

MINUTES of a meeting of the **REGULATORY – PLANNING COMMITTEE** held at County Hall, Matlock on 29 January 2018.

PRESENT

Councillor M Ford (in the Chair)

Councillors J Atkin, D Charles, A Griffiths, L Grooby, R Iliffe, R Mihaly, R A Parkinson, P Smith and B Wright.

9/18 POWER TO NOT DETERMINE SECOND APPLICATION FOR PLANNING PERMISSION TO CONSTRUCT A WELL SITE AND CREATE A NEW ACCESS TRACK, MOBILISE DRILLING, ANCILLARY EQUIPMENT AND CONTRACTOR WELFARE FACILITIES TO DRILL A VERTICAL HYDROCARBON EXPLORATORY CORE WELL AND MOBILISE 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 BRAMLEYMOOR LANE, MARSH LANE APPLICANT: INEOS UPSTREAM LIMITED (CODE NO: CM4/1217/72) The report of the Strategic Director - Economy, Transport and Environment related, and his representative at the meeting reiterated, that INEOS Upstream Limited in 2017 had submitted an application to the County Council for planning permission to construct a vertical hydrocarbon exploratory core well on land adjacent to Bramley Moor Lane, Marsh Lane. That application had been subject to full consultation and publicity by the County Council and had generated a great deal of interest and significant representations. This had required further consultations, and extensions in time in which to determine the application, which had been agreed with the applicant. INEOS Upstream Limited had refused to agree any further extensions of time after 17 November 2017. The Council was subsequently informed by letter on 1 December that INEOS Upstream Limited had decided to exercise its right to appeal to the Secretary of State for non-determination of the application. On 19 December 2017 the Council had received a second application by INEOS Upstream Limited for planning permission for exactly the same proposed development as that described in the first application. By the time this application had been received an appeal to the Secretary of State for the non-determination of the first application (CM4/0517/10) had started. It had recently been confirmed that the appeal would proceed to a full public inquiry on 19 June 2018.

As the local planning authority which had received the “first application” the Council was expected to provide a statement of case for the appeal by 26

February 2018, and this was to be considered as a separate matter at the meeting of the Regulatory – Planning Committee on 5 February.

Although no new fee was payable by an applicant for the determination of this ‘twin track’ type of application, these applications were generally subject to the normal rules on time limits for determination. However, since this second application was for a development which was the subject of an appeal for determination by the Secretary of State, the Council was not obliged to seek to determine it and it was specifically empowered (by Section 70B of the Town and Country Planning Act 1990 as amended) to decline to determine it.

In circumstances such as these in which the Council and other parties were already engaged in a statutory appeal process which was set to arrive at a decision by or on behalf of the Secretary of State, the processing by the Council of this second application would not appear to provide any tangible public benefit. If the Council were to proceed to determination of the second application it would certainly require considerable extra work and duplication of effort for the Council’s professional planning officers. Local residents and others, to remain active in seeking to influence all decision making on this proposal, would in effect be obliged to make representations not only for the current appeal and forthcoming inquiry but also under the new application process (perhaps concurrently). There was no assurance that, if Council was to proceed to a determination of the application, the matter would then reach a final conclusion.

There was considered to be no compelling reason for the proposal not to be determined simply through the appeal process under the first application which INEOS had chosen to activate.

The Strategic Director’s representative commented on observations contained in a letter of 24 January from Turley, the applicant’s agent, which had been circulated at the meeting. The letter was in response to an invitation by letter from the Director of Legal Services to provide any observations on behalf of INEOS regarding what was being recommended.

The Strategic Director’s representative pointed out within his comments that there had been no prior indication by the applicant that a second application was to be submitted. However speedily the second application might be determined there was no assurance that its determination would bring finality to the whole matter of planning permission being granted or refused for the proposal, or would result in any overall reduction in delay in that, or saving of costs, or inquiry time.

The second application had not disposed of the ongoing appeal, which had been initiated a few weeks before the second application had been made. Advice in a withdrawn circular, which was cited in the letter, did not particularly address the circumstances of this case and did not restrict the breadth of the Council's discretion to exercise the power. There was no time limit on exercising the power to decline to determine. The application was still at an early stage in terms of process to determination, and would not need to be taken further if the Committee followed the officer recommendation. Officers did not feel that a discussion on the matter with INEOS would help the Council's consideration of this matter.

Councillor Wright stated that as a democratic point the Council should not give up its right to determine the second application and that he was opposed to the officer's recommendation. Councillor Smith stated that the Committee had never in his long experience been asked to decline to determine an application and that he was extremely disappointed with the officer's recommendation since he felt it would be giving away the Council's democratic role of determining an application for the proposed development, which would allow members of the public to give their views verbally at the Committee as well as in writing. He also commented that he would have benefitted from seeing details of the proposal before being asked to reject it for determination.

The legal officer present confirmed that the matter which Members were being asked through the report to decide on was unusual since the Council had rarely, if ever before, received a planning application for a proposed development which was already the subject of a current appeal. Since this matter concerned process rather than substantive planning considerations, it was felt to be appropriate for the report with the recommendation to be brought to Committee at this time.

Councillor Mihaly asked for clarification about the time limit of 17 November. The Strategic Director's representative reiterated that INEOS had chosen not to agree with the Council any further extensions of time for determining the first application beyond 17 November, although the Council then was expecting to receive certain further material from INEOS about it.

Councillor Charles supported the previous comments made by Councillors Wright and Smith. She reminded the Committee that there had been massive local interest in the proposed development. Although she was bemused by the actions of INEOS in appealing to the Secretary of State and also on the submission of the second application she did consider that the public should have every opportunity to speak on such an important issue.

Councillor Parkinson indicated that he did not think it could be desirable for a second application process to proceed further whilst the appeal was also proceeding and that the public inquiry for the appeal would ensure that the proposal would be examined fully.

RESOLVED to exercise on behalf of the Council the power provided by Section 70B of the Town and Country Planning Act 1990 (as amended) to decline to determine the second application for planning permission under code number CM4/1217/72.

Councillors Charles, Mihaly, Smith and Wright asked that their votes against this decision be recorded.

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