

# **Officer's Report**

## **Planning Application No: 141306 & 141307**

**PROPOSAL:** County matters application PL/0067/20 to vary condition 1 of planning permission 139426 to extend the period to restore the site (141306); and

**County matter application PL/0068/20 to vary condition 1 of planning permission 139434 to extend the period to restore the site (141307).**

**LOCATION:** Land East of Smithfield Road North Kelsey Brigg

**WARD:** Kelsey

**WARD MEMBER(S):** Cllr P Howitt-Cowan

**APPLICANT NAME:** Egdon Resources UK Ltd

**TARGET DECISION DATE:** 30/07/2020 (consultation extended from 23/07/2020)

**DEVELOPMENT TYPE:** Not Required on PS1/2 Returns

**CASE OFFICER:** Richard Green

**RECOMMENDED DECISION:** No observations or objections.

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These County Matters applications are referred to the planning committee at the request of Cllr G McNeill, and in order to scrutinize whether there are any impacts of wider significance or of major importance to West Lindsey.

The application is for a "County Matters" development – Lincolnshire County Council, as the Local Minerals Authority, are the decision maker on the application. West Lindsey DC, as District Council, is a consultee.

### **Description:**

The site is located in the open countryside approximately 2.9 kilometres to the south east of North Kelsey and is located approximately 736 metres to the north east of the junction with the B1344 (Brigg Road). The site is accessed off Smithfield Road and is approximately 234 metres to the south east of this road. The nearest neighbouring dwelling (Coppice House, Brigg Road, Moortown) is located approximately 705 metres to the south west of this site.

The site was originally granted permission (PL0203 14/W97/131952/14 and WLDC ref 131952) in 2014 by Lincolnshire County Council (The Minerals Authority) for 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 and wellhead valve assembly gear for subsequent evaluation. The purpose of the development 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 did not involve the process of hydraulic fracturing (known as "fracking") which is associated with shale gas or oil development.

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 as well as details relating to biodiversity mitigation, the site access, signage and roadworks. The various details were all submitted, approved and (where required) site set-up works carried out before the expiration of the temporary three-year period (31 December 2017).

Subsequent applications were submitted to Lincolnshire County Council (The Minerals Authority) and approved which have extended this temporary three year period to 31/12/2020 through applications PL/0083/19 and PL/0084/19 (WLDC ref 139426 and 139434).

These current County Matter applications **PL/0067/20 & PL/0068/20** (WLDC ref 141306 and 141307) seek to vary condition 1 of respectively to extend the period to restore the site to 31/12/2021. These applications are County Matters Applications and as such Lincolnshire County Council as the Minerals Authority will determine the applications with West Lindsey District Council being a consultee. The County Council is seeking any consultation responses be made on or before the 30/07/2020.

#### **Relevant history:**

**131952** - County Matters application **PL0203 14/W97/131952/14**. Temporary planning permission for the construction of a new access track, temporary well site and flare pit, associated portable cabins for the storage of equipment and staff office accommodation, drilling of exploratory bore hole for conventional hydrocarbons, undertaking of production tests and retaining the site and wellhead valve assembly gear for evaluation. Granted 09/12/2014 with the following condition attached (18 other conditions attached):

1. The development hereby permitted shall cease on or before 31 December 2017 and by the 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.

*West Lindsey Consultation Response: West Lindsey District Council has no objections with some observations.*

*The application site is in an open countryside location dominated by flat agricultural fields identified by hedging and to less of an extent trees. The proposal is not a normal structure found within the open countryside and at 34 metres in height is quite an intrusive structure within this setting.*

*Our Environmental Officer has confirmed to me that he has no objections on the impact of noise generated from the site or from the amount and direction of the lighting. The highway is a single carriageway and the amount of vehicles trips may have an impact on the highway but this will be dealt with by the Highways department at Lincolnshire County Council.*

*The proposal will only be for a period of 8 weeks therefore although it will have a visual impact on the site and the surrounding area it is considered as acceptable due to the temporary period it will be in operation. I recommend that the site is conditioned to be restored to its original form once the temporary period has finished.*

**137302** - County Matters application (**PL-0011-18**) to vary condition 1 (application W97/131952/14) to state 'The development shall cease on or before 31 December 2020 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. Granted 14/05/2018 with the following condition attached:

1. The development hereby permitted shall cease on or before 31 December 2020 and by the 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.

*West Lindsey Consultation Response:* *West Lindsey District Council have no comments to make on the application.*

**139426:** County Matters Application **PL/0083/19** to vary conditions 3,4,6,12,16 and 17 of planning permission 137302 to amend site layout, management of surface water run-off, materials for the tertiary containment system, hours of deliveries and operations and security provision. Granted 01/07/2019 with the following condition attached (20 other conditions attached):

1. The development hereby permitted shall cease on or before 31 December 2020 and by the 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.

*West Lindsey Consultation Response:* *West Lindsey District Council Planning Authority have no objections to the development.*

**139434** – County matters application **PL/0084/19** for the temporary installation of 12 site security and welfare cabins, five water bowers, generator and associated facilities. Granted 17/04/2019 with the following condition attached (4 other conditions attached):

1. The development hereby permitted shall cease on or before 31 December 2020 and by that date all portable building, plant and machinery associated with the use hereby permitted shall have been removed and the land returned to its previous use as agricultural land.

*West Lindsey Consultation Response:* *West Lindsey District Council have no objection in principle to the development, subject to the following comments being taken into account:*

- *The proposal will potentially increase the impermeable area to the site and should not increase the risk of surface water flooding to the site or surrounding land, as previously required by the Flood Risk Assessment under Condition 4 of PL/0011/18.*
- *The noise levels and lighting proposed should not have a detrimental impact on neighbouring amenity.*
- *The containers and all ancillary fencing and equipment should be conditioned to be removed following the cessation of the use approved under PL/0011/18 and the land to be restored to its former condition.*

**Consultation:**

**Planning Enforcement:** No complaints received.

**Environmental Protection:** No complaints received.

**Local Resident:** Moortown House Brigg Road Moortown have the following objections to make on both applications (141306 and 141307). These representations have been forwarded to Lincolnshire County Council (The Minerals Authority) who are the decision maker for both applications (141306 and 141307):

- This company have already had six years to complete the exploratory work and shown little intention to do anything in this time barring some tarmac. Meanwhile the residents I left on tenterhooks.
- We are in a climate emergency officially. This type of oil extraction is regarded to be as dirty as coal in terms of emissions. A lot of methane and benzene emitted locally, (the latter being a known carcinogen).
- This development flies in the face of sustainability.
- This site is called 'North Kelsey 1' for a reason. Should they get their way there will be a lot more of these sites clustering around the Caistor area from Egdon or its associated. Do we want this industry spreading its toxic legacy over the Kelsey Ward and beyond for the next 20 years?
- Economically, Agri-tourism and holiday parks are flourishing and expanding in the area, being on the edge of the AONB. This does not sit well with 24hr GAS FLARES, heavy pollution, poorer air quality and drilling towers. The development benefits nobody locally. Even the road and gateway work were done with contractors from Northern Yorkshire.
- SAFETY is a big issue for people living in the area:
  - they are relying on a 2.8 m (described in their applications as 5m wide) road to take the large traffic.
  - they are known to have had fires at other sites even within a few months of operating.
  - we don't know the intended production stage oil extraction method. We do know that at a site near Brigg they intend to use hydraulic fracturing with acid. Known as Acid Squeeze. The sandstone geology is similar at NK. In the USA there is pressure in the industry to BAN this method due to safety. (in the States it is called 'Acid Fracking' – The term 'fracking' was redefined in the UK in 2015).

- the site is next to drainage ditches which feed into the Ancholme, which supplies drinking water. Leaks or accidents could be deadly for wildlife and poisonous for people.

**Relevant Planning Policies:**

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2017) and Lincolnshire Minerals and Waste Local Plan.

**Development Plan:**

Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies (CSDMP) (2016)

The key policies of relevance 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 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 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 DM14 (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 DM15 (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 DM16 (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.

\*Central Lincolnshire Local plan

LP1: A presumption in Favour of Sustainable Development

LP2: The Spatial Strategy and Settlement Hierarchy

LP9: Health and Wellbeing

LP13: Accessibility and Transport

LP14: Managing Water Resources and Flood Risk

LP17: Landscape, Townscape and Views

LP21: Biodiversity and Geodiversity

LP26: Design and Amenity

LP55: Development in the Countryside

*\*With consideration to paragraph 213 of the National Planning Policy Framework (February 2019) the above policies are consistent with the NPPF (February 2019). LP1 is consistent with NPPF paragraph 11 as they both apply a presumption in favour of sustainable development. LP2 is consistent with NPPF chapter 5 as they both seek to deliver a sufficient supply of homes. LP9 is consistent with NPPF chapter 8 as they both seek to deliver healthy and safe communities. LP13 is consistent with NPPF paragraphs 108-111 as they both seek to ensure an efficient and safe transport network that offers a range of transport choices. LP14 is consistent with paragraphs 155 to 165 of the NPPF as they both seek to avoid putting inappropriate development in areas at risk of flooding. LP17 is consistent with NPPF paragraphs 127 and 170 as they both seek to protect townscapes and valued landscapes and recognise the intrinsic character and beauty of the countryside. LP21 is consistent with chapter 15 of the NPPF as they both seek to protect and enhance biodiversity. LP26 is consistent with section 12 of the NPPF in requiring well designed places and LP55 is consistent with paragraph 79 and paragraph 170 of the NPPF as they both seek to avoid isolated new homes in the countryside and both recognise the intrinsic character and beauty of the countryside. The above policies are therefore attributed full weight.*

Neighbourhood Plan

West Lindsey District Council has approved the application by South Kelsey Parish Council to have the parish of South Kelsey designated as a neighbourhood area, for the purposes of producing a neighbourhood plan.

The neighbourhood plan group are now consulting with the public and working towards the production of the neighbourhood development plan. However, there is not presently a draft Neighbourhood Plan in circulation, that may otherwise be taken into consideration.

National policy & guidance (Material Consideration)

- **National Planning Policy Framework (NPPF)**

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in February 2019. Paragraph 213 states:

*"Existing [development plan] policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

**17. Facilitating the sustainable use of minerals (paragraphs 203 to 211)**  
<https://www.gov.uk/guidance/national-planning-policy-framework/17-facilitating-the-sustainable-use-of-minerals>

Relevant paragraphs include the following:

**203.** *It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.*

**205.** *When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy...*

*Oil, gas and coal exploration and extraction*

**209.** *Minerals planning authorities should\*:*

*(b) when planning for on-shore oil and gas development, clearly distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for;*

*(c) encourage underground gas and carbon storage and associated infrastructure if local geological circumstances indicate its feasibility;*

*(d) indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable;*

*(e) encourage the capture and use of methane from coal mines in active and abandoned coalfield areas; and*

*(f) provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use.*

**210.** *When determining planning applications, minerals planning authorities should ensure that the integrity and safety of underground storage facilities are appropriate, taking into account the maintenance of gas pressure, prevention of leakage of gas and the avoidance of pollution.*

- **National Planning Practice Guidance**  
<https://www.gov.uk/guidance/minerals>
- **National Design Guide (2019)**

### **Assessment:**

These applications are County Matters Applications and as such Lincolnshire County Council as the Minerals Authority is the decision-maker and will determine the applications with West Lindsey District Council being a consultee.

The principle of development on this site has already been established through the previous grant of planning permission by the Minerals Authority. The application site is located within the Countryside and has a large separation distance from any neighbouring dwellings. Coppice House, Brigg Road, Moortown is the closest such dwelling and is located approximately 705 metres to the south west of this site. The site is operational and the following issues have been dealt with and mitigated against through previous planning permissions. These issues included noise, lighting, highways, the historic environment and the surrounding landscape. Previous permissions found that whilst the proposals will inevitably have an impact through the introduction of development into an open countryside location, it was concluded that subject to appropriate mitigation measures and conditions to control the development, it would not cause significant adverse impacts.

West Lindsey District Council as a consultee have not objected to any of the previous applications on this site and West Lindsey Environment Protection and Planning Enforcement have no history of complaints on this site.

As such it is recommended that West Lindsey District Council has no objection to these current County Matters applications **PL/0067/20** & **PL/0068/20** (WLDC ref 141306 and 141307 respectively) to vary condition 1 of **PL/0083/19** & **PL/0084/19** (WLDC ref 139426 and 139434 respectively) to extend the period to restore the site to 31/12/2021.

**Recommendation:** To note and agree the following response in the attached letter to Lincolnshire County Council 'West Lindsey District Council have no objections or comments to make in regards to these applications **PL/0067/20** (141306) and **PL/0068/20** (141307).'

Note - A representation from one resident has been received for both PL/0067/20 (141306) and PL/0068/20 (141307) and have been forwarded to Lincolnshire County Council (The Minerals Authority) who are the decision maker for both applications.

**Appendix 1 – Draft Letter Proposed Response to LCC**

**Appendix 2 – LCC Consultation List for PL/0067/20 (141306)**

**Appendix 3 – LCC Consultation PL/0068/20 (141307)**