

**MINUTES** of a meeting of the **REGULATORY – PLANNING COMMITTEE**  
held at County Hall, Matlock on 9 June 2014

**PRESENT**

Councillor J Innes (in the Chair)

Councillors M Ford, Julie Hill, R L Hosker, R Mihaly, R A Parkinson, P Smith, T Southerd (for reconvened meeting following site visit), J Twigg and B Wright.

Councillor Julie Hill declared an interest in respect of the application under Agenda Item No 4.3 through her parents having an interest in land near the application site at Calow (Minute No 44/14).

All Members reported having received a significant number of communications in respect of the Calow application (Minute No 44/14).

**40/14**                    **SITE VISITS** In accordance with the Code of Practice the Committee visited the site at Calow (Minute No 44/14).

**41/14**                    **MINUTES RESOLVED** that the Minutes of the meeting of the Committee held on 12 May 2014 be confirmed as a correct record and signed by the Chair.

**42/14**                    **PROPOSED INSTALLATION OF FACILITY FOR THE RECEPTION, STORAGE AND TREATMENT OF WASTE FOR THE PURPOSE OF RECOVERY OF RAW MATERIALS AND ENERGY AT THE BRICKWORKS, CAMPBELL DRIVE, BARROW HILL, STAVELEY, CHESTERFIELD APPLICANT: PHOENIX BRICK COMPANY LTD (CODE NO: CW2/0209/203)** (Minute No 125/09) Planning permission had been resolved to be granted for this proposal, subject to conditions and the completion of a legal agreement, on 7 December 2009. The Strategic Director for Economy, Transport and Environment reported that negotiations on the legal agreement had been continuing, however, since approval had been granted there had been several new national planning policy statements issued which were relevant to the assessment of the proposal and, therefore, it was necessary to reconsider the application against the new material considerations.

Details of the proposal were contained in the Strategic Director's report. The new material considerations, which were also to be taken in to account in

accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, included the Chesterfield Borough Council Local Plan: Core Strategy, July 2013; the National Planning Policy Framework March 2012; the National Planning Practice Guidance 2014; and the Waste Management Plan for England 2013, and these were examined in the report.

The Committee was reminded of the previous grounds of approval, which had been subject to the recommended conditions in terms of potential environmental impacts. In particular, it had been concluded that the proposed facility would not give rise to unacceptable adverse impacts on air quality, including odour, from the emissions or that the traffic generated would not adversely affect highway function or safety in the Barrow Hill area, subject to the proposed routeing arrangements.

The Strategic Director reported that the previous assessment of the proposal and the Committee's resolution had largely been based on the compliance of the proposal with the policy and guidance of PPS10. Although there were now several additional national policy statements to take into account, PPS10 remained the main statement of waste policy of relevance to this proposal. Whilst the National Planning Policy Framework was not specific to waste management developments it did seek to encourage the approval and fulfilment of sustainable developments. As this proposal was considered to accord with the relevant criteria for sustainable waste management, the Strategic Director considered that the National Planning Policy Framework supported PPS10 for the proposed development. This opinion had not been changed by the content of the other new material considerations or the change in circumstances at the application site since 2009.

**RESOLVED** that, subject to the completion of a legal agreement to secure the routeing of Heavy Goods Vehicles, road widening and measures designed to minimise the risk of accidents at the entrance from Staveley Lane, the Committee maintained the resolution of 7 December 2009 that planning permission be granted, subject to the conditions set out in the report of the Strategic Director for Economy, Transport and Environment.

**43/14                      PROPOSED PLANNING CONDITIONS RELATING TO PROPOSED CONSTRUCTION OF 1.1 KILOMETRES GREENWAY BETWEEN SOMERSALL LANE, CHESTERFIELD AND GREENDALE AVENUE, HOLYMOORSIDE APPLICANT: DERBYSHIRE COUNTY COUNCIL (CODE NO: CD4/0413/3 AND CD2/0413/3)** (Minute No 33/14) In accordance with the Committee's resolution to grant planning permission for the above proposal, details of the conditions to be attached to the planning permission were considered by the Committee.

**RESOLVED** to approve the conditions set out in the report of the Strategic Director for Economy, Transport and Environment which relate to the grant of planning permission for planning application references CD4/0413/3 and CD2/0413/3.

**44/14                      PROPOSED                      DRILLING                      OF                      EXPLORATORY  
BOREHOLES, ERECTION OF CONTAINERISED UNITS, ASSOCIATED  
PLANT AND EQUIPMENT, EXTRACTION OF                      NATURAL                      GAS,  
ELECTRICITY GENERATION AND ANCILLARY OPERATIONS AT LAND  
OFF DARK LANE, CALOW, CHESTERFIELD APPLICANT: SEVEN STAR  
NATURAL GAS LIMITED (CODE NO: CM4/0114/156)** Councillor Hill confirmed that whilst she had provided comments on the proposal in response to consultation as local Member she was keeping an open mind with regard to the application and would listen to all the presentations on it at the meeting before deciding on it.

The Strategic Director for Economy, Transport and Environment reported that the application was for the development of an onshore gas extraction facility, extracting gas from a conventional source from a site based on land off Dark Lane, Calow. The proposal would involve the establishment of a site compound and the drilling of up to two directionally guided and inclined boreholes up to 500 metres deep into the stranded natural gas field lying beneath the area. The gas would be tested/appraised and if it was found to be present in sufficient quantities it would be used on site in gas combustion engines to generate electricity that would be exported to the local grid. The site would be operational for up to 15 years after which it would be restored to agricultural land. Details of the development were contained in the report of the Strategic Director for Economy, Transport and Environment, together with comments received from consultees and following publicity.

Councillor Julie Hill in her consultation response as the local Member had referred to the site as being far too close to residents' homes; to being concerned about the proposed access via a single track lane and its junction on to the main road; and noise and light pollution. North East Derbyshire District Council (Planning) in its consultation response had objected to the proposal with reference to the location of the site in the countryside, its closeness to residential properties, the creation of a new access track and access point to Dark Lane which it considered would have an urbanising effect and would adversely affect the character and quality of the area, and the restricted width of Dark Lane for traffic. Calow Parish Council had also maintained an objection to the development; its reasons for objection related to the closeness of the site to residential properties, the narrowness of the Dark Lane access, disturbance to wildlife, proximity of the site to a public footpath, noise and light impacts, and concerns that seepage of methane might possibly occur and that drainage problems would occur. Publicity had

generated 29 individual letters and 79 pro-forma letters in objection and a petition in objection with 42 signatures. The letters referred to concerns relating to the site's location, landscape and other visual impacts, noise, traffic, light pollution, air pollution, drainage and contamination, wildlife and ecology impacts, health issues, and subsidence and land stability, and other concerns which were raised were listed in the report.

It was reported that no objections to the proposal had been received from the Environmental Health Officer at North East Derbyshire District Council, the Environment Agency, Derbyshire Wildlife Trust, Severn Trent Water, and the Highways Authority, and that each of these consultees had provided advice on appropriate conditions to impose under a grant of permission.

The Strategic Director's representative explained how the recommendation for approval of the application had been reached.

He explained that the application had been evaluated on behalf of the Strategic Director in accordance with the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004. All material considerations, including the National Planning Policy Framework and the National Planning Practice Guidance March 2014, the National Energy Policy, and the Energy Act 2013, had been taken in to account. It was considered that the main planning issues relating to this application were location, landscape and visual, noise, air quality, dust, light pollution, traffic and highway impacts, vibration/land stability/subsidence, hydrology, ecology, archaeological and cultural, site restoration and rights of way; these were all examined in the Strategic Director's report. The Strategic Director commented that a draft agreement under Section 106 of the Town and Country Planning Act had been prepared, which included obligations for a traffic routeing and a Construction Traffic Management Plan. A provision for the establishment of a Community Liaison Group had also been included.

The Strategic Director reported that there was strong support from Government for this type of development as a means of securing indigenous energy supplies and reducing the UK's reliance on imports whilst generating energy with a 'low carbon footprint'. The principle of this development was supported by the National Planning Policy Framework, the National Planning Practice Guidance and the Government's Energy Policy. Although the site was located in the open countryside he was satisfied that the development in the proposed location would not be unacceptable. Having assessed the potential environmental impacts of each phase of the development he had found no significant impacts or conflict with development plan policy that would warrant refusal of the application. He commented that the Committee

needed to balance against the possible impacts the benefits that would result from the application in making its decision.

Councillor I Allcock spoke on behalf of Calow Parish Council about its concern regarding the social impact the proposal would have on Calow.

Nine individuals who had representations in objection regarding the application addressed the Committee; the first eight were also members of 'Calow Against Gas Extraction' (CAGE).

Rob Senior introduced himself as an air quality engineer who lived 100 metres from the site. He perceived the proposed emissions and increase in traffic to be significant impacts on the surrounding area. He asked who would regulate the emissions and commented that the proposal should not be based on a mathematical evaluation or models. He was concerned about health issues.

Owen Downey introduced himself as an acoustic engineer. He commented that there was currently low background noise at the site and that it would increase hugely with the proposal. He did not consider that the low noise levels proposed would be achievable and had no confidence in the details provided. He urged the Committee to refuse the application.

Carl Winter stated that he lived closest to the site. He spoke of his concerns relating to removal of contaminated liquids off site, and of a risk of radioactive contamination of nearby wells by radon daughters, and health issues which could be experienced.

Liz Vardy, a local resident, spoke of the geology of the area, and referred to the drilling associated with the proposal as generating fractures in rock that could put the Chesterfield Royal Hospital and Brimington at risk from subsidence and earth tremors and of methane release.

Chris Wells introduced himself as a professional engineer who had concerns relating to methane. He referred to reports from which he reasoned that the application should not be allowed, and suggested that both Calow and Arkwright Town could be affected by escaping methane via old mine workings in the area.

Ian Allcock, a resident of the area, spoke of the potential for future expansion of the site and the area changing from a green field site to an industrial area. He also spoke of the proposal causing stress to residents and urged the Committee not to agree the application.

Margi Senior spoke of living 100 metres from the site and commented that she had horses in neighbouring fields and that Footpath 11 adjoined the site. She commented on the current traffic situation on Dark Lane, accidents which had occurred near the bend, the number of vehicle movements proposed and the noise of vehicles and the impact the proposed traffic plan would have on residents.

Glynis Ferraby, a resident of Dark Lane, spoke about footpaths and bridleways in the area, the regular use of lanes by horse riders and the distress the construction noise would have on them and on livestock.

Jeremy Truscott, a local resident, claimed that noise levels at the proposed limits would be detrimental to local people, and that there had not been a proper newt survey. He also referred to the concerns of local residents and asked that their concerns were not dismissed.

Mark Armstrong, a resident of Dark Lane, commented that he had spoken to the Chesterfield Fire Service regarding the extent of the exclusion zone around the site if any incidents occurred, and had been informed that it was a 250 metre zone, that all the properties in the locality would be included and this was causing stress and anxiety for local residents. He was concerned that the operation of the site would be throughout each day and night for 15 years, and commented that it would could disturbance to the sleep of shift workers, which he suggested would be in breach of their human rights. He also commented that the gas extracted from the directional drilling would be from beyond the proposed site.

Catherine Walker, a local resident, spoke of disruption being caused to local residents and health concerns. She considered that her children would be adversely affected and that the site was not comparable with other Alkane sites.

Stephen Sowerby spoke of local objections to the proposal being overwhelming. He wished to know what would happen to the stability of the land above the gas if it was removed. He considered that there should have been a prior review of seismic risk from the proposal. He wondered how seismic risk from the site would be monitored. Residents needed an assurance from Alkane that if any damage occurred to their property over time as a result of activity it would meet the costs of repairs.

Neil Baker of Baker Barnett spoke as the Agent for the applicant. He reported that the applicant had a petroleum license which covered the site for the extraction of natural gas. He urged the Committee not to confuse the proposals with proposals for fracking or for other shale gas extraction. He commented that the procedure involved in this case would not cause ground

movement and that there were no mine workings or seams close to the site. The drilling position was in the best location to minimise visual impact. He commented that the applicant took health impacts seriously. There would be some noise disturbance during the construction and drilling phase but none after that. All the proposed impacts had been considered. The applicant would work with the Environmental Health Officer, local community and Mineral Planning Authority and would facilitate a local liaison committee to discuss traffic and progress at the site. The site would be returned to agricultural once operations had ceased. He insisted that the proposal did not present any risk of damage to property.

The Strategic Director's representative was invited by the Chair to comment on the points raised by the speakers who had addressed the Committee. He referred again to the National Energy Policy as encouraging more local facilities rather than large operations. He reported that monitoring for emissions at the site would be regulated by the Environment Agency, and that other government bodies had responsibilities in relation to the design and operation of the site. He confirmed that 'live' monitoring would be undertaken remotely at the Markham HQ of the company. Noise data from the applicant had been critically assessed with the help of advice from the Environmental Health Officer. If noise limitations were exceeded the site could be redesigned or closed. The Environmental Health Officer had concluded that the likely emissions from the site would be acceptable. Day to day controls at the site would be subject to a licence. The Coal Authority had been consulted about methane and mine workings in the area and had not raised any concerns. Regarding fire risk and safety, the Health and Safety Executive had not any concern. The Department of Energy and Climate Change had granted a licence for the extraction and he was confident that it did not present any seismic issues. Any other proposals for the site would be considered separately. The application was for a temporary permission which covered this proposal only. There was a separate gas well permission for the Royal Hospital which had not yet been implemented. The Council, as Highway Authority, had considered the impact of the development in the area. According to current Government guidance (in the National Planning Policy Framework) the authorities should only refuse applications for permission on grounds of traffic impact if it would be severe. He reaffirmed that experts in various fields had been consulted for advice and that the applicant had responded to concerns raised by residents.

The Strategic Director's representative clarified that the highest number of goods vehicle visits to the site per day during construction would be 10 (ie 10 movements in each direction, 20 movements overall).

Councillor Hill spoke of her concerns regarding the use that vehicles associated with the development would have to make of the junction between

Dark Lane and the main road. The Strategic Director's representative acknowledged that Dark Lane would have problems during the construction phase, but on the basis of the current Government guidance did not consider these would be serious enough to warrant refusal of the application.

Councillor Smith commented on the restoration and aftercare of the site and considered that the visual impacts on the open countryside would be contrary to North East Derbyshire District Council policies. He noted that no planning obligation was being promised to supplement the basic proposed restoration and aftercare provision. The Strategic Director's representative commented in response that he did not judge the proposal to be contrary to North East Derbyshire District Council policies and that mineral development commonly took place in the countryside. He stated that mineral applications were to be regarded differently from developments of other kinds because they could only take place around where the minerals occurred. He explained that an easier surface location for the proposal would have been an adjoining field, which would have been more intrusive to local residents. Therefore, directional drilling was proposed to retrieve the gas.

Councillor Hosker noted that four of the individuals who had spoken had provided commentaries on technical issues which related to their professions and so he sought assurance that the issues had been carefully considered. The Strategic Director's representative explained that this was the third application which had been submitted by the applicant as a consequence of previous questions raised by consultees, additional information had been provided by the applicant. The Strategic Director's representative further commented that the issues raised individually did not warrant refusal and that it was for Members to consider the issues cumulatively.

Councillor Ford observed that some of the concerns were misplaced since the extraction process in this case would not involve or lead to fracking. He accepted that there would be serious short term effects but considered that they would be relatively modest in comparison to those associated with longer term construction work under other types of development. However, he would wish to see a financial bond being lodged with the County Council to secure costs of restoration.

Councillor Southerd commented that there were many environmental considerations which were required to be taken in to account. He considered that despite the statements in the report the surface site which had been chosen was inappropriate for such development, particularly regarding the noise impacts it would generate. He suggested that since the gas reserve could be reached and extracted through directional drilling as had been proposed a more suitable site could have been identified. He also mentioned having concerns about potential consequences to the Authority of a decision



to refuse. The Strategic Director's representative emphasised in response that in order to reach any decision to refuse permission which would be contrary to the recommendation they would need to identify and be persuaded by one or more substantial reasons for a refusal that could be supported by evidence in the event of an appeal to the Secretary of State against that decision.

Councillor Innes expressed concerns relating to the impacts on the health and wellbeing of residents during construction of the site, especially during the 6 weeks drilling phase.

Councillor Mihaly commented that whilst individually the impacts that would be experienced from the development might be regarded as small, they would cumulatively have a massive impact on the local community, particularly during 'phase 1'.

Following questions, the Strategic Director's representative confirmed that Derbyshire County Council would not gain financially from the proposed development.

Councillor Hill commented that having listened to the residents who had spoken at the meeting she continued to have a number of concerns in respect of radon, seismic monitoring and pollutions, which she did not feel had been adequately addressed.

A motion to refuse the application was then proposed and seconded. The Strategic Director's representative cautioned the Committee against proceeding with such a motion without any reason being expressed. During further discussion some Members suggested that the proposal was contrary to certain policies of the North East Derbyshire Local Plan as the District Council had indicated in its consultation response. An amended motion was then proposed and seconded for refusal of the application on the grounds that it was contrary to the North East Derbyshire Local Plan as indicated by the District Council in its consultation response and was unacceptable due to the location of the proposal in the countryside, and the cumulative impact of the proposal with regard to its impacts on the location and the local community, including impacts from the associated traffic.

Members of the Committee voted on the amended motion to refuse the application and this was carried.

**RESOLVED** that the application for planning permission be refused on the grounds that it was contrary to North East Derbyshire Local Plan as indicated by the District Council in its consultation response and was unacceptable due to the location of the proposal in the countryside, and the

cumulative impact of the proposal with regard to its impact on the location and the local community, including impacts from the associated traffic.

**45/14**                    **CURRENT ENFORCEMENT ACTION RESOLVED** to receive the report on Current Enforcement Action.

**46/14**                    **OUTSTANDING APPLICATIONS RESOLVED** to receive the list on decisions outstanding on 9 June 2014 relating to EIA applications outstanding for more than sixteen weeks, major applications outstanding for more than thirteen weeks and minor applications outstanding for more than eight weeks.

**47/14**                    **CURRENT APPEALS/CALLED-IN APPLICATIONS RESOLVED** to note the report on current appeals/called-in applications relating to County matters.

**48/14**                    **DEVELOPMENT MANAGEMENT PERFORMANCE MONITORING RESOLVED** to receive the Planning Services Development Management Monthly Performance Management Statistics for May 2014.

**49/14**                    **MATTERS DETERMINED BY THE STRATEGIC DIRECTOR FOR ECONOMY, TRANSPORT AND ENVIRONMENT UNDER THE DELEGATED POWERS RESOLVED** to note that the following applications had been approved by the Strategic Director for Economy, Transport and Environment under the Delegated Powers on:-

**(a) 15 May 2014**

- 1      Proposal for the Deposition of Pond Silt from the Lower Pond, Lumsdale, Upper Lumsdale Valley, Matlock  
Applicant: The Arkwright Society  
Planning Application Code No: CW3/0114/144
- 2      Proposed Installation of Replacement Double Glazed Timber Windows and Doors at Anthony Bek Community Primary School, Rotherham Road, Pleasley  
Applicant: Derbyshire County Council  
Planning Application Code No: CD5/0314/178
- 3      Delegation Decisions of Schemes required by Planning Conditions
  - SM2533
  - SD2525
  - SD2566
  - SD2460
  - SW2562

**(b) 22 May 2014**

- 1 Proposal to Install an Outdoor Canopy at Longford C of E Controlled Primary School, Longford, Ashbourne  
Applicant: Derbyshire County Council  
Planning Application Code No: CD3/0414/5
- 2 Proposed Installation of a Metal Security Fence at Stenson Fields Primary Community School, Goathland Road, Stenson Fields  
Applicant: Derbyshire County Council  
Planning Application Code No: CD9/0414/6

**(c) 29 May 2014**

- 1 Application Not to Comply with Condition 2 (Form of Development) of Planning Permission CD1/1112/111 for the Construction of a New Salt Barn at Chapel-en-le-Frith Highways Depot, Sheffield Road, Chapel-en-le-Frith  
Applicant: Derbyshire County Council  
Planning Application Code No: CD1/0414/4
- 2 Delegation Decisions on Schemes Required by Planning Conditions:
  - SM2547
  - SM2548

**(d) 5 June 2014**

- 1 Proposed Change of Use from a Steel Fabrication Workshop to a Scrap Metal Recycling Facility and Minor Amendments to the Site Layout at TME Recycling Limited, Unit 2-3 Burley Close, Chesterfield  
Applicant: TME Recycling Limited  
Planning Application Code No: CW2/0214/158