PLANNING COMMITTEE – 6 JUNE 2013

MINERAL COUNTY MATTER – Newcastle Borough: N.12/10/299 M

Date Received: 23 January 2013

IGas Energy Plc and Keele University, application not comply with (to vary) condition 4 of planning permission N.11/10/299 M in order to extend the life of the planning permission to 22 December 2017 in connection with exploratory coal bed methane boreholes and evaluation at Plot 12 Keele University and Business Park

Background/Introduction

1. Planning permission (ref. N.08/20/299 M) was granted in April 2009 for the construction of a drilling site together with associated access to drill two exploratory coal bed methane boreholes. Notification was received from the operator that the drilling of the boreholes commenced on 1 June 2010. In August 2011 an application to allow additional time for the second of the approved coal bed methane (CBM) wells to be drilled was granted to allow drilling to cease in December 2012 (ref. N.11/10/299 M) (see ‘Relevant Planning History’).

2. The development is to investigate the coal measures sequence in this area and to take cores and geophysical logs (initial test phase). The data from these logs would be used to evaluate the structural disposition of the seams and its potential gas content followed by a programme of extended production testing (ref. N.08/20/299 M).

3. Members of the Planning Committee undertook a training site visit on 14 July 2010.

Summary of Proposals

4. The applicant has applied to vary condition 4 of planning permission N.11/10/299 M to allow an additional 5 years for the second borehole to be drilled.

5. Condition 4 currently states that:

   The exploratory drilling operations hereby permitted shall cease, all buildings, plant and machinery removed, and the complete reinstatement of the land carried out in accordance with the requirements of condition 22 by 22 December 2012.

6. The applicant has proposed that the condition should be replaced with:

   The exploratory drilling operation permitted shall cease, all buildings, plant and machinery removed and the complete reinstatement of the land carried out in accordance with the requirements of Condition 22 by 22 December 2017’.

Local Members’ Interest

| Mr. D. Huckfield | Keele, Knutton & Silverdale |
7. The drilling rig and associated equipment have been removed from the site and the well head assembly has been secured with ‘heras’ fencing measuring 2 metres in height. Post and wire fencing has also been erected along the boundary of the site.

8. The applicant has confirmed that the drilling of the second well is now likely to take place in the medium term rather than short term and that the additional 5 years period is sought to give them greater flexibility in programming the drilling.

9. The applicant has confirmed that the site would be restored following completion of the second well. The drill rig and associated equipment (including aggregate surfacing and fencing) would be removed; topsoil replaced; the borehole filled with cement (in accordance with the appropriate standards); the steel casing removed at a depth of at least 6 metres below the surface level and the site left in a similar condition prior to drilling taking place. The restoration would accord with the approved restoration scheme (ref. N.08/20/299 M D1 dated 22 December 2009).

Site and Surroundings

10. The site lies approximately 1km east of the residential settlement of Seabridge with Westlands approximately 1km northeast and Silverdale approximately 2kms to the north.

11. Plot 12 is situated within an area of vacant land which forms the southernmost plot associated with the development of the Keele University Science and Business Park connected with Keele University. The business park and university share an access from the A525.

12. The closest residential properties are located approximately 205 metres to the north west (Keele University campus) and the closest non university properties are approximately 430 metres to the east.

Relevant Planning History

13. The Keele University Science and Business Park is subject of a consent granted by Newcastle-under-Lyme Borough Council (ref: 05/1146/OUT) granted 2006.

14. In 2009, planning permission (ref. N.08/20/299 M) was granted: for the construction of a temporary drilling site with access together with associated apparatus to drill two pilot coal bed methane (CBM) boreholes to include lateral sections within the coal, and production test the CBM gas as a sustainable energy source for Keele University.

15. The details required by conditions 4, 14, 20, 21 and 22 were discharged in December 2009 (N.08/20/299 M D1 and N.08/20/299 M D2).

16. In 2010, a non-material amendment was approved to allow extended production well testing to be carried out for 24 hours per day and 7 days per week (ref. N.10/04/299 M).

17. In 2011, planning permission was granted to vary Conditions 5 and 8 of planning permission N.08/20/299 M to enable the second of the 2 approved wells to be drilled and to extend the time period for the drilling to be carried out until 22 December 2012 (ref. N.11/10/299 M).
Relevant Development Plan Policy and other material considerations

18. The relevant development plan ‘saved policies’ are as follows:

   • Policy MLP9 (Site Restoration & Aftercare) (*consistent with the National Planning Policy Framework (NPPF) - paragraphs 114 & 117 (natural environment) and 143 & 144 (minerals));
   • Policy MLP12 (Unacceptable Adverse Impacts) (*consistent with the NPPF - paragraphs 114 & 117 (natural environment) and 143 & 144 (minerals))
   • Policy MLP21 (Landscape Character and Quality) (*consistent with the NPPF - paragraphs 113, 115, 116 & 123 (natural environment).

Note: 1: An assessment to confirm the consistency of the saved policies in the Minerals Local Plan with the National Planning Policy Framework was reported to the Planning Committee on 7 March 2013.

   • Policy E8 (Development at Keele University);
   • Policy E11 (Development of Employment Land for Other Uses);
   • Policy N3 (Development & Nature Conservation – Protection and Enhancement);
   • Policy N12 (Development and the Protection of Trees);
   • Policy N17 (Landscape Character – General Considerations);
   • Policy N19 (Landscape Maintenance Areas).

   • Policy ASP6 (Rural Area Spatial Strategy);
   • Policy CSP1 (Design Quality);
   • Policy CSP2 (Historic Environment).


22. Other Material Considerations:
   • The National Planning Policy Framework (March 2012):
     • Section 4 - Promoting sustainable transport;
     • Section 7 - Requiring Good Design;
     • Section 9 - Promoting Green Belt;
     • Section 10 - Meeting the challenge of climate change, flooding and coastal change;
     • Section 11 - Conserving and enhancing the natural environment;
     • Section 12 - Conserving and enhancing the historic environment;
     • Section 13 - Facilitating the sustainable use of minerals;

   • Ministerial Statement - Planning for Growth - March 2011;

   • The Staffordshire Minerals Local Plan (previously referred to as a Core Strategy') is currently at the Pre- Publication stage.

Findings of Consultations

Internal

23. The Environmental Advice Team - no objection.

24. Transport Development Control - no objection.

25. Planning Regulation Team - no objection. The Regulation Team advised that they have received no complaints regarding the site or its operations.

26. The Staffordshire County Council Noise Engineer - no objection subject to the review of the noise monitoring scheme.

External

27. Environment Agency - no objection.

28. Newcastle under Lyme Borough Council Environmental Health Division (EHO) - no objections subject to conditions relating to noise control measures and notification of recommencement of drilling.

Views of District/Parish Council

29. Newcastle under Lyme Borough Council - no objection subject to consideration of the comments from the Environmental Health Division.

30. Keele Parish Council objects to the application for the following reasons:
   - Insufficient public consultation
   - Residents’ concerns (noise complaints)
   - Environmental concerns
   - Out of date and inadequate information
   - Threat to public amenities
   - A lack of community benefits

31. The Parish Council has requested that a new ‘time bound’ application is submitted.

Publicity and Representations Received

32. Site notice: YES    Press notice: YES

33. To address the concerns raised by Keele Parish Council (see above) letters were sent out to over 100 neighbours in relation to this application and 1 representation has been received. The comments relate to the provision of energy in this way not being suitable in an area due to the possibility of earthquakes. The proposal would also have an impact on watercourses, create light and noise pollution and create extra traffic.
Observations

34. This is an application not to comply with (to vary) condition 4 of planning permission N.11/10/299 M in order to extend the life of the planning permission by 5 years to 22 December 2017 in connection with exploratory coal bed methane boreholes and evaluation at Plot 12 Keele University and Business Park.

35. Having given careful consideration to the application and supporting information, the relevant development plan policies other material considerations, the consultation responses and the representation received referred to above, the key issues are considered to be:

- Timescale for completion of drilling at the site;
- The impacts on the environmental and amenity;
- Noise.

Timescale for completion of drilling at the site

36. The first borehole has been drilled. Currently all plant and equipment has temporarily been removed from the site. The applicant is now applying for a further five years to drill the second borehole and complete the evaluation phase. The drilling would take place over a maximum period of 60 days (24 hours a day, 7 days a week).

37. Paragraphs 143 and 144 of the NPPF and Minerals Local Plan saved policy 9 encourage restoration of mineral sites at the earliest practicable opportunity and support development that includes comprehensive, detailed, practical and achievable restoration and aftercare proposals.

38. The planning merits of the permitted operations at the site were accepted when planning permission was first granted in 2009 (ref. N.08/20/299 M). The permission included conditions for appropriate timescales to ensure the earliest practicable reinstatement of the site to accord with the requirements of the above cited policies.

39. It was accepted that the drilling activities constituted a temporary use of land and would support renewable energy technologies being investigated and utilised within the Science and Business Park by Keele University. An extended time period, albeit for a further five years, would not change the overall temporary nature of the activities on the site or future use of the land. The temporary use would however mean that the site would be unavailable for employment development for a further 5 years. However Newcastle under Lyme Borough Council, having regard to the Local Plan policies related to the business park (E8 and E11) did not object to the earlier application to extend the timescale by 2 years (ref. N.11/10/299 M) and have no objection to this application.

40. It is reasonable to conclude that the proposals would not seriously compromise the policy aims referred to above, which encourage restoration of mineral sites at the earliest practicable opportunity and the development of the business park.

The impacts on the environmental and amenity

41. Paragraphs 114 and 117 (natural environment) and 143 and 144 (minerals) of the NPPF seeks to generally conserve and, where possible to improve the quality of life and
the environment and Minerals Local Plan Policy 12 seeks to safeguard, enhance and sustain environmental resources and amenity. NPPF paragraphs 113, 115, 116 and 123, Minerals Local Plan saved policy 21 and Newcastle Borough Council Local Plan saved policies N17 and N19 seek to protect against unacceptable adverse impacts and protect the landscape from unacceptable visual or other harm.

42. Relevant conditions have been imposed by the permission (ref. N.08/20/299 M [varied by N.11/10/299 M]) to ensure that appropriate mitigation and safeguarding for amenity, the environment and for landscape. Although any associated impacts would not be increased in allowing an extension of time, impacts would be prolonged. The plant and equipment associated with drilling the exploratory boreholes have been temporarily removed from site.

43. The site would remain in its exiting condition until the drilling of the second borehole commences. The site is surfaced in aggregate and has 2 metre high secure ‘heras’ fencing around the existing wellhead and post and wire fencing around the boundary.

44. No objections have been raised by the County Council’s Environmental Advice Team concerning the visual implications of the proposal. The Planning Regulation Team have confirmed that no complaints have been received in respect of operations that have already been carried out. It would be appropriate to require notice of drill plant/equipment re-installation and re-commencement of drilling operations in order to monitor and maintain control over the development.

45. It is reasonable to conclude, having regard to the policies, guidance and other material considerations referred to above, that an extension of time to 22 December 2017 would not give rise to an unacceptable impact on the environment or amenity.

Noise

46. Paragraph 144 of the NPPF (and technical guidance paragraph 28 to 31) indicates that local authorities should ensure that any unavoidable noise…are controlled, mitigated or removed at source.

47. It was considered when determining the original application (ref. N.08/20/299 M) that the drilling of the boreholes is the potentially noisiest operation associated with this proposal. It was concluded that subject to the imposition of a maximum noise limit condition of 42 dB at the nearest noise sensitive properties and the implementation of the noise attenuation/monitoring measures as proposed by the applicant, the proposals would not have an unacceptable adverse impact in terms of noise

48. The Parish Council indicated that noise complaints had been received by a Parish Councillor and they had concerns about the noise assessment. The EHO was made aware of some concerns with the drilling operation (this was not when the drilling operations were taking place) and recommended that conditions should be included to ensure appropriate noise control measures.

49. The County Council’s Noise Engineer has no objection to the proposal subject to a review of the agreed scheme. A noise monitoring scheme was agreed in December 2009 (ref. N.08/20/299 M D2). Based on the comments received from Keele Parish Council, the EHO and the County Council’s Noise Engineer, it is recommended that a condition be imposed to require a review of the approved noise monitoring scheme.
50. It is reasonable to conclude, having regard to the above mentioned policies, guidance and consultee comments, and having regard to the conditions recommended below, that the proposals can reasonably be controlled such that they would not give rise to any unacceptable adverse noise impacts.

**Other matters raised**

**Insufficient public consultation**

51. Keele Parish Council adjoins the site and the Council was consulted on the original application and the subsequent application to vary conditions. However on this occasion, as a result of an administrative error, the Parish was not consulted. This oversight was rectified and additional time agreed to allow a response to be made.

52. The Parish also criticised the applicant and University for failing to notify them about the proposals. The University has acknowledged that this was an oversight on their part as it was a matter that they should have raised during their regular liaison meetings with the Parish. The University has now explained this proposal at a subsequent liaison meeting.

53. Your officers attended a meeting of the Parish Council on 9 May following a request by the applicant. At this meeting the applicant discussed the proposal and answered a number of questions relating to the Parish Council objection.

54. As highlighted in paragraph 33, over 100 letters were sent out; residents who raised concerns relating to the previous applications at Plot 12 were notified. A site notice was erected adjacent to the site and a press notice was published.

**Residents' concerns**

55. Keele Parish Council has expressed concerns relating to property searches and property prices. The site would be picked up on local property searches however Members will be aware that the impact of the development on property prices is not a material planning consideration.

56. Concern was also raised that the site would appear on Coal Authority mining reports when obtaining a mortgage. A coal mining report would identify the environmental and stability risk arising from any past, current and future underground and surface coal mining activity that affects a property (including information on mineshafts, subsidence claims, reported hazards and mine gas emissions that may affect the property). The Coal Authority has confirmed that they would not report the presence of exploratory drilling.

57. Plot 12 is located in a ‘Development Low Risk Area’ and in accordance with Coal Authority standing advice, it is recommended that their advice be included as an informative.

**Environmental concerns**

58. Concern has been raised by Keele Parish Council in relation to water contamination and the how the environmental pollution would be monitored.
59. The changes proposed as part of the application to vary condition 4 of planning permission N.11/10/299 M would not have an impact on the drilling operations. The operations would take place in accordance with the information submitted in 2009. Members of the Planning Committee in April 2009 considered the drilling operations to be acceptable subject to appropriate planning conditions.

60. The Environment Agency raised no objection to the planning application in 2009 subject to conditions to require appropriate storage of oils, fuels and chemicals. The Environment Agency has confirmed that they had no objection to this proposal.

61. The Parish Council has indicated that the habitat survey is out of date (the information was submitted in 2009). The County Council's Principal Ecologist has confirmed that given the location on the business park, there is no need to require additional surveys.

62. Reference has also been made to fracturing processes (commonly referred to as ‘fracking’). Members should note that these drilling operations only involve the taking of cores samples and geophysical logs (initial test phase) and do not involve ‘fracking’ techniques.

Out of date and inadequate information

63. Keele Parish Council raised concerns relating to the information submitted; details of the company and its responsibilities.

64. The Parish Council questioned the use of the information submitted by the applicant. The applicant submitted a supporting letter providing an update on the current situation and referred to the previously submitted documentation.

65. The Parish questioned the ownership of the company making the application and who would be responsible for dealing with any contamination issue. The ownership of the company making the application is not a material planning consideration and any issues would ultimately be the responsibility of the landowner to resolve.

Threat to public amenities

66. The Parish Council expressed concern that the proposal would have an impact on footpaths located in the adjacent woods.

67. There are no statutory Rights of Ways within 1 kilometres of the site. However there are a number of paths adjacent to the site, some of which form part of the Science and Business Park. These paths are within the control of the applicant/landowner.

A lack of community benefits

68. Keele Parish Council has commented on the Safety, Environmental and Social Responsibility section (paragraph 9.2) of the submission concerning community benefits. This section refers to how the applicant works to minimises its impact on the environment, building strong relationships with the community and supporting initiatives that are of benefit to the community.
69. The applicant and University have acknowledged that the Parish Council should have been informed by their proposals sooner. The applicant and the University have now attended a meeting with the Parish and have confirmed that they are willing to attend future liaison meetings with the Parish Council or to establish a voluntary liaison committee if considered necessary to ensure that any problems are reduced and action can be taken to resolve any issues. It is recommended that the applicant continues their dialogue with the Parish Council through the existing liaison arrangements. This would allow any issues concerning the drilling operations to be discussed and resolved. This measure would be referred to in an ‘informative’ to the permission.

70. Members should be aware that no schemes or initiatives to benefit the local community were proposed by the applicant when the permission was granted in 2009. This proposal is to allow the drilling of exploratory borehole and no information has been submitted by the applicant concerning any future plans for the site or to utilise the coal bed methane.

71. The applicant has discussed a ‘community benefit scheme’ at the Parish Council meeting and indicated that a fund (Igas Energy Community Fund) has been established independently by a company called ‘Muddy Boots’. The scheme has delivered over £200,000 to a wide-range of projects over recent years.

72. In this case, it is considered that the requirement for a local community benefit scheme would not meet the tests set out in paragraph 204 of the NPPF, for the following reasons:

- the benefit scheme would not be needed to make the development acceptable in planning terms;
- the benefit scheme would not be directly related to the development;
- the proposal is limited in scale and kind as it relates to exploratory drilling and testing;

73. However it is recommended that the applicant be advised to contact the Parish Council to make them aware of the Igas Energy Community Fund and how to apply for funds from the current scheme.

Overall Conclusion

Overall, as an exercise of judgement, having given careful consideration to the application and supporting information, the relevant development plan policies, the material considerations, the consultation responses and representation received referred to above, it is reasonable to conclude that the application should be permitted subject to the attached conditions.

DIRECTOR OF PLACE AND DEPUTY CHIEF EXECUTIVE’S RECOMMENDATION

PERMIT the application not comply with (to vary) condition 4 of planning permission N.11/10/299 M to extend the life of the planning permission for a further 5 years to 22 December 2017 in connection with exploratory coal bed methane boreholes and evaluation at Plot 12 Keele University and Business Park, subject to planning conditions to include the following:
Planning Conditions including Additional / Updated Conditions (shown in Bold) - heads of terms to include:

**To define the permission**

1. Definition of permission and conformity with approved plans and documents;

**Commencement & Cessation of Operations**

2. Development deemed to have commenced on 22 December 2009;

3. Development to cease and the site to be restored no later than 22 December 2017;

**Written Notification**

4. Notification to MPA of the date of re-installation of plant and equipment and re-commencement of drilling;

**Record Keeping**

5. Records shall be kept of the dates when drilling takes place to provide them to the Mineral Planning Authority upon request;

**Display of Conditions**

6. Copy of planning permission on-site;

**Operating Hours**

7. Operating hours being limited to (except for borehole drilling and in the case of emergencies):
   - 0700 to 1900 hours Monday to Friday;
   - 0700 to 1300 hours Saturday;
   - No such activities/operations shall take place on Sundays, Bank or Public Holidays;

8. Borehole drilling be permitted to take place 24 hours a day, 7 days a week for a maximum period of 60 days;

**Access and Highways**

9. To define the access to the site in accordance with Drawing No. 3363-PEDL56-151208 (attached to planning permission N.08/20/299 M);

10. To define the vehicle routing in accordance with Drawing No. A02944-20081004 (attached to planning permission N.08/20/299 M);

11. No mud or other deleterious materials shall be deposited on the public highway from vehicles leaving the Site;
Lighting

12. Any external floodlighting or other illumination to be positioned so as not to cause glare at nearby properties;

Noise & Dust

13. Noise emitted from the site shall not exceed a maximum noise level – 42dB LAeq (1 hr) during day time hours (7am – 11pm), and 42dB LAeq (5 min) during night time hours (11pm – 7am) at the nearest noise sensitive property;

14. Review of the approved Noise Monitoring Scheme (ref: N.08/20/299 M D2 dated 22 December 2009);

15. Implementation of latest approved Noise Monitoring Scheme;

16. To ensure all plant and machinery are maintained in accordance with the manufacturer's specification;

17. Implementation of Dust Management measures;

Environmental, Ecological and Water Protection Measures

18. Safe Storage of oils, fuels or chemicals;

19. Groundwater protection measures as proposed in documents;

20. Removal of waste from site;

21. To require the site to be maintained in accordance with the existing site plan (Drawing IGAS 56:003) until notification of the plant and equipment associated with the drilling operations;

22. Following the notification of drilling operations the site shall be constructed and maintained in accordance with the details approved (ref: N.08/20/299 M D1 dated 22 December 2009).

23. The temporary fencing (ref: N.09/20/299 M D1 dated 22 December 2009) shall be erected and maintained during drilling operations so as to maintain a stand-off protection zone from trees in Verdun Wood Plantation;

24. Maintenance of the site security fencing for the duration of the permission.

Restoration & Aftercare

25. To require the site to be restored in accordance with the approved scheme (ref. N.08/20/299 M D1 dated 22 December 2009);

Expiration of Permission

26. Expiration of Permission.
Informative

The applicants should continue their dialogue with the Parish Council through the existing liaison arrangements or establish a voluntary liaison committee if considered necessary and make the Parish Council aware of the Igas Energy Community Fund (http://www.igascommunityfund.co.uk/index.html).

The applicant should be made aware of the latest Coal Authority Standard Advice.

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A list of background papers for this report is available on request and for public inspection at the offices of Staffordshire County Council, No. 1 Staffordshire Place, Stafford during normal office hours Monday to Thursday (8.30 am – 5.00 pm); Friday (8.30 am – 4.30 pm).