



Appeal Decision

Site visit made on 7 January 2019

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2019

Appeal Ref: APP/Y2003/W/18/3212137

Lodge Farm, Clapp Gate, Appleby, Scunthorpe DN15 0DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Egdon Resources U.K. Limited against the decision of North Lincolnshire Council.
 - The application Ref PA/2018/794 is dated 13 April 2018, was refused by a notice dated 6 August 2018.
 - The application sought planning permission for construction of a temporary wellsite for drilling of an exploratory borehole with associated structures and works without complying with a condition attached to planning permission Ref APP/Y2003/W/17/3182879, dated 4 January 2018.
 - The condition in dispute is No 11 which states that: The buildings, structures and works hereby permitted to be removed and the use permitted to be discontinued and the land restored to its condition before the implementation of planning permission MIN/2013/0281 on or before the 28 April 2018.
 - The reason given for the condition is to define the terms of the planning permission and ensure that the site is returned to its former condition.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of a temporary wellsite for drilling of an exploratory borehole with associated structures and works at Lodge Farm, Clapp Gate, Appleby, Scunthorpe DN15 0DB in accordance with the terms of the application, Ref PA/2018/794 dated 13 April 2018 without compliance with condition No.11 previously imposed on planning permission APP/Y2003/W/17/3182879 and subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue in this case is the effect of extending the temporary period of the permission on the character and appearance of the area and the living conditions of local residents.

Background

3. In June 2013 planning permission was granted for the construction of a temporary wellsite for an exploratory borehole with associated structures and works (MIN/2013/0281). It was a condition of that consent that the buildings, structures and works permitted should be removed and the use discontinued,

and land restored to its former condition within 3 years of development commencing unless otherwise agreed in writing by the local planning authority.

4. Planning permission was subsequently granted in January 2018 on appeal¹ for an extension of that permission until 28 April 2018. The application the subject of this appeal case seeks to extend the time limit of that permission for a further 12 months taken from the date of the decision.

Reasons

5. The appeal site is located in an area of countryside to the north-east of Broughton. It comprises a broadly rectangular and level site which includes earth bunds, some residual equipment and facilities all enclosed by security fencing. It extends to approximately 1.73 hectare. Access to the site is from the B1208 and through the farmyard of Lodge Farm via an unmade track.
6. Following the initial construction of the wellsite, exploratory boreholes were drilled in the summer of 2014 followed by production testing in the early 2015. The Wressle-1 well produced a total of 710 barrels of oil equivalent per day and a subsequent independent assessment has estimated that some 2,150,000 barrels are potentially recoverable. Applications for planning permission to retain the wellsite and access track for the long term production of hydrocarbons were submitted in 2016 and 2017 and subsequently refused by the Council and dismissed on appeal in January 2018.² However, the Inspector recognised that a significant amount of investment has already been made in the site and therefore granted planning permission to extend the temporary consent for the wellsite for the period applied for, acknowledging that this would be for a modest duration and would help to avoid the risk of abortive work if, for example, the appellants were to pursue an alternative or revised scheme for the site.
7. That said, the temporary consent which was granted in January 2018 required restoration to be complete by the 28 April 2018. It is clear that the extended period would not have provided sufficient time for a new and revised application for hydrocarbon production to be prepared, submitted and determined. Consequently, the appellant submitted an application to extend the temporary consent for a further 12month period from the date of any decision seeking to provide sufficient time a new application to be submitted and determined, including building in time should the determination of any subsequent application be delayed. This application was refused by the Council on 6 August 2018 and is now which is the subject of this appeal.
8. A revised application was subsequently submitted for long-term production of hydrocarbons from the site and has recently been refused by the Council. The appellant's have indicated their intention to appeal.
9. Saved Policy M21 of the North Lincolnshire Local Plan (LP), adopted May 2003 is consistent with paragraph 205 of the Framework in that it seeks to ensure that adequate proposals are made for the restoration of the site at the end of the exploratory phase. The Framework advises that this should take place at the earliest opportunity. Section 38 (6) of the Planning and Compensation Act 2004 advises that development that conflicts with the development plan should be refused unless material considerations indicate otherwise.

¹ APP/Y2003/W/17/3182879

² APP/Y2003/W/17/3173530 & APP/Y2003/W/17/3180606

10. I appreciate that the exploratory phase has ended and therefore in accordance with the development plan restoration should be undertaken without delay. However, I am also mindful that the Framework recognises that it is essential that a sufficient supply of minerals is available to provide for the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite resource they can only be worked where they are found. Paragraph 205 of the Framework also advises that great weight should be given to the benefits of mineral extraction, including to the economy. Whilst I appreciate it is not acceptable for temporary permissions to be renewed indefinitely, in this case taking into account the planning history of the site, it would be expedient to grant a further temporary consent to allow for the appellant to pursue the Council's decision to appeal without incurring further costs and abortive work which would be the case should planning permission be subsequently granted.
11. I have taken into account the Council's concern that whilst the site has been on a care and maintenance footing its appearance has deteriorated. However, from my own observations on my site visit I would concur with the views of the previous Inspector. In the context of nearby farm buildings, the existing site facilities do not have a significant adverse visual impact on the surroundings. Nor is it harmful to the living conditions of local residents. The absence of any significant harm to the environment or living conditions of neighbouring residents adds weight to a of grant planning permission for a further 12months and would allow the most recent refusal to grant planning permission to be determined on appeal.
12. I conclude that the material considerations set out above outweigh the conflict with Policy M21 of the LP and on the balance of the evidence before me the appeal should succeed. I shall therefore grant a new planning permission subject to those conditions which remain necessary and relevant and are set out in the Council's submissions. Those conditions are necessary to protect residential amenity and the environment.

Other Matters

13. I have had regard to third party concerns regarding the proposal and the desire to have the site restored immediately as required by conditions attached to the previous grant of planning permission. However, for the reasons set out above, taking into account the planning history of the site and absence of any significant material harm to the environment and living conditions of neighbouring residents at this time, I consider that there are material considerations that outweigh the conflict with the development plan.
14. I appreciate concerns of third parties regarding proposals for long term hydrocarbon production from the site as well as ongoing concerns in relation to global warming and the management of facilities and operations at other sites operated by the appellant. However those matters are not for my consideration in this appeal, which relates solely to the temporary wellsite.

Conclusion

15. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 3334 P 01; 3334 P 02; 3334 P 03; 3334 P 04; 3334 P 05; 3334 P 06; 3334 P 07; 3334 P 08; 3334 P 09; 3334 P 10; 3334 P 11; and 3334 P 12.
2. Earthworks associated with site restoration and HGV deliveries shall only take place between the hours of 7:00 hours and 17:30 hours Monday to Friday and Saturday 7:00 hours to 13:00 hours with no deliveries on Sundays or Bank Holidays.
3. Noise from the approved exploration well site shall not exceed 42dB LAeq, 5min when measured at any noise sensitive dwelling between 7pm and 7am Monday to Sunday inclusive.
4. Noise from the approved exploration well site shall not exceed 60dB LAmax when measured at any noise sensitive dwelling between 7pm and 7am Monday to Sunday inclusive.
5. Noise from the approved exploration well site shall not exceed 55dB LAeq, 1h when measured at any noise sensitive dwelling between 7am and 7pm Monday to Sunday inclusive.
6. Noise from the approved exploration well site shall not exceed 70dB LAmax when measured at any noise sensitive dwelling between 7am and 7pm Monday to Sunday inclusive.
7. The lighting layout for the scheme shall be as set out in drawing number 3334 P 06, dated February 2013, and shall be implemented and retained during the life of the development.
8. The site shall be maintained as a bunded, sealed site with sufficient containment capacity to prevent pollutants from discharging to land.
9. The development shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated January 2013. Specifically, the surface water run-off generated by the 100 year critical storm shall be limited to 5 litres per second so that the risk of flooding off site is not increased. Sufficient

attenuation must be supplied in the ring ditch to prevent any negative impact on the site for the aforementioned storm event.

10. The biodiversity management plan submitted with application MIN/2013/0281 shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter.
11. The buildings, structures and works hereby permitted shall be removed, the use hereby permitted discontinued and the land restored to its former condition no later than 12 months from the date of this decision.

END OF SCHEDULE