

**MINUTES** of a meeting of the **REGULATORY – PLANNING COMMITTEE** held at County Hall, Matlock on 5 February 2018.

**PRESENT**

Councillor M Ford (in the Chair)

Councillors J Atkin, A Griffiths, L Grooby, R Iliffe, R Mihaly, R A Parkinson, P Smith, M Wall (substitute Member) and B Wright.

Councillors D Charles and B Ridgway attended the meeting as Local Members in respect of the Bramblemoor Lane item (Minute No 11/18)

All Members of the Committee had received significant lobbying in respect of the Bramblemoor application.

**10/18**                    **MINUTES RESOLVED** that the Minutes of the meeting of the Committee held on 8 January 2018 be confirmed as a correct record and signed by the Chairman.

**11/18**                    **APPEAL ON APPLICATION FOR PLANNING PERMISSION FOR 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 WORKING RIG, LISTENING WELL OPERATIONS, AND RETENTION OF THE SITE AND WELLHEAD ASSEMBLY GEAR FOR A TEMPORARY PERIOD OF FIVE YEARS ON LAND ADJACENT TO BRAMBLEMOOR LANE, NEAR MARSH LANE APPLICANT: INEOS UPSTREAM LIMITED (CODE NO: CM4/0517/10)**

The proposal was to drill a vertical core well to a depth of 2,400 metres for hydrocarbon exploration on agricultural land at Bramblemoor Lane, Marsh Lane. The application sought permission for the drilling, suspension, decommissioning and restoration of the well, including use as a possible listening well. Core samples of the target geological formation (the shale rock layer) would be recovered and removed from site and tested for the potential to produce hydrocarbons (specifically shale gas). The proposal did not involve hydraulic fracturing. The whole development would take place over a temporary period of five years and would be carried out in five stages. The drilling and coring operations (Stage 2) would take place 24 hours a day for 3 months. On completion of the operations the site would be restored back to agricultural use.

The proposal and responses to consultations were described in the report of the Strategic Director - Economy, Transport and Environment. The report also referred to the substantial number of representations that had been received following publicity, which were mainly in objection. They covered the following issues: the location of the site, noise, traffic, Green Belt issues, light pollution, landscape and visual, air pollution, impacts on the water environment, drainage and contamination, wildlife and ecology impacts, public health, vibration and land stability, and economic factors. Other concerns had also been raised relating to loss of enjoyment of gardens, abandonment of the site, climate change and scientific research. The report also referred to comments under the representations in support of the proposal relating to fuel independence and renewable energy.

The report explained that the Committee would not be determining the application because the applicant had made an appeal to the Secretary of State but that any statement of case by the Council for the appeal would need to be provided to the Planning Inspectorate by 26 February 2018.

The report referred to relevant policies of the development plan, which were from the Derby and Derbyshire Minerals Local Plan and the North East Derbyshire Local Plan, other material considerations including the National Planning Policy Framework (NPPF), the national Planning Policy Guidance (PPG) and current national energy policy (which encouraged exploration and recovery of the country's gas reserves, including unconventional oil and gas resources).

The officer representing the Strategic Director explained that Petroleum Licences (PEDL) had been issued by the Oil and Gas Authority. The proposal under consideration concerned exploration of the site and not final recovery. The proposal was consistent in principle with national energy policy and guidance and would allow investment to explore whether indigenous gas reserves were available and worth exploiting. He reiterated that the proposal did not include any production, either on an appraisal or a commercial basis, or any hydraulic fracturing. He emphasised that if further development at this site beyond the exploratory phase was to be proposed, that would be the subject of separate planning application. He summarised the main issues concerning the proposal, which the report referred to in detail, including the need to consider the environmental impacts of the proposal and whether or not they were acceptable in line with tests in policy MP13 of the DDMLP and Paragraph 144 of the NPPF, its Green Belt situation, its impact on the landscape, visual impact, the impacts of noise disturbance, air quality, traffic highway safety, ecological, hydrology, and heritage, and cumulative impacts; and overall whether or not the proposed development would be acceptable or could be made so by planning conditions and/or obligations.

The conclusions in the report indicated that although the site was located in the open countryside and in the Green Belt the development in the proposed location would not be unacceptable, and there would be no significant impacts or conflict with development plan policy that would warrant an objection from the Council. The representative affirmed that these conclusions were reflected in the recommendation of the report, which was not opposed to a grant of permission under the appeal, provided that a comprehensive set of measures to control and limit the impacts of the development on the environment and local amenity with respect to noise, dust management, ecology, archaeology, lighting, traffic routing and highways safety, landscaping, restoration and aftercare were secured through a planning obligation by legal agreement and imposition of conditions to which the permission was subject.

The meeting was adjourned for a comfort break.

When the meeting resumed a number of people and organisations who had made representations on the application and had indicated they wished to speak addressed the Committee.

Lee Rowley MP referred to having sent a message by email to Members of the Committee to provide them with comments on the officer's report. He urged the Committee to reject the officer's recommendation, which he contended was out of accordance with planning policies and accorded precedence to government policy on energy and 'fracking'. He referred to concerns about loss of land for farming, Green Belt openness, ecology and additional traffic in the area from the development. He believed that the contravened 22 different policies and that this was of sufficient weight for the proposal to be rejected.

Jenny Booth spoke as a local resident. She suggested that although the application was for a temporary permission the same policies were applicable to it as would apply to applications for permanent permissions. She referred to references in the report about development in the Green Belt and the 2017 High Court judgement in a judicial review case against Elmbridge Borough Council as providing clarification on the approach to be taken by local authorities to understanding the NPPF advice on the need for developments in the Green Belt to 'preserve' its openness. She suggested that there were no 'very special circumstances' that could justify the proposal as development in the Green Belt. She asked that the officer's recommendation be rejected.

Councillor Diane Charles addressed the Committee as the County Councillor representing her local division. Her key areas of concern regarding the proposal were about traffic and pollution. She referred to the additional

HGV traffic from the development as being unsuitable for the roads to the site. She referred to the additional traffic adding to air pollution and believing that air pollution and public health issues could not be overcome by imposing conditions to any planning permission. She could not support the proposal finding it to be detrimental to the local area and asked the Committee to oppose it.

Councillor Brian Ridgway spoke as the County Council member representing his division. He outlined the nature of the area affected by the application and its demographics, including figures for population and children. He also referred to the unsuitability of the B6056 route that would be used for the traffic. He commented that the area had already experienced many years of coal extraction and local steel workings which had had effects on health that were still being experienced. He suggested that the proposal bring no benefits to the area.

Councillor Alex Dale spoke both on behalf of Unstone Parish Council and as the local County Councillor for his local division, which bordered the application site. He felt that communities would be badly affected by problems from traffic on roads that were not suitable to cope with HGVs. He was also concerned that the drilling rig would be seen from miles around the area and that its height would cause danger by affecting aircraft using the local Apperknowle airfield. He concluded by asking that the proposal be rejected.

Councillor Michael Gordon referred to speaking both as the North East Derbyshire District Council local ward member and on behalf of the District Council. He spoke of the rural and tranquil location of the site and the low levels of night time background noise, which local residents enjoyed. He was concerned regarding the substantial increase to the noise levels proposed during the 3 month exploration period, which he considered would be a major change and affect people's health through difficulty sleeping. He felt this would be unacceptable, even with conditions being imposed. Although he noted the proposal was for a temporary 5 year period, he felt that temporary permissions should not be considered any differently to permanent proposals and suggested that the report unduly disregarded the emerging local plan policies and the current policy GS6. He concluded that new development should be in keeping with the character of the countryside and not be intrusive in the rural setting.

Richard Pointer spoke as a local resident and referred to living about 480m from the proposed rig site and having moved to the area because of the quality of life he could enjoy there. He did not perceive any background noise and could hear distinct sounds from the area including birds singing, children playing, dogs barking, motorcycles and agricultural machinery. An increase in the noise levels made from the equipment and traffic would affect the

ecological balance of the area. He drew attention to differences between background noise figures in the current report and information on background noise which had been provided with a more recent application from the applicant.

Councillor Angelique Foster addressed the Committee as Leader of Dronfield Town Council and on behalf of local residents. She spoke in opposition to the proposal because of the impact she felt the development would have on the Green Belt, a conservation area and the health and wellbeing of residents from noise pollution and traffic issues. She referred to Eckington Road as being dangerous and with parked cars on one side allowing only single flow and one area only for pedestrian crossing. The volume of HGV traffic proposed was unacceptable.

Councillor Anthony Hutchinson spoke as the Coal Aston East representative for Dronfield Town Council. He stated that residents on Eckington Road included young families and older people. Crossing the road was needed to get to the park and schools. He reiterated that there was only one crossing point, that there was single track movement and that HGVs would create a bottleneck. The quality of life for residents would be diminished.

David Kesteven addressed the Committee on behalf of 'Eckington against Fracking'. He suggested that opposing the proposal would help ensure that all issues of concern would be thoroughly addressed for the appeal inquiry. He emphasised that MLP13 as 'key' and that sustainable development was central to NPPF. The environmental impacts were unacceptable and the Green Belt would be compromised. He also criticised the consideration given to greenbelt in the report in view of the High Court case Jenny Booth had referred to and particularly its emphasis on the proposal as being temporary. He suggested that the cumulative impact must be considered, that the possibility of a subsequent application should be taken in to account, and that the Council had a duty of care to its residents. He spoke about traffic and accidents on local roads, objections received in respect of Apperknowle airfield, and long eared owls being present in the area. He referred to planning applications for other development in the North East Derbyshire District Council having been refused because of traffic issues, visibility, Green Belt policy, and being inappropriate development. He urged the Committee to oppose the proposal.

Andy Jones, Donald King and Harry Barnes spoke on behalf of 'Coal Aston against Fracking'. Andy Jones spoke of the existence of an apparent discrepancy between the volume of rain for water that would collect on the proposed impermeable surfacing in a 1 in 100 year probability weather event (according to the appellant's drawings) and the appellant's calculation of the

number of 30 cubic metre capacity water tanker visits that would then be required to avoid water escaping. He suggested that at least 1,100 such tanker visits would be needed to avoid an overflow and contamination of surrounding land in the event of such wet weather. He asked for the application to be rejected.

Donald King considered that the statistics from INEOS relating to percentages of HGV traffic increases were misleading and based on the figures which included certain types of vehicle which were in a HGV class, and that articulated vehicle and abnormal load journeys should be assessed in their own terms. He also spoke about accidents and that there having been five accidents on Dyche Lane since 26 December 2017.

. Harry Barnes referred to a Coal Authority map to draw attention to the nature and pattern of coal mining shafts and 'high risk' areas in that area that were recognised by the Coal Authority, and referred to the possibility of shafts that were as yet undiscovered in or near the site. He commented that INEOS would be operating in a highly at risk/unstable area.

Chris Crean addressed the Committee on behalf of Friends of the Earth. He mentioned that 500 letters had been submitted by Friends of the Earth supporters, which expressed opposition to the proposal. They were not from the organisation but showed that Friends of the Earth were amongst the many people who had strong feelings about the proposal. He did not feel that the proposed conditions would safeguard the area and Derbyshire. It would industrialise the countryside, and result in traffic, visual and noise issues. There were many planning concerns which could not be met by conditions. There were also concern about INEOS being able to seek variations to whatever that might be imposed on any planning application.

Andrew Wood spoke on behalf of Friends of the Peak District, CPRE South Yorkshire and High Peak. He referred to being pleased to be able to echo the strength of feeling of the local community. Although in principle mineral extraction activity might not be inappropriate in the Green Belt, the proposal would have an industrialising impact on it. He invited Members to outline clear grounds for opposing the proposal if they had any cause for concern.

Gloria Havenhand spoke as a local resident and honey producer at Troway Hall near Marsh Lane, situated in the Moss Valley. She referred to the location as part of Derbyshire's honey trail and including the only meadow which was a site of special scientific interest in the Valley which attracted honey bees. The specialist honey which was produced was unique in the UK and the world. She was especially concerned that any pollution from the

development could destroy the ecology of the area, which this production relied on.

The meeting was adjourned for a few minutes.

When the meeting resumed the Strategic Director's representative provided comments in response to questions raised by Committee Members for clarification of points arising from the speakers' representations referred to above and further comments in the light of the representations and questioning, which included the following explanations:

With regard to the Green Belt issues, there was legal authority to back the position on exploratory mineral development as 'not appropriate' that was accepted in the report. Whilst this position detailed in the report was still considered to be correct, the report also acknowledged that the effect of the operation on the Green Belt for its duration was amongst the factors to be weighed up by Members.

With regard to Policy GS6 in the North East Derbyshire District Council Local Plan, an appeal decision on a mineral development proposal at Dark Lane, Calow indicated that it would not be a significant consideration for this proposal.

Although there would be emissions to air, including emissions from generators, he considered they could be adequately controlled and managed.

The Council as Highway Authority had been consulted twice on the proposal and had taken in to consideration all the relevant safety information available to it. Its comments were in the report.

The Highways Agency had also been consulted and its response was also in the report.

Coal Aston airport had been consulted on the application four times, the Aviation Authority three times and Leeds Bradford Airport twice. None of them had provided any substantive comments on it.

On noise data, the background noise level figures presented in a table in the report had been provided by the appellant's latterly for its appeal statement of case and were lower than those previously provided with the application. He was confident that the noise assessment in the report was appropriate, since it was based on the appellant's newer and lower background noise figures.

Members of the Committee then proceeded to discuss the proposal.

Councillor Smith commented on the unsuitable appearance of the highway network, which had been apparent during the bus tour to the locality for the Committee Members, and which had included the proposed route for development traffic. He referred to the narrowness of parts of the roads carriageway, and absence of pavements and of lighting over some parts of the roads. He did not find that the proposed level of HGV traffic use of the routes to the site, would be acceptable since it would have a great impact on the community of the area. He also commented that there would be an impact on the openness of the Green Belt. He questioned the lack of an Environmental Impact Assessment, that no social value considerations to the community had been considered, and that no financial suitability tests had been undertaken. Having regard to the evidence presented he proposed a motion to reject the officer's recommendation based on the cumulative impacts of highways, noise and green belt issues. This was seconded by Councillor Wright.

Councillor Wall then spoke of his concerns about the application. He did not consider that there were any special circumstances to favour such a development in the Green Belt, and felt there were gaps in the report, which a flaw in the rainwater calculations seemed to be an example of. He felt that INEOS would not be able to meet the noise restrictions required, that the impacts would be significant, and that the temporary nature of the rig installation did not change this. He commented that current Government policy to reduce greenhouse gases put MPAs under excessive pressure. Having considered the report, he could not support the proposal.

Councillor Griffiths had concerns relating to highway HGV movement issues and to sink holes as a possibility in connection with the history of mining in the area. He could not, therefore, support the proposal.

Councillor Parkinson referred to comments in the report relating to an increase on the rural road network and also the applicant not considering alternative sites outside the Green Belt. He drew attention to the parts of the report (relating to the Green Belt, landscape and visual impacts, and noise and vibration) where in each case the conclusion was expressed in terms of being 'on balance'. He also referred to Eckington Lane as narrow and twisting and having observed that he would not wish to walk, cycle or horse ride on it. He considered that the Council should not support approval of the proposal and he could not support it.

Councillor Mihaly drew attention to Policy MP13 of the Derby and Derbyshire Minerals Local Plan which stated that proposals for mineral exploration which required planning permission would be permitted provided that their impact on the environment was acceptable and would not cause irreparable or unacceptable damage to interests of acknowledged



environmental importance. He was also sceptical as to whether any conditions to any planning permission would be complied with. He stated that he could not support the officer's report.

Councillor Smith then suggested that the comments of the Director of Public Health that hydraulic fracturing maintained a hydrocarbon based system of energy production which did not align with Public Health priorities would generate another ground for refusal.

Councillor Ford made reference to arrangements for a Local Liaison Committee. He indicated that he did not intend to vote for a motion which would be against the officer's recommendation.

The Chair then agreed to call a brief adjournment in order to allow an opportunity for formulation of wording for a motion to be proposed for a resolution that would clearly state the basis for the Council's participation in the appeal.

When the meeting was resumed Councillor Smith, seconded by Councillor Wright, proposed a revised motion to provide the resolution set out below.

**RESOLVED** to authorise the presentation for the appeal of a case which is against the grant of planning permission for this proposal on the basis of (1) harm to the open nature of the Green Belt, (2) impacts from traffic from the development over the relevant highway network, and (3) unacceptability of night time noise impacts which cannot be acceptably mitigated by condition.

The motion was carried nine – one.

Councillors J Atkin, A Griffiths, L Grooby, R Iliffe, R Mihaly, R A Parkinson, P Smith, M Wall and B Wright voted FOR the motion. Councillor M Ford voted AGAINST the motion.

**12/18**                    **CURRENT ENFORCEMENT ACTION** **RESOLVED** to receive the report on Current Enforcement Action.

**13/18**                    **OUTSTANDING APPLICATIONS** **RESOLVED** to receive the list on decisions outstanding on 5 February 2018 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.

**14/18**                      **CURRENT APPEALS/CALLED-IN APPLICATIONS**  
**RESOLVED** to note the report on current appeals/called-in applications relating to County matters.

**15/18**                      **MATTERS DETERMINED BY THE STRATEGIC DIRECTOR FOR ECONOMY, TRANSPORT AND ENVIRONMENT UNDER DELEGATED POWERS** **RESOLVED** to note that the following applications had been approved by the Strategic Director for Economy, Transport and Environment under delegated powers on:-

**(a) 4 January 2018**

1      Delegation Decision in Schemes Required by Planning Conditions:

- SD3058
- SD2819
- SD3057
- SD3077
- SD3064
- SD3065

**(b) 11 January 2018**

1      Proposed Construction of Extension for Accessible Toilet for an Existing School Building at Heage Primary School, School Lane, Heage, Belper DE56 2AL

Applicant: Derbyshire County Council

Planning Application Code No: CD6/1117/63

2      Application for Non-Material Amendments to Planning Permission CD8/1016/54 at Larklands Infants and Nursery School, Park Road, Ilkeston

Applicant: Derbyshire County Council

Planning Application Code No: NMA/1117/61

**(c) 18 January 2018**

1      Proposed Cloakroom Extension at Duke of Norfolk Church of England Primary School, Royle Avenue, Glossop

Applicant: Derbyshire County Council

Planning Application Code No: CD1/1117/65

2      Proposed Removal of Existing Rotting Timber Windows and Door to allow Replacement with New Aluminium Units at Little Eaton Primary School, Alfreton Road, Little Eaton

Applicant: Derbyshire County Council  
Planning Application Code No: CD8/1117/67

- 3 Proposed Structural Repairs to the Original Vic Hallam Posts, Replacement of the Existing Cladding with Vulcan Weathertone Shiplap Cladding and Existing Windows with an Aluminium System to match Previous Phases of Window Replacement at William Allitt School, Sunnyside, Newhall, Swadlincote  
Applicant: Derbyshire County Council  
Planning Application Code No: CD9/1217/70

- 4 Delegation Decision in Schemes Required by Planning Conditions:

- SW3041
- SW3042

**(d) 25 January 2018**

- 1 Section 73 Application Not to Comply with Condition 1 of Planning Permission CW3/0112/143 to Enable Storage Bays to be moved within the Site to an Alternative Location in the North-East Corner at Vital Earth Limited, Blenheim Road, Airfield Industrial Estate, Ashbourne, DE6 1HA  
Applicant: Vital Earth Limited  
Planning Application Code No: CW3/1017/6

- 2 Application for Non-Material Amendment to Planning Permission CD9/0917/50 at Eureka Primary School, Dunsmore Way, Swadlincote  
Applicant: Derbyshire County Council  
Planning Application Code No: NMA/1217/62

- 3 Delegation Decision in Schemes Required by Planning Conditions:

- SM3045
- SM3047
- SM3049