any gas encountered, this is not considered the best available technique.
42. Nor has this application considered how the scheme has addressed the NPPF’s intention to secure *“radical reductions in greenhouse gas emissions”*²⁵. This is a material consideration and relevant given the unquestionable climate change impact of the exploration for fossil fuels. While the submitted planning and environmental statements simply state there is *“very limited potential”* (para 6.8.1) for methane to be released as a result of coring, there is insufficient evidence is provided to justify this claim.
43. Overall, the application is silent on whether possibly unacceptable climate change impacts would occur. In line with the planning system’s underlying objective to achieve sustainable development, the NPPF’s intention to secure *“radical reductions in greenhouse gas emissions”*²⁶ (and failure of the application to demonstrate compliance), the scheme should be refused.

Matter 6: Transport

Capacity

44. The SoS’ Screening Direction states that movements of between 20-50 HGV movements a day (as well as 16 AILV movements greater than 32 tonnes at the start/end of stage 2) would be *“significant for short durations”*. The Environmental Statement submitted with the application then suggests figures of up to 60 HGVs during site development. Such an increase in movements in what is a rural area, is unacceptable; especially bearing in mind the scheme would realise a HGV capacity increase for the adjacent B6065 of up to 17%. The SoS’ summation that impacts will be *“significant for short durations”* still suggests conflict with existing transport planning policies. Saved Policy MP1 is relevant, stating developments will be permitted with regard to:

“the transport implications, and in particular the scale and nature of traffic likely to be generated, and its implications for site access, highway capacity, road safety, and the environment generally”

45. In addition, saved policy MP5 is also relevant:

“Proposals for mineral development involving the transport of minerals by road will be permitted provided:

1) there is no feasible alternative to road transport which would be environmentally preferable

2) the proposed access arrangements would be satisfactory and the highway network is adequate to accommodate the traffic that would be generated; and

3) the impact of the traffic generated would not be detrimental to road safety nor have an unacceptable impact on the environment.”

46. It is relevant to note that other applications for exploratory fracking have been refused on highway capacity and safety grounds, including at Roseacre and Wharles, Preston²⁷:

Concerned Scientists, April 2016

²⁴ Every Breath We Take – Royal College of Physicians – 2016

<https://www.rcplondon.ac.uk/projects/outputs/every-breath-we-take-lifelong-impact-air-pollution>

²⁵ Para 93 – NPPF (2012)

²⁶ Para 93 – NPPF (2012)

²⁷ Pending reopening of P.Inquiry this year

*The proposed development would generate an increase in traffic, particularly HGV movements that would result in an unacceptable impact on the rural highways network and on existing road users, particularly vulnerable road users and a reduction in overall highway safety that would be severe.*²⁸

47. This sets a useful precedent when assessing such impacts to the rural highways network around the Bramley Moor Lane site.

Safety

48. While road accident statistics have been used within the report, these were compiled in the absence of this fracking exploration site being in operation; which will necessitate substantial HGV and AILV movements to and from the site over the 5 year development phase. The speed limit along the B6056 of 60 mph is unsuitable for the volumes of HGVs that will be entering and exiting the site and there are likely to be safety implications for other transport mode users (cyclist, pedestrians) going forward; despite the junction and access improvements put forward by the applicants. The safety of other road users must be considered properly here given the number of HGV movements associated with fracking developments. This is a key issue in relation to preparatory sites for high volume hydraulic fracturing and on sites where testing and appraisal is due to take place. Such concern is duly warranted, as demonstrated by refusal of the Roseacre Road scheme (see para 45 above) and the previously mentioned Preston New Road fracking site. For the latter, the Transport Management Plan has now been updated 6 times²⁹ since Lancashire County Council originally approved the plan in January of this year (linked to a pre-commencement highways condition). Such incremental changes have been made to meet the ever-changing requirements of the developer and represent the reality on the ground for the planning authority should the application be accepted (re various applications to vary previously agreed conditions).

Routing

49. The proposed HGV route is acknowledged to be 22 miles in length from the motorway, including a number of bottlenecks where AILVs (including a 16.5m mobile crane) will have to cross the opposite carriageway on route to the site (applicant's own admission page 3-10), as well as remove highway furniture to access the site.
50. Nor does the proposed routing appear to have considered impacts for air quality or safety for local schools (see section 4 above).

Landscape and traffic

51. Saved NE Derbyshire policy NE2 states development will be permitted where ;

*... (c) it would not unduly disturb or detract from the visual amenity of an area by the attraction of large numbers of people or excessive traffic.*³⁰

52. We fail to see where the implications of this have been considered by the applicant bearing in mind the site's proximity to the SLA. How will the number of proposed HGVs not be considered as excessive traffic or considered not to detract from the visual amenity of the designation as a result?
53. Overall, the authority must carefully consider the implications of the proposed transport movements proposed on highway capacity and safety. While the Screening Direction suggests impacts are "significant for short durations" for around 20-50 movements a day, surely the increased level of movements put forward within the Environmental Report (i.e. 46 – 60)

28 App Ref: LCC/2014/0101: Decision Notice - 25th June 2015 – Lancs CC

29 <http://planningregister.lancashire.gov.uk/PlanAppDisp.aspx?recno=7001>

30 <http://www.ne-derbyslocplan.net/chapter2.html>

represents additional impact than was initially envisaged and should warrant close scrutiny from the authority. In light of the highly rural area, volume of traffic and safety implications, the application should be refused as it would not comply with saved policies MP1 and MP5 regarding capacity and road safety.

54. Finally, we would note that the above are exploratory vehicle movements only, and should the application be granted and eventually move into appraisal stages, HGV movements for water and waste will likely increase on these figures further (linked the hydraulic fracturing stages).

Summary

55. We trust the authority will **refuse** the above application in light of the points raised above. In summary, the applicants have:

- i) Failed to adequately demonstrate whether or not of bats are present in accordance with industry guidelines, as well as how night time lighting, HGV transport movements (etc.) will avoid 'disturbance' to bats under the Conservation of Habitats and Species Directive 2010;
- ii) Failed to provide sufficient information linked to GLVIA guidelines to adequately assess the visual, landscape and CLVIA. Imagery within the LVIA does not show the proposed development in any form, and with too few vantage points, excluding many of the sensitive receptors (landscapes, settlements, heritage assets) around the site. There has also been no consideration of cumulative effects with other proposed INEOS schemes (re Harthill and Woodsetts) and other tall developments in the area. The ZTV should also be amended to show the location of sensitive features to assist statutory consultees and local residents in coming to a judgement about visual and landscape impacts;
- iii) Failed to demonstrate how the proposal would safely protect ground water in the area in light of the Water Framework Directive, which states groundwater "*should not be polluted at all*". The authority should adopt a precautionary approach, as has been taken in other parts of the UK³¹ with regards to protecting water quality;
- iv) Failed to demonstrate robust analysis of impacts on air quality and climate change, including impacts on AQMAs for HGVs; not providing data on envisaged methane release (re fugitive emissions) and how mitigation and adaptation have been considered within the scheme's design; and
- v) Failed to demonstrate that the scheme will not have direct highway capacity and safety issues, nor provided adequate safeguards in terms of vehicle routing.

Yours sincerely,

M. Gallie
Planner
Friends of the Earth England, Wales and Northern Ireland

Richard Dyer
Campaigner
Friends of the Earth England, Wales and Northern Ireland

31 See Wressle application – North Lincolnshire Council (where committee refused on water quality grounds) <http://www.planning.northlincs.gov.uk/api/Cached/PlanningWeb?ReqType=F&Refno=PA/2017/696>