

**Open Report on behalf of Richard Wills
Executive Director, Environment & Economy**

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| Report to: | Planning and Regulation Committee |
| Date: | 14 May 2018 |
| Subject: | County Matter Application – N/059/00531/18 |

Summary:

Planning permission is sought by Egdon Resources UK Ltd (Agent: Barton Willmore) to vary conditions 1 and 3 of planning permission (E)N59/2259/14 - To extend the end date for the completion of the development by 3 years and to amend approved drawings so as to allow the retention of security and welfare cabins during the production testing phase at Land off High Street, Biscathorpe, Louth.

The principle of the development has been established and as a consequence the key issues in this case are if any significant changes have occurred since the grant of the original permission that would represent material considerations.

Recommendation:

Following consideration of the relevant development plan policies and the comments received through consultation and publicity it is recommended that conditional planning permission be granted.

Background

1. Following a site visit in March 2015, the planning and regulation committee resolved to grant temporary planning permission (ref: (E)N59/2259/14) to drill an exploratory borehole for conventional hydrocarbons, production testing and evaluation at land off High Street, Biscathorpe, Louth. The application comprised of the construction of a new access track; temporary well site and flare pit; stationing of portable cabins for the storage of equipment and for staff office accommodation, and; drilling of an exploratory borehole, carrying out of production tests and retention of the site, wellhead valve assembly gear for subsequent evaluation and the retention of cabins for welfare of employees and to ensure the security of the site. The purpose of the application was to test an identified underlying oil reservoir to determine whether there were commercially viable reserves of conventional hydrocarbons available. The potential oil reserves were to be accessed by conventional drilling only and would not involve the process of hydraulic

fracturing (known as "fracking") which is associated with the recovery of shale gas or oil.

2. The original planning permission contained a number of pre-commencement planning conditions which required the applicant to submit for approval further details relating to the development and/or to carry out certain works before the development could lawfully commence. These included details relating to an archaeological investigation of the site, external lighting, fencing and bunding, noise monitoring and construction traffic management plan as well further biodiversity mitigation. The various details were all submitted, approved and (where required) works carried out before the expiration of the temporary three year period. Consequently, although the drilling operations themselves have not been undertaken, the development has commenced and the permission has been lawfully implemented.

3. Notwithstanding the above, Condition 1 of the permission states:

'The development hereby permitted shall cease on or before 28 February 2018 and by that date all portable buildings, plant and machinery associated with the use hereby permitted shall have been removed, the well capped and the land, including the access track, returned to its previous use as agricultural land'

Reason: To provide for the completion of the exploratory operations in the interests of the amenity of the area.

4. Condition 3 of the permission lists the documents and plans that were originally approved when planning permission was granted. The plans listed included site layout plans which the applicant is proposing to replace with revised drawings to reflect the proposed retention of the security and welfare cabins during the production testing phase.
5. As the applicant has not completed the development by the date set by Condition 1, the applicant is seeking permission to extend the end date by a further three years. Whilst the original end date has now passed, the application seeking permission to extend the end date was received before the expiration of that date and therefore is valid and capable of still being considered.

The Application

6. Planning permission is sought by Egdon Resources UK Ltd (Agent: Barton Willmore) to vary conditions 1 and 3 of planning permission (E)N59/2259/14 - To extend the end date for the completion of the development by 3 years and to amend approved drawings so as to allow the retention of security and welfare cabins during the production testing phase at Land off High Street, Biscathorpe, Louth.
7. The applicant proposes to vary Condition 1 so as to extend the end date by a further three years and so would therefore read as follows:

'The development hereby permitted shall cease on or before 28 February 2021 and by that date all portable buildings, plant and machinery associated with the use hereby permitted shall have been removed, the well capped and the land returned to its previous use as agricultural land.'

Reason: To provide for the completion of the exploratory operations in the interests of the amenity of the area.

8. It is also proposed to vary Condition 3 so that the approved plans listed under this permission reflect the retention of the security and welfare cabins during the production testing phase. The revised condition would therefore read as follows:

'Except as otherwise required by other conditions attached to this permission the development hereby permitted shall be carried out in strict accordance with the submitted details and recommendations and the following drawings:

- a) 3299(2) P 01 Rev A "Site Local Plan" (received 20 October 2014);
- b) 299(2) P 02 Rev A "Site of Application" (received 20 October 2014);
- c) 3299(2) P 03 Rev A "Site Overview Plan" (received 20 October 2014);
- d) 3299(2) P 04 Rev A "Proposed Site – Existing Ground Plan" (received 20 October 2014);
- e) 3299(2) P 05 Rev A "Site Entrance Detail & Sightlines" (received 20 October 2014);
- f) 3299(2) P 06 Rev A "Site Entrance – Proposed Layout" (received 20 October 2014);
- g) 3299(2) P 07 Rev A "Proposed Site – Construction Mode" (received 20 October 2014);
- h) 3299(2) P 08 Rev A "Proposed Site – Indicative Drilling Mode" (received 20 October 2014);
- i) 3299(2) P 09 Rev A "Proposed Site – Drilling Mode – Indicative Lighting Layout" (received 20 October 2014);
- j) 3299(2) P 11 Rev C "Proposed Site – Retention Mode" (received 20 October 2014);
- k) 3299(2) P 12 Rev C "Site Drain Details" (received 20 October 2014);
- l) 3299(2) P 13 Rev B "Sections – Existing" (received 20 October 2014);
- m) 3299(2) P 14 Rev B "Sections – Indicative Drilling Mode" (received 20 October 2014);
- n) 3299(2) P 16 Rev C "Sections – Retention" (received 20 October 2014);
- o) 3299(2) P 17 Rev C "Cabin Layouts and Elevations" (received 20 October 2014);
- p) 20058 P18 "Proposed Site Indicative Testing Mode" (received 23 February 2018); and
- q) 20058 P19 "Sections Indicative Testing Mode" (received 23 February 2018)

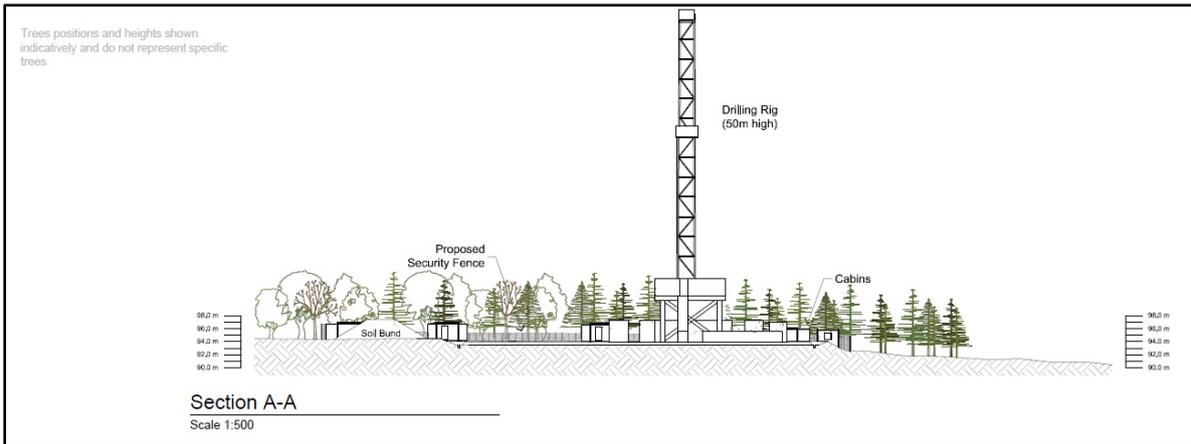
Reason: To enable the Mineral Planning Authority to monitor and control the development

9. A planning statement has been submitted by the applicant, which identifies the reasons for the delay in completing the development within original three year time period and the reasons why an extended period of time is now sought. The main reasons set out in this document are summarised as follows:

- The Environmental Permitting regime as required by the Environment Agency has changed significantly in recent years and following the need to demonstrate best available techniques in relation to flaring used in testing operations Egdon Resources UK Limited have only recently (July 2017) acquired the necessary Environmental Permit that would allow drilling operations to proceed;
- The value of crude oil over the past three years has been half of that which was available in 2014 and so it has not been commercially viable to undertake onshore exploration in the UK. Crude oil values have however recently increased to a level that would justify the investment necessary to enable the operations proposed at Biscathorpe to be carried out and completed; and
- Egdon Resources UK Limited has experienced unavoidable delays in respect of production at another wellsite which have impacted upon the company's operational programme, activities and progress at other sites.

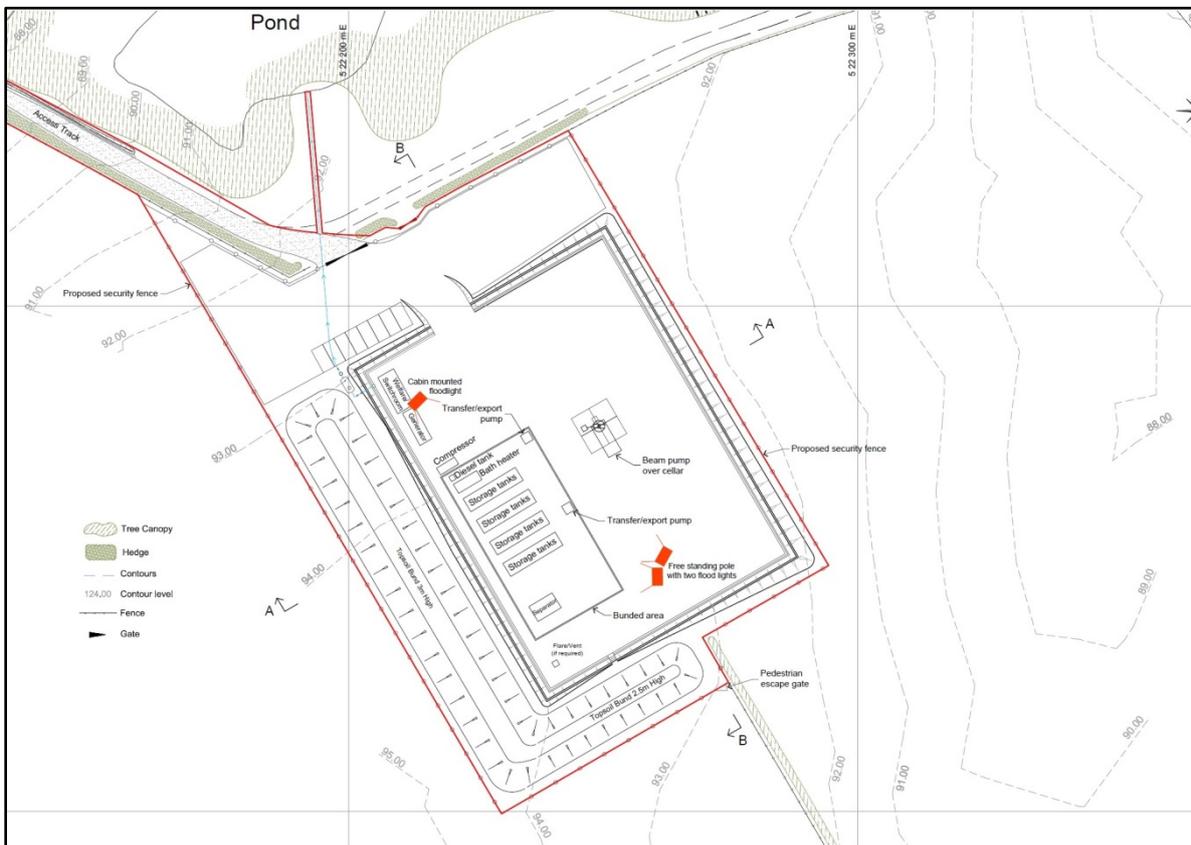
10. The application does not seek to extend the scope of the development permitted or change any of the details or schemes previously approved pursuant to the pre-commencement conditions. All works would therefore be carried out in accordance with those previously agreed and accepted in 2015 and 2016 which were granted by permission (E)N59/2259/14 or as modified by this application. The proposed exploration and evaluation works would therefore continue to be carried out in 4 separate phases which are summarised as follows:

- **Phase 1: Construction of the Drill Site** (approximately 7 weeks). This would involve the completion of the construction and laying out of the site and access road (Photograph 1) and would include construction of perimeter bunds, fencing and construction of interceptor ditches and installation of the well cellar and chamber.
- **Phase 2: Operational Phase (drilling)** (approximately 8 weeks). During this phase the drill rig and all associated plant and equipment (Plan 1) would be brought into the site which includes on-site water tanks, pipe stores, mud and fuel tanks and staff accommodation. Once commenced, drilling and associated operations would take place on a 24 hours per day, seven days per week basis over a period of up to six weeks.

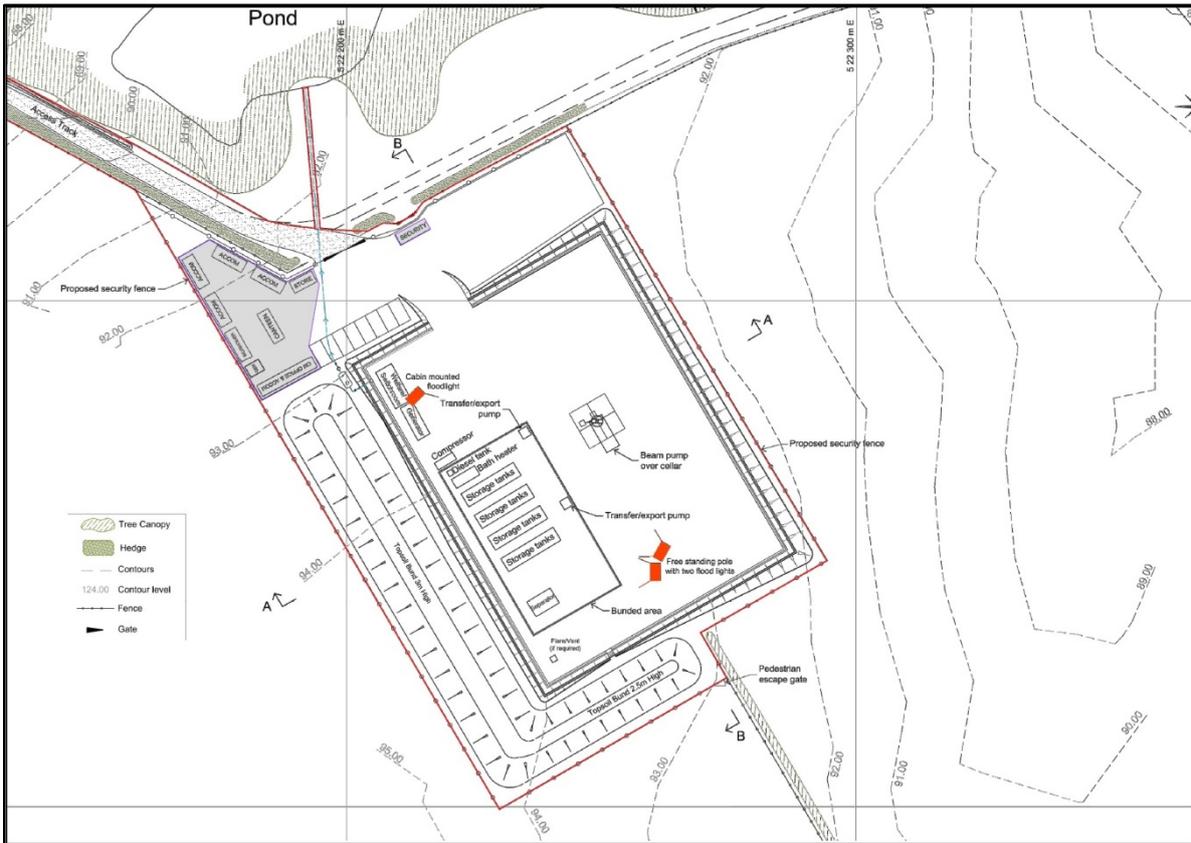


Plan 1 – Site Layout Cross Section during Phase 2 Operational Drilling

- Phase 3: Operational Phase (testing)** (approximately 28 weeks). If the drilling programme provides evidence of hydrocarbon, the well would then be completed and made safe and a wellhead installed at surface level. Additional equipment including a beam pump, welfare unit/switchroom, generator, four fluid storage tanks, a compressor and two transfer/export pumps would be installed. An indication of the site set-up previously approved (Plan 2) together with the proposed site layout (Plan 3) has been provided however, the exact configuration of the equipment would not be known until the drilling programme is complete and the production test underway, as it is only at that point that fluid and hydrocarbon recovery can be confirmed.



Plan 2 – Approved site layout Phase 3 Operational testing (Ref: (E)N59/2259/14)



Plan 3 – Proposed site layout Phase 3 Operational testing (Ref: PL/0030/18)

- Phase 4: Site Restoration** (7 weeks to complete). This would involve filling the steel casing of the well with concrete, cut approximately 2 metres below the surface and capped with a steel plate. All on-site structures would be removed as would the well cellar and sump lining. Any remaining drilling mud and cutting waste would also be removed together with the pit liner and the perimeter ditch lining. It is proposed to re-grade and deep scarify the land in accordance with best agricultural practice. The stored subsoil and topsoil would be loose spread over the regraded ground and the site would be re-contoured and restored to agricultural use. This phase takes place over a 6 week period.
11. Each phase of the development, and associated HCV movements, would continue to be restricted to specific hours of work and all operations would be required to comply with previously agreed noise limits when measured at identified nearby sensitive receptors. Where operations are required and permitted to be carried out 24 hours a day, floodlighting would be employed in line with the details previously approved. The approved lighting has been designed to minimise light spillage outside of the site although given the height of the drill rig, for reasons of aircraft safety, lighting is required to be installed at intervals to the top of the rig.

12. Vehicle movements would be in line with the original proposal as follows:
- **Phase 1** - 278 HGV loads of crushed stone would be required and that these would be delivered over a seven week period. In addition, during this period, there would be the need for approximately 10 other ancillary loads to be delivered to the site by truck and three to four articulated low loaders for earthworks. Alongside these deliveries, access to and from the site would be required by personnel employed on the site generating an addition five to 10 movements per day by car or light van;
 - **Phase 2** - 126 heavy goods vehicle movements (approximately 63 deliveries) associated with the mobilisation of the site over a seven day period. A similar number of HGV movements would be associated with the demobilisation of the site, again over a seven day period. During the main drilling period there would need to be deliveries of equipment alongside the removal of drilling mud and cuttings. This is likely to generate three to four vehicle loads (six to eight movements) per day over a four to five week period. This would be in addition to around 20 (10 in and 10 out) car and light van trips generated by site personnel. Water would be required for the drilling fluids whilst drilling the borehole, equating to approximately 20 tankers per day for the first three days and reducing to two tankers per day thereafter;
 - **Phase 3** - it is estimated that there would be six HGVs over a three day period for the site preparation; 10 HGV deliveries and one crane over days one to four and four light vehicles (cars and light vans) per day for the two week site set-up period. During the production test period, assuming 50 barrels of oil per day, six tankers would be required per month to export oil from site, assuming 10 barrels of water per day would require one to two waste tankers per month and additionally two cars and light vans per day and occasional light van deliveries for the remainder of the test period; and
 - **Phase 4** – would generally reflect the vehicle movements associated with Phase 1 however, is dependent on whether the landowner requests the retention of the access route for agricultural use.

Site and Surroundings

13. The application site (Photograph 1) lies to the west of the settlement of Biscathorpe in the open countryside within the Lincolnshire Wolds Area of Outstanding Natural Beauty. Access (Photograph 2) to the site would be from the B1225 (High Street) which runs north to south to the west of the application site.



Photograph 1 – View from the south Donnington Road towards application site



Photograph 2 – Site access off B1225 (High Street)

14. The access track to the site lies between two Scheduled Monuments which are the northern two in a series of four Scheduled Monuments located on a north-south line, approximately 950 metres apart in total. These Scheduled Monuments are Bronze Age barrows (burial mounds) all of which are associated with the valley of the River Bain and with High Street, which is known to have originated as a prehistoric trackway. To the north east of the application site is the site of the medieval village of Biscathorpe, including the Grade II* listed Church of St Helen. The River Bain runs through this valley to the east.
15. Immediately to the north and to the east of the proposed site compound are areas of woodland. The surrounding area is in agricultural use and there are farm buildings to the east of the site. Beyond these farm buildings to the east are residential properties. Approximately 1km to the south west of the application site is the Belmont Transmitting Station, including the 350 metre high Belmont Mast.
16. On the ridge line to the east of the application site is a mast and other equipment associated with the Ministry of Defence.

Main Planning Considerations

National Guidance

17. National Planning Policy Framework (NPPF) (March 2012) sets out the Government's planning policies for England and is a material planning consideration in the determination of planning applications. In assessing and determining development proposals, Local Planning Authorities should apply the presumption in favour of sustainable development. The main policies/statements set out in the NPPF which are relevant to this proposal are as follows (summarised):

Paragraphs 6 to 17 - presumption in favour of sustainable development and core planning principles;

Paragraphs 93 to 108 - meeting the challenge of climate change, flooding and coastal change;

Paragraphs 109 to 125 - seeks to conserve and enhance the natural environment; prevent unacceptable risks from pollution and protect general amenity, and prevent adverse impacts as a result of noise pollution;

Paragraphs 126 to 141 - requires that the significance of heritage assets is taken into consideration, including any impacts on their setting. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal;

Paragraphs 142 to 149 - facilitating the sustainable use of minerals by ensuring sufficient supply and no unacceptable adverse impacts;

Paragraphs 186 to 192 - decision-taking should be approached in a positive way to foster the delivery of sustainable development and where possible planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions in the area;

Paragraphs 196 and 197 - confirm that the planning system is a plan-led system and that applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Local Planning Authorities should also apply a presumption in favour of sustainable development;

Paragraphs 203 and 206 - advises on the use of planning conditions and states these should only be sought where they are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development;

Paragraphs 215 and 216 - confirms the position regarding the status of existing and emerging Local Plans and their policies and that due weight should be given to relevant policies in existing and emerging plans according to their degree of consistency with the NPPF and their stage of advancement to adoption. This is of relevance to the Lincolnshire Minerals and Waste Core Strategy and Development Management Plan (CSDMP) (2016), East Lindsey Local Plan Alteration 1999 and the emerging East Lindsey Core Strategy Submissions Modifications Draft March 2017 a consultation on the Schedule of Proposed Main Modifications to the Core Strategy Draft Local Plan (2017) has recently closed.

18. In addition to the NPPF, in March 2014 the Government published the web-based National Planning Policy Guidance (NPPG). The NPPG also sets out the overall requirements for minerals sites, including in relation to assessing environmental impacts such as noise, light and visual amenity.
19. The consultation on the 'Draft revised National Planning Policy Framework' commenced 5 March 2018, although a material consideration is at an early stage and carries little weight but does include the following addition (summarised):

Paragraph 204 states that Minerals Planning Authorities should:

- a) recognise the benefits of on-shore oil and gas development, for the security of energy supplies and supporting the transition to a low carbon economy and that policies should therefore be put in place to facilitate their exploration and extraction.

Local Plan Context

20. Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies (CSDMP) (2016) - the key policies of relevance in this case are as follows (summarised):

Policy M9 (Energy Minerals) states that planning permission will be granted for exploration, appraisal and/or production of conventional and unconventional hydrocarbons provided that proposals accord with all relevant Development Management Policies set out in the Plan.

Policy DM1 (Presumption in favour of sustainable development) states that when considering development proposals, the County Council will take a positive approach. Planning applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise.

Policy DM2 (Climate Change) states that proposals for minerals and waste management developments should address the following matters where applicable:

- Minerals and Waste – Locations which reduce distances travelled by HCVs in the supply of minerals and the treatment of waste; and
- Waste – Implement the Waste Hierarchy and reduce waste to landfill.
- Minerals – encourage ways of working which reduce the overall carbon footprint of a mineral site; promote new/enhanced biodiversity levels/habitats as part of the restoration proposals to provide carbon sinks and/or better connected ecological networks, and; encourage the most efficient use of primary minerals.

Policy DM3 (Quality of Life and Amenity) states that planning permission will be granted for minerals and waste development provided that it does not generate unacceptable adverse impacts to occupants of nearby dwellings or other sensitive receptors as a result of a range of different factors/criteria (e.g. noise, dust, vibrations, visual intrusion, etc).

Policy DM4 (Historic Environment) seeks to protect heritage assets and their settings and ensure the impacts are fully assessed.

Policy DM5 (Lincolnshire Wolds Area of Outstanding Natural Beauty) states that planning permission will only be granted for development within or affecting the character or setting of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) in exceptional circumstances where it can be demonstrated that:

- there is a proven public interest; and
- there is a lack of alternative sites not affecting the AONB to serve the market need; and
- the impact on the special qualities of the AONB can be satisfactorily mitigated.

Policy DM6 (Impact on Landscape and Townscape) states that planning permission will be granted provided that due regard has been given to the likely impact of the proposed development on the landscape, including landscape character, valued or distinctive landscape features and elements and important views. If necessary additional design, landscaping, planting and screening will also be required and where new planting is required it will be subject to a minimum 10 year maintenance period.

Policy DM9 (Local Sites of Biodiversity Conservation Value) seeks to protect locally designated sites and habitats.

Policy DM11 (Soils) states that proposals for should protect, and wherever possible, enhance soils.

Policy DM12 (Best and Most Versatile Agricultural Land) states that proposals that include significant areas of best and most versatile agricultural land will only be permitted where it can be demonstrated that no reasonable alternative exists and for mineral sites the site will be restored to an after-use that safeguards the long-term potential of the best and most versatile agricultural land.

Policy DM13 (Transport by Road) states that planning permission will be granted for development involving transport by road where the highway network is of, or will be made up to, an appropriate standard and arrangements for site access and traffic would not have an unacceptable impact on highway safety, flow, residential amenity or environment.

Policy DM14 (Flooding and Flood Risk) states that proposals will need to demonstrate that they can be developed without increasing the risk of flooding both to the site and the surrounding area during and following the operations.

Policy DM15 (Water Resources) states that planning permission will be granted for minerals and waste developments where they would not have an unacceptable impact on surface or ground waters and due regard is given to water conservation and efficiency.

Policy R1 (Restoration and Aftercare) states that proposals must demonstrate that restoration will be of high quality and carried out at the earliest opportunity; and

Policy R2 (After-use) requires that the proposed after-use should be designed in a way that is not detrimental to the local economy and conserves and where possible enhances the landscape character, natural and historic environment of the area.

21. East Lindsey Local Plan (Alteration 1999) - the following policies are of most relevance in this case:

Policy A4 (Protection of General Amenities) states that development which unacceptably harms the general amenities of people living or working nearby will not be permitted.

Policy A5 (Quality and Design of Development) requires development proposals to not detract from the distinctive character of the locality and to retain features and characteristics which are important to the quality of the local environment including medium and long distance views.

Policy ENV3 (Foul and Surface Water Disposal) seeks to ensure appropriate provision is made.

Policy C2 (Historic Environment) seeks to protect the setting of heritage assets.

Policy C11 (Lincolnshire Wolds Area of Outstanding Natural Beauty and Areas of Great Landscape Value) states that the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) will be protected by not permitting development which would:

- i) harm landscape features which contribute to the character of the area;
- ii) harm the distinctive character, role or regional or local historic significance of the area; or
- iii) inhibit the quiet enjoyment of the AONB.

It goes on to state that the following development will not be permitted in the AONB unless it is essential in the national or wider public interest and cannot be located elsewhere:

- i) major or large scale development.

Where development proposals in the AONB are otherwise acceptable in principle, they will not be granted planning permission unless they have demonstrated how their layout, design, materials, scale, siting and appearance have taken account of and complement – the locally distinctive characteristics of the landscape, settlements or buildings.

22. The East Lindsey Local Plan is in its latter stages of preparation and once adopted will replace the current Plan. The Local Plan is to be made up of two main documents – the Core Strategy and Settlement Proposals. Consultation on the 'Schedule of Proposed Main Modifications' relating to the Core Strategy ended 16 February 2018. The East Lindsey Core Strategy is now at an advanced stage and so more weight can be given to its policies when determining planning applications. The following policies are of most relevance in this case:

Policy SP1 (A Sustainable Pattern of Places) identifies the site as being within open countryside;

Policy SP2 (Sustainable Development) including the location of inland growths states that planning applications that accord with the policies in this Local Plan will be approved without delay unless material considerations indicate otherwise and any adverse impacts when assessed should be restricted;

Policy SP10 (Design) states that well-designed sustainable development, which maintains and enhances the character of the countryside by:-

2. the use of quality materials and where the layout, scale, massing, height and density reflect the character of the surrounding area;
4. providing on-site landscaping to integrate the development into its wider surroundings;
5. support development if it is designed to minimise glare and light spillage and does not unacceptably harm the rural character of a landscape, nearby residential amenity, respect the local historic environments and does not unacceptably harm or reduce highway safety; and
7. where there is adequate protection preventing pollution from entering into the water source;

Policy SP11 (Historic Environment) states that proposals will be supported that:

- continue to protect and enhance heritage assets and their settings,
- does not harm the site or setting of a Scheduled Monument or locally significant archaeological site and carry out appropriate evaluation, recording or preservation in situ;
- preserve or enhance the quality and experience of the historic landscapes and their settings;
- are compatible with the significance of non-designated heritage assets; and
- promote a sustainable and viable use which is compatible with the heritage asset;

Policy SP16 (Inland Flood Risk) states that all development must show how it proposed to provide adequate surface and foul water disposal and surface water connections should only be made in exceptional circumstances where it can be demonstrated that there are no feasible alternatives and where there is not detriment to existing users. All development must accompanied by a site-specific flood risk assessment.

Policy SP23 (Landscape) seeks to protect and enhance landscapes and landscapes defined as highly sensitive will be afforded the greatest protection with the highest level of protection given to the Lincolnshire Wolds AONB;

Policy SP24 (Biodiversity and Geodiversity) states that proposals should seek to protect and enhance the biodiversity and geodiversity value of land and minimise fragmentation and maximise opportunities for connection

between natural habitats. Where adverse impacts are demonstrated to be unavoidable damage is kept to a minimum and appropriate mitigation, compensation or enhancement of the site.

Results of Consultation and Publicity

23. (a) South Willingham Parish Council – has no observations.
- (b) Environment Agency (EA) – have no comment to make.
- (c) Highway & Lead Local Flood Authority (Lincolnshire County Council) – does not wish to restrict the grant of permission.
- (d) Historic Environment Officer (Lincolnshire County Council) – the proposed variation of conditions does not affect the historic environment and no input is required into this application. The previous archaeological condition and works placed on N/059/02259/14 should continue to be undertaken in advance of the trackway being constructed.
- (e) Anglian Water Services Limited – the variation of condition consultation is not drainage related and therefore we have no comment to make on this application.
- (f) Historic England – we do not wish to offer any comments.
- (g) Lincolnshire Wolds Countryside Service Manager (Lincolnshire County Council) – initially responded and questioned whether, given the location, the application should be subject to Environmental Impact Assessment (EIA) and also expressed concerns in respect of oil drilling operations, particularly for unconventional oil/gas, within a nationally protected landscape. Reference was also made to the Lincolnshire Wolds AONB Management Plan (2013-18) which has recently undergone its formal review and public consultation to inform a new plan for the period 2018-23.

Following clarification from Officers that the application had been screened in line with the requirements of the EIA Regulations 2017 (which confirmed that the proposal was not considered to be EIA development) the Wolds Service provided a further response acknowledging that this proposal is not for "fracking" and should therefore be carried out in accordance with national guidelines.

- (h) Natural England – do not wish to offer any comments.
24. The following bodies/persons were also consulted on 28 March 2018 but no response or comments had been received within the statutory consultation period or by the time this report was prepared:

Local County Council Member, Councillor H Marfleet

Gayton le Wold Parish Council
Burgh on Bain Parish Council
Environmental Health Officer (East Lindsey District Council)
Lincolnshire Wildlife Trust
Public Rights of Way (Lincolnshire County Council)
Lincolnshire Police (Oil and Gas)
Campaign for Rural England
Ramblers Association

25. The application has been publicised by four site notices posted at:

- i) The site access onto the B1225;
- ii) The junction of the B1225 with the A157;
- iii) Biscathorpe House/Farm; and
- iv) The junction of Donnington Road with Biscathorpe Road.

The application was also advertised in the local press (Lincolnshire Echo on 29 March 2018) and 16 letters of notification were sent to the nearest neighbouring residents. 56 representations have been received as a result of this publicity/notification which contain comments/objections on the following grounds (summarised below).

- inappropriate industrial development in a rural area of the Wold ANOB;
- no further development of fossil fuel because it contributes to greenhouse gases, Global Warming and Climate Change citing the Paris Climate Change Agreement and a number of academic papers on Global Warming;
- AONB is a quiet area crossed by protected chalk streams;
- potential for environmental damage and the risks of deep drilling;
- this application is a precursor to 'Fracking' for shale gas/oil which endangers people's health and the environment citing a number of academic papers on Shale Gas and Hydraulic Fracturing;
- inadequate demonstration of operational competence and safety and financial health by the applicant company;
- will cause irreversible harm;
- seriously endanger the bedrock, aquifer and pollute groundwater;
- gas will be flared and air quality will suffer;
- negative impacts on the local transport infrastructure and highway safety;
- adverse impacts on the historic environment;
- adverse impacts on agriculture and tourism especially walkers and the Viking Way;
- following the operations the site will be a brownfield site and industrially vandalised; and
- the original planning permission was not implemented and the application is not valid.

A letter supporting the development has also been received on the grounds that Britain needs fuel and so this proposal would help to meet this need.

District Council's Observations

26. East Lindsey District Council - does not object to the application but in line with the view expressed on the original application, comment that the development would cause harm to the landscape character of the Lincolnshire Wold AONB and the visual amenity of those within it together with harm to the setting of designated heritage assets in the area. However, the Council also acknowledges that the development would bring national benefits by way of oil production and security of supply and that given the short time that the development would be in situ, and as all issues relating to environmental controls were addressed, on balance the national benefit would outweigh the harm caused.

Conclusions

27. The development authorised by the original planning permission was granted in March 2015 and has now been lawfully implemented and the development commenced. The principle of the development in this location has previously been assessed and considered acceptable and so too have the various measures that would be adopted to ensure that any potential adverse impacts are ameliorated and mitigated. Other than seeking an extended period of time to complete the development, the applicant is not proposing to change or amend the permitted operations in any way.
28. The application has been submitted in accordance with Section 73A of the Town and Country Planning Act 1990 (as amended) which allows for conditions attached to existing planning permissions to be amended or varied. This includes the proposed variation of condition 1 so as to extend the period of time allowed to carry out the temporary operations associated with the drilling of an exploratory borehole and subsequent production and evaluation testing at the site. The application was received before the date cited in condition 1 passed and therefore is a valid application which the Mineral Planning Authority is required and able to determine.
29. As a Section 73A application, the Mineral Planning Authority is only required to consider the question of the proposed amended/varied condition(s) and so is not required to reconsider the principle or acceptability of the development itself. In determining this application it would therefore only normally be necessary to consider whether the grant of an extended period of time to complete the development is justified. However, since the grant of the planning permission in 2015 there has been a change in the Development Plan with the Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies (CSDMP) having been adopted in 2016 and the preparation and advanced progression of the East Lindsey Local Plan Core Strategy. Therefore, in carrying out this assessment, and in line with the advice contained within the NPPF and the NPPG, it is necessary now assess this proposal against the adopted policies and emerging policies contained within these documents.

Issues Raised by Respondents

30. A number of representations have been received which have repeated concerns and issues that were raised and addressed when the development was first considered and granted permission back in 2015. These representations include questions over the need for the development of onshore oil and gas production; concerns regarding possible 'fracking' for unconventional hydrocarbons and their contribution to climate change; concerns about the potential adverse impacts of the development on the environment and residents health, and concerns about the number and impacts of traffic on the local area.
31. As stated previously, the development authorised by the permission has been lawfully implemented and as a Section 73A application it is not therefore normally necessary to reconsider the need or principle of the development again. In this case, however, it is accepted that the permission was granted in 2015 for a temporary period and that the variation of condition 1 would in effect allow the development to continue for a longer period than first assessed and whether there are any adverse impacts associated with the retention of ancillary structures during Phase 3 Operational testing. It is therefore considered appropriate to assess whether or not there has been any changes in national or local policy that would suggest an extension of time would now be unacceptable.
32. At a national level the Governments policy regarding on-shore oil and gas development is set out within the NPPF and this remains unchanged from that which was taken into consideration in 2014. In fact the policy and approach taken by the NPPF is further reinforced within the 'Draft revised National Planning Policy Framework' which states that mineral planning authorities should recognise the benefits of on-shore oil and gas development for the security of energy supplies and supporting the transition to a low carbon economy and that policies should therefore be put in place to facilitate their exploration and extraction.
33. At a local level, whilst the Development Plan and relevant policies have changed since 2015, those adopted policies have been found to be consistent with the NPPF and as directed by the NPPG when considering the impacts of the proposed development in terms of noise, light and visual amenity, I am satisfied that any extension of time, retention of ancillary structures and continuation of the development for a longer temporary period of time would not conflict with nor compromise the aims and objectives of policies M9, DM2 and DM3 of the CSDMP or Policies A4 and A5 of the East Lindsey Local Plan and Policies SP2 and SP10 of the emerging East Lindsey Core Strategy. Therefore whilst the change in the Development Plan has taken place since the original permission was granted there has been no material shift in the policy support for this type of development or any material consideration presented that would indicate that this development should not be supported.

34. In terms of concerns about traffic and highway impacts, a number of representations include concerns regarding the number of HGV movements associated with the proposed development and their effect on highway safety as well as questioning the adequacy of the highway works that have been carried out as required by the planning conditions imposed in 2015. Whilst these concerns are noted, this proposal does not seek to increase or amend the traffic movements that would be associated with this development. These would be as follows:
- Phase 1 - an average of 17 HGV movements daily;
 - Phase 2 - would be divided into mobilisation and de-mobilisation of the drill rig involving 18 HGV movements daily over a 14 day period together with approximately six movements daily during drilling operations;
 - Phase 3 - will generate the fewest movements with a maximum of 12 over a three day period;
 - Phase 4 - would reflect Phase 1 and be dependent on whether the landowner wishes to retain the access route for agricultural use;
 - There would also be additional light vehicles movements associated with employees who would, during the 24 hours periods, work two 12 hour shifts.
35. No objections have been raised by the Highways Authority from a highways perspective. As the number of vehicle movements and works undertaken in association with this development have already been deemed acceptable and are unchanged, I am satisfied that the proposed extension of time and variation of condition 1 would not conflict with aims and objectives of the NPPF or Policy DM13 of the CSDMP nor compromise Policy SP2 of the emerging East Lindsey Core Strategy.
36. Comments have also been received with regard to potential impacts on wildlife and the landscape with particular concerns relating the location being within the Lincolnshire Wolds ANOB. Again such matters were considered at the time of the original application and conditions were imposed to address and mitigate or minimise any such impacts. In relation to wildlife this included the requirement to comply with a mitigation scheme that set out the measures to be adopted to avoid harm to Great Crested Newts and setting an exclusion period for site preparation works to avoid the bird nesting season. If this application is approved then these same requirements and conditions would continue to be imposed and therefore require all works to continue to be carried out in accordance with these requirements.
37. With regard to landscape impacts, the proposed development acknowledges that the installation of the drill rig is likely to have a significant impact during day and night, however, there are no proposals for the construction, operation and demobilisation of the rig to continue longer than the period that was accepted when the original application was approved (e.g. approximately 8 weeks). Perimeter bunds are also to be erected around the site which would be constructed using top and sub-soils excavated from the site. The bunds would contribute to reducing the visual impact of the site

but also ensure the soils are retained and available for use in the reinstatement and restoration of the site back to agricultural use once the works have been completed. Initially the Lincolnshire Wolds Countryside Service (LWCS) Manager expressed concern that the development should be subject to Environmental Impact Assessment (EIA) and that the exploration should not be for unconventional oil/gas. Reference was also made to the Draft AONB Management Plan (2018-23) that identifies fracking as a perceived threat. Following confirmation that a screening opinion had been issued identifying that the proposed exploration is not EIA development, the LWCS Manager acknowledges that the proposal is fundamentally the same as that originally approved, does not involve "fracking", and would be carried out in accordance with national guidelines and subject to the same conditions and controls originally applied. Again these aspects of the development are unchanged and so although it is now proposed to retain the welfare and security cabins on site for a longer period than first proposed, I am satisfied that the landscape and visual impacts of this development would be no greater than that which were accepted previously. I am therefore satisfied that there would be no long term adverse impact on landscape character as a result of this proposal and so the development would continue to comply with the NPPF and Policies DM5, DM6, DM9, DM11, DM12, R1 and R2 of the CSDMP and would not conflict with nor compromise Policies A5 and C11 of the East Lindsey Local Plan and Policies SP23 and 24 of the emerging East Lindsey Core Strategy which seek to protect and enhance the Lincolnshire Wolds ANOB landscape value, character and biodiversity in the open countryside.

38. In respect of concerns regarding the management of flood risk and potential pollution of water courses, again no changes are proposed to the wider site operations or measures to be adopted as part of the operations. The site layout has been designed to ensure that there would be a separation of surface water and wastes arising from the development as well as any water that may become contaminated with pollutants. The Environment Agency has raised no objection and the operator has secured the necessary Environmental Permit that places additional controls and conditions on the operations in respect of pollution control. Taking this into account, I am satisfied that the development would not contribute to flood risk or pose a risk to the water resources and therefore would comply with the objectives of the NPPF and Policies DM14 and DM15 of the CSDMP, Policy ENV3 of the East Lindsey Local Plan and Policy SP16 of the emerging East Lindsey Core Strategy.
39. It is acknowledged that the site and access road is located in an historic landscape with a number of notable Scheduled Monuments in the area and therefore concerns have been expressed on the potential impacts on these historic assets. Whilst these concerns are noted, this proposal will not change in terms of scope from that originally considered and no objections have been raised by the Historic Environment Officer or Historic England. A scheme of archaeological investigation has been approved and would be implemented in full before further construction works take place. As the proposed temporary operations have already been deemed acceptable and

are unchanged, from the perspective of footprint, scale or timescale, I am satisfied that the development would not cause adverse permanent harm to the historic environment and therefore would comply with the objectives of the NPPF and Policy DM4 of the CSDMP and would not compromise or conflict with Policy C2 of the East Lindsey Local Plan and Policy SP11 of the emerging East Lindsey Core Strategy.

Overall conclusions

40. Due to a number of factors, fiscal, regulatory and logistical, the applicant has been unable to carry out the exploration and evaluation phases of the development authorised by permission (E)N59/2259/14. The proposed variation to condition 1 would extend the timeframe for a further three year period and therefore enable the applicant to carry out and complete these works. The proposed variation of condition 3 would allow the retention of a number of ancillary structures on the site during Phase 3 (Operational testing).
41. No changes are proposed to the operations themselves and all mitigation measures previously approved and secured as part of the development would continue to apply. Whilst there have been changes in the Development Plan since the original permission was granted, the development is still considered to accord with the national and local policies (adopted and emerging) now in force and no material considerations exist that would justify the refusal of this application and is therefore consistent with the NPPF and Policy DM1 of the CSDMP and does not conflict with nor compromise Policy SP1 of the emerging East Lindsey Core Strategy. Therefore, subject to the development continuing to be carried out in accordance with the conditions attached to the original permission, the proposed extension of time and retention of ancillary structures is considered acceptable and can be supported.
42. Finally, although Section 73 applications are commonly referred to as applications to “amend” or “vary” conditions they result in the grant of a new planning permission. Therefore, and for clarity and the avoidance of any doubt, it is recommended that the decision notice be issued with a comprehensive set of conditions which recites and updates (where relevant) the conditions that were originally included and attached to the previous planning permission.
43. The proposed development has been considered against Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well – being of the community within these rights and the Council has had due regard to its public sector equality duty under Section 149 of the Equality Act 2010.

RECOMMENDATIONS

That planning permission be granted subject to the following conditions:

1. The development hereby permitted shall cease on or before 28 February 2021 and by that date all portable buildings, plant and machinery associated with the use hereby permitted shall have been removed, the well capped and the land, including the access track, returned to its previous use as agricultural land.
2. This permission (being granted under Section 73A of the Town and Country Planning Act 1990, as amended) has effect from the date of this decision notice as the development subject of planning permission (E)N59/2259/14 has been implemented and therefore commenced.
3. Except as otherwise required by other conditions attached to this permission the development hereby permitted shall be carried out in strict accordance with the submitted details and recommendations and the following drawings:
 - a) 3299(2) P 01 Rev A "Site Local Plan" (received 20 October 2014);
 - b) 3299(2) P 02 Rev A "Site of Application" (received 20 October 2014);
 - c) 3299(2) P 03 Rev A "Site Overview Plan" (received 20 October 2014);
 - d) 3299(2) P 04 Rev A "Proposed Site – Existing Ground Plan" (received 20 October 2014);
 - e) 3299(2) P 05 Rev A "Site Entrance Detail & Sightlines" (received 20 October 2014);
 - f) 3299(2) P 06 Rev A "Site Entrance – Proposed Layout" (received 20 October 2014);
 - g) 3299(2) P 07 Rev A "Proposed Site – Construction Mode" (received 20 October 2014);
 - h) 3299(2) P 08 Rev A "Proposed Site – Indicative Drilling Mode" (received 20 October 2014);
 - i) 3299(2) P 09 Rev A "Proposed Site – Drilling Mode – Indicative Lighting Layout" (received 20 October 2014);
 - j) 3299(2) P 11 Rev C "Proposed Site – Retention Mode" (received 20 October 2014);
 - k) 3299(2) P 12 Rev C "Site Drain Details" (received 20 October 2014);
 - l) 3299(2) P 13 Rev B "Sections – Existing" (received 20 October 2014);
 - m) 3299(2) P 14 Rev B "Sections – Indicative Drilling Mode" (received 20 October 2014);
 - n) 3299(2) P 16 Rev C "Sections – Retention" (received 20 October 2014);
 - o) 3299(2) P 17 Rev C "Cabin Layouts and Elevations" (received 20 October 2014);
 - p) 20058 P18 "Proposed Site Indicative Testing Mode" (received 23 February 2018); and
 - q) 20058 P19 "Sections Indicative Testing Mode" (received 23 February 2018).

4. The avoidance and mitigation measures to protect Great Crested Newts set out in the approved Method Statement for Avoidance of Harm to Great Crested Newts shall be implemented in full.
5. The lighting to be employed as part of this development shall be installed in accordance with the details previously approved by the Mineral Planning Authority pursuant to condition 5 of planning permission (E)N59/2259/14 (as set out in the decision notice dated 11 December 2015) and shall be maintained and retained for the duration of the development.
6. The fencing and bunding to be erected around the site as part of this development shall be constructed in accordance with the details previously approved by the Mineral Planning Authority pursuant to condition 6 of planning permission (E)N59/2259/14 (as set out in the decision notice dated 11 December 2015) and shall be maintained and retained for the duration of the development.

7. In relation to archaeology:

Part 1

The scheme of archaeological investigation must only be undertaken in accordance with the details previously approved by the Mineral Planning Authority pursuant to condition 7 of planning permission (E)N59/2259/14 (as set out in the decision notice dated 22 January 2016).

Part 2

The archaeological site work must be undertaken only in full accordance with the approved written scheme referred to above. The applicant will notify the Mineral Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements. No variation shall take place without prior consent of the Mineral Planning Authority.

Part 3

A report of the archaeologist's findings shall be submitted to the Mineral Planning Authority and the Historic Environment Record Officer at Lincolnshire County Council within three months of the works hereby given consent being commenced unless otherwise agreed in writing by the Mineral Planning Authority; and the condition shall not be discharged until the archive of all archaeological work undertaken hitherto has been deposited with the County Museum Service, or another public depository willing to receive it.

8. No site preparation works involving the destruction or removal of vegetation shall be undertaken during the months March to August inclusive, unless otherwise agreed in writing by the Mineral Planning Authority.
9. The site shall only operate, including vehicle movements to and from the site, between the hours set out below:

HGV deliveries

| | Mondays to Fridays | Saturdays | Sundays, Bank Holidays and Public Holidays |
|--|--------------------|---------------|--|
| Phase 1 – construction of site | 07:00 – 17:30 | 07:00 – 13:00 | none |
| Phase 2 – equipment assembly and demobilisation | 07:00 – 19:00 | 07:00 – 19:00 | none |
| Phase 2 – HGV deliveries during drilling operation | 07:00 – 17:30 | 07:00 – 13:00 | none |
| Phase 3 – HGV deliveries during testing | 07:00 – 19:00 | 07:00 – 19:00 | none |
| Phase 4 – restoration | 07:00 – 17:30 | 07:00 – 13:00 | none |

Operating Hours

| | Mondays to Fridays | Saturdays | Sundays, Bank Holidays and Public Holidays |
|---|--------------------|---------------|--|
| Phase 1 – construction of site | 07:00 – 17:30 | 07:00 – 13:00 | none |
| Phase 2 – equipment assembly and demobilisation | 07:00 – 19:00 | 07:00 – 19:00 | none |
| Phase 2 – drilling operations only | 24 hours | 24 hours | 24 hours |
| Phase 3 – Site preparation for production testing | 07:00 – 19:00 | 07:00 – 19:00 | none |
| Phase 3 – Production testing. (Site only manned during normal working hours Monday to Friday, except for occasional monitoring visits over weekends). | 24 hours | 24 hours | 24 hours |
| Phase 4 – restoration | 07:00 – 17:30 | 07:00 – 13:00 | none |

10. Noise levels as a result of the development hereby permitted measured at a height of 1.5 metres at the boundary of the properties at the identified locations shall not exceed the limits set out below:

| Noise sensitive location | Construction Noise Limit dB LAeq, 1hr | Drilling Noise Limit dB LAeq, 1hr between 07:00 and 23:00 hours | Drilling Noise Limit dB LAeq, 5min between 23:00 and 07:00 hours |
|--------------------------|---------------------------------------|---|--|
| Yard Cottage | 50 | 42 | 42 |
| Biscathorpe House | 50 | 42 | 42 |
| Church Cottage | 50 | 42 | 42 |
| West Lodge | 50 | 42 | 42 |
| South Walk Farm | 50 | 42 | 42 |
| Burgh Top | 50 | 42 | 42 |
| Baxter Square Farm | 50 | 42 | 42 |

11. The Noise Monitoring and Mitigation Scheme shall be implemented in full in accordance with the details previously approved by the Mineral Planning Authority pursuant to condition 11 of planning permission (E)N59/2259/14 (as set out in the decision notice dated 11 December 2015) for the duration of the development.
12. The Construction Traffic Management Plan shall be carried out in accordance with the details previously approved by the Mineral Planning Authority pursuant to condition 12 of planning permission (E)N59/2259/14 (as set out in the decision notice dated 23 November 2015) and shall be implemented in full for the duration of the development.
13. Any gates to the vehicular access shall be set back a minimum of 15 metres from the nearside edge of the carriageway of the B1225 High Street and shall not open over the highway.
14. The vehicular access shall incorporate 10 metres radii tangential to the nearside edge of the carriageway of the B1225 High Street and the minimum width of the access shall be 7.3 metres.
15. Prior to the access to the site from the B1225 High Street being brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land between the highway boundary and the vision splays indicated on drawing number 3299(2) P 05 rev A dated September 2014 and thereafter the visibility splay shall be kept free of obstacles exceeding 0.6 metres in height.

Reasons

1. To provide for the completion of the exploratory operations in the interests of the amenity of the area.
- 2 & 3 To enable the Mineral Planning Authority to monitor and control the development.
4. To prevent harm to Great Crested Newts, a European protected species.
- 5 & 6 In the interest of visual amenity.
7. To ensure satisfactory arrangements are made for the investigation, retrieval and recording of any archaeological interest.
8. To protect breeding birds during the nesting season.
- 9, 10 & 11.
To protect the amenity of the surrounding area and nearby residential properties.
- 12, 14 & 15
In the interests of the safety of users of the public highway and the safety of users of the site.
13. To enable calling vehicles to wait clear of the carriageway of High Street in the interests of safety.

Informative

Attention is drawn to the letter from the Environment Agency attached to the decision notice Ref: (E)N59/2259/14 dated 16 March 2015.

Appendix

| | |
|---|----------------|
| These are listed below and attached at the back of the report | |
| Appendix A | Committee Plan |

Background Papers

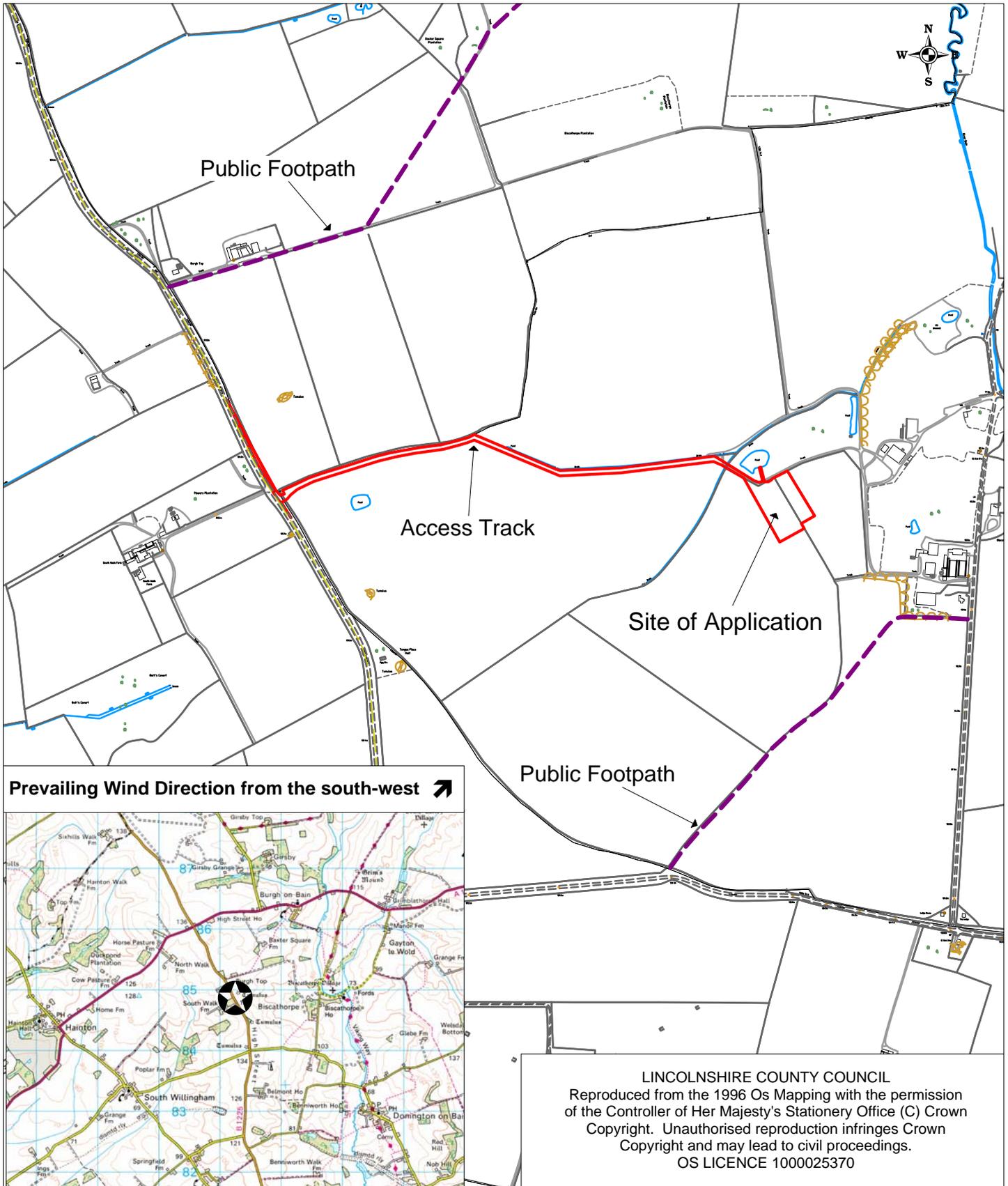
The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

| Document title | Where the document can be viewed |
|---|---|
| Planning Application File PL/0030/18 and (E)N59/02259/14 | Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln |
| National Planning Policy Framework (2012) National Planning Policy Guidance (2014) | The Government's website www.gov.uk |
| Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies 2016 | Lincolnshire County Council website www.lincolnshire.gov.uk |
| East Lindsey Local Plan (1995, saved policies 2007) East Lindsey Core Strategy (Proposed Main Modifications to Core Strategy Draft Local Plan (2017)) January 2018 | East Lindsey District Council website www.e-lindsey.gov.uk |

This report was written by Felicity Webber, who can be contacted on 01522 782070 or dev_planningsupport@lincolnshire.gov.uk

LINCOLNSHIRE COUNTY COUNCIL

PLANNING AND REGULATION COMMITTEE 14 MAY 2018



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Location:
 Land Off High Street
 Biscathorpe
 Louth

Application No: N/059/00531/18
Scale: 1:10000

Description:

To vary conditions 1 and 3 of planning permission
 N/059/02259/14 - To extend the end date for the
 completion of the development by 3 years and to amend
 approved drawings so as to allow the retention of security
 and welfare cabins during the production testing phase