

North Yorkshire County Council

Planning and Regulatory Functions Committee

21 JANUARY 2020

**Planning application for the purposes of the variation of condition no's 1 & 2 of planning permission ref. C3/06/00625/CPO/F for the retention of the existing Vale of Pickering pipeline network between existing wellsites and Knapton Generating Station for a further 17 years from 2018 to 2035 on land at Pipeline to Knapton Generating Station, East Knapton, Malton, North Yorkshire on behalf of Third Energy UK Gas Limited
(Ryedale District) (Malton Electoral Division)**

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 The purpose of this report is to determine a planning application submitted on behalf of Third Energy UK Gas Limited. This application has been subject to consultation with both statutory and non-statutory bodies, organisations and agencies as well as public consultation through the advertisement of the information submitted by the Applicant during the processing of this application by means of both press and site notices.
- 1.2 This application has given rise to ten representations; all of which are representations in objection including ones from local and national campaign groups (*Frack Free Ryedale* and *Friends of the Earth* (the latter being only insofar as the application concerning the extension to the KM-A wellsite in 2012 under application ref. no. NY/2019/0079/FUL) as well as private individual members of the public and the *Yorkshire Wildlife Trust*. The grounds of objection upon which these representations have been made are provided, in summary, within Section 5.0 of this report and relate, *inter alia*, to conflict with planning policy; air quality impacts; harm to biodiversity; threat to water quality; unacceptably high levels of noise; high levels of traffic; impacts on local economy & tourism; industrialisation of the countryside; climate change, need more renewables and abandonment of reliance upon fossil fuels; 17 years is excessive; absence of any gas left demonstrated by absence of production; and, out-dated infrastructure.
- 1.3 In accord with the County Council's adopted *Officers' Delegation Scheme* (within *Schedule 4* of the [Constitution](#), delegated powers to determine applications do not exist where "*there are unresolved objections on material planning grounds*". In light of the objections raised, this planning application is brought before Members of this Committee for determination.

2.0 Background

- 2.1 While gas discoveries in Ryedale were initially made in the 1970s, the presence of the gas industry in the Vale of Pickering began in 1985 with the granting of consent for exploration under licence.
- 2.2 The [North Yorkshire Minerals Local Plan](#) explains that "*the licensing system is based on the principle that operators have the right to benefit from development, having been prepared to take the initial risk of undertaking exploration at their own expense. In this way the Government is able to compile data on the extent of the national onshore resource while offering some incentive to the private sector to undertake the necessary work*" (NYMLP, 1997) and, notwithstanding, the passage of time, this principle remains, to a large extent, in place today. It is understood that upon the discovery of a

commercially viable source of gas capable of being exploited, production later followed in 1994-1995.

The pipeline network

- 2.3 The well sites in the Vale of Pickering are all linked, via an existing 6” diameter interconnecting pipeline to the existing operational Knapton gas-fired electricity generating station (KGS) which opened in 1995. This is an open-cycle gas turbine power station and is capable of supplying upto 41.5MW of electricity enough to power upto 40,000 homes according to the relevant *Environmental Permit* issued by the Environment Agency¹.
- 2.4 *Produced water* and *hydrocarbon condensates* are also transported, via an existing 3” pipeline network to the KM-3 re-injection well on the KM-A well site. Both networks lay together underground.

Spatial context

- 2.5 The existing underground pipeline network lies underground and, with the exception of the Pickering Showground section, its route is largely overlain by open countryside in both arable and pastoral agricultural production benefitting from the ‘*best and most versatile land*’ (BMV) grading. While the pipeline follows, albeit only roughly, the alignment of the road between the villages of Kirby Misperton and Great Habton and the alignment of the railway line on the approach to KGS, for the most part it crosses land in agricultural use. There are no steep gradients of any note transversed by the pipeline network.

Planning constraints

- 2.6 The nearest statutory nature conservation designation to the site has been identified by the applicant as the *River Derwent SAC and SSSI*. This designation is some 30 metres south of the pipeline where it crosses the River Derwent, to the east of the Marishes (MAR) wellsite. The *Ings Amotherby SSSI* is approximately 1.3km south of the pipeline between MN-A and MN-B, so was also considered, though just outside the 1km radius of the study area. In addition, the *North York Moors National Park* (approximately 2.2km north-east at its closest point (in parts designated as an SAC/SSSI and SPA) was included due to the potential for qualifying bird species from the designated site to use habitats beyond the immediate site boundary, and *Eller’s Wood and Sand Dale SAC* (6.6km north east from the PK pipeline) was also ‘*scoped in*’ due to the potential for impacts via surface and groundwater pathways. Four non-statutory designated sites were within the 1km study area; two Local Wildlife Sites (LWS), one candidate LWS (cLWS) and a Yorkshire Wildlife Trust Reserve at *Low Carr Farm*. The closest is *Costa Lodge Carr/Brickpits cLWS*, approximately 100m west of the pipeline protected and/or priority species ([Environmental Report](#))
- 2.7 While a number of ‘*protected*’ or ‘*priority*’ species are likely to be present or forage along the length of the pipeline route, they are unlikely to be affected to any significant degree by reason of the pipeline already being both underground and ‘*in situ*’. As a consequence, there is no proposed ecological mitigation because there are no pathways by which the proposals could result in any impacts on designated sites or protected species.

The planning history

¹ Source: (correct 26th June 2019)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490524/Variation_and_consolidation_notice.pdf

- 2.8 Permission for the purposes of the '*construction of two cross-country pipelines linking the 5 wellheads M1, M4, KM1, KM2, KM3 and MAR1*' was originally approved under permission ref. no. 4/A/93/FA, dated 19th May 1993. The pipelines connected the furthest wellsites from the consented Knapton Electricity Generating Station. That is to say, MN-B is connected via its '*sister*' wellsite MN-A through the '*hub*' at KM-A and onwards via MAR to the station and KM-B is connected via its '*sister*' wellsite KM-A via MAR to the station. In 2006, a renewal of this pipeline consent was sought and subsequently permitted under ref. no. C3/06/00625/CPO/F (NY/2006/0222/73D), dated 30th August 2006.
- 2.9 Separate to this, was the addition of a further length of pipeline between the Pickering well and the KM-A well site such that it joins up with the existing gas-gathering pipeline network at the KM-A '*hub*' where the gas from PK is processed before onward forwarding to the electricity generating station. This particular section of pipeline was first granted consent by permission ref. no. C3/98/00397/CPO on 14th September 1998 and this was followed by a number of alignment variation permissions in 2000. The consent subject to the current application for the retention of pipeline does not include this later section of pipeline between the PK and KM-A wellsites.

3.0 The proposal

- 3.1 The applicant proposes within the application details that, other than the extension of the time proposed for operation of the wellsites and pipeline to 2035, there are no proposed changes to the footprint of the existing consents or operations as consented. Any future changes would be subject to relevant planning and environmental permitting controls ([Environmental Report](#), dated 16th May 2018). The application seeks solely an extension to the time-limited permission granted under ref. no. C3/06/00625/CPO/F dated 30th August 2006 which had, itself, renewed the original planning permission ref. no. 4/A/93/FA granted on 29th March 1993. The previous permission has now time-expired (the relevant date of which was the 19th May 2018) and the applicant seeks a continuation of operations until 2035 concerning a development which has already been carried out and for which permission had been granted for a limited period; a circumstance provided for under Section 73A of the Principal Act (the Town & Country Planning Act 1990). A further six applications are also under consideration by the Authority relating to KM-A Extension '*sibling*' wellsites; comprising the KM-A (original wellsite), KM-B, Malton A and Malton B, Pickering and Marishes as well as an application relating to the existing underground pipeline network. These are each the subject of separate Officer reports.

The application documentation

- 3.2 Accompanying all the applications submitted on behalf of Third Energy are separate [Planning Statement](#), [Ecological Appraisal](#) and [Water Resources Report](#) for each of the wellsites and equivalent documentation for the pipeline too. In addition, the applications are also accompanied by
- an [Environmental Report](#) (Rev4, dated 16th May 2018);
 - an [Air Quality Review](#) (Issue 1, dated 13th March 2018);
 - a [Landscape & Visual Impact Appraisal](#) (RevA, dated 24th April 2018) which, with the exception of the pipeline network, covers all the wellsites;
 - a [Cumulative Assessment](#);
 - a [Schedule of Mitigation](#); and,
 - an [Acoustic Report](#) submitted in May 2019.
- 3.3 The [Environmental Report](#) comprises the assessments which have been undertaken in respect of;
- air quality;
 - ecology & biodiversity;

- landscape & visual impact;
- noise;
- traffic and transport;
- water resources;
- additional considerations including:
 - soil protection;
 - cultural heritage & archaeology;
 - lighting;
 - human health;
 - major accidents & disasters; and,
 - climate change; and,
- cumulative effects.

[Air Quality Review \(AQR\)](#)

- 3.4 The [Air Quality Review](#) (AQR), prepared by SOCOTEC on behalf of the applicant, considers the relevance of previously prepared assessments that supported the original applications with regard to current operating practices and refinements to assessment methodologies and acceptability criteria.
- 3.5 The Review explains that “*releases of nitrogen dioxide from natural gas combustion at the Knapton Generation Station were considered to be the most significant threat to air quality within the original assessment*” and found that the assumptions made in the original assessment “*generally provided an overestimate of air quality impact when compared with current operating practices*”. It then goes on to explain, when making an assessment against current acceptability criteria, it indicated “*the air quality impact of process contributions of nitrogen dioxide at the nearest residential locations was insignificant*” and, also, that the impact at the nearest statutory designated nature conservation site is similarly “*insignificant*” with regard to critical levels for nitrogen oxides and critical loads for nitrogen and acid deposition.
- 3.6 With regards the well sites and the pipeline, the conclusions drawn within the submission advise that natural gas losses “*were considered to be adequately controlled by the current loss prevention measures*”. The consultant does not anticipate “*an extension of the planning consent will pose any significant risk of greater losses than those originally consented*”.
- 3.7 In response to questions posed of the applicant on behalf of the County Planning Authority, a [letter](#) dated 30th May 2019 was received which was accompanied by an ‘[Annual Releases to Air](#)’ report (2014-2018) for all wellsites.
- 3.8 The [Environmental Report](#) explains, “*measures are in place to ensure that air quality emissions from workovers on the wellsites/ pipeline maintenance do not cause cumulative effects through sensible timing of works and standard air quality protection techniques. Odour will also be minimised through these techniques, by ensuring the gas remains within the closed system at KGS, the pipeline network and the wellsites*”.

[Ecological Appraisal & previous surveys](#)

- 3.9 The [Ecological Appraisal](#) has reviewed the data that has been compiled as a result of a number of ecological surveys including *Phase 1 Habitat & Ecological Appraisals* in 2012 and 2015 (the surveys comprise a habitat survey (extended to 250 metres beyond the site boundary) with data taken on 7th August 2012 and 27th January 2015, and surveys of badger, bats, water vole and otter, as well as the habitats of birds, reptiles, amphibians and invertebrates), an *Ecological Impacts Assessment* in 2015 and *Bat Activity Surveys* in 2016 and 2017 as well as desk studies and *Extended Phase 1 Ecology Surveys* carried out in March 2018 (the purpose of which was to identify any protected species constraints and the information used to support the assessment of

the potential impacts on interests of ecological importance resulting from the proposals to continue operations).

- 3.10 The assessment concluded there to be no ‘new’ effects arising from the proposed extended time period for continued operations.

[Landscape & Visual Impact Appraisal](#)

- 3.11 The application for the continued use of the pipeline for an extended period of time until 2035 is not accompanied by a *Landscape and Visual Impact Appraisal* for the reason that the pipeline network was installed over a decade ago and is entirely buried below ground. The applicant company has explained that “*the disturbed land along the route has been restored back to agricultural use, and all severed hedgerows have been reinstated. Consequently, because the proposed ‘extension of time’ would not give rise to any new landscape or visual effects the underground pipeline is excluded from this assessment*”. Insofar as regards the remaining above-ground infrastructure, the appraisal, while acknowledging that continued operations and, thereby, continued existence of the sites for a further period of time would result in continued effects upon the principal sensitive receptors, there would be no ‘new’ effects and “*no physical changes affecting the character of the existing landscape or views of the wellsite from the surrounding areas*” ([Environmental Report](#), dated 16th May 2018).

[Acoustic Report](#)

- 3.12 In May 2019, in response to a follow-up request made on behalf of the County Planning Authority to provide information that had been originally committed to at the time of application submission, an [Acoustic Report](#) was received. While acknowledging that “*noise from the wellsites will be associated with any maintenance, workovers or drilling activities*”, the assessment explains that “*noise from ongoing gas production activities, including routine site visits is very low and effectively inaudible at the nearest residence to the wellsites*” ([Environmental Report](#), dated 16th May 2018). Provided strict adherence to the conditions to which the sites must operate, no noise nuisance of any significance is predicted.

Traffic and transport

- 3.13 With regards traffic and transport, Chapter 7 of the ([Environmental Report](#), dated 16th May 2018) explains that “*as no changes to the sites’ operation is proposed...traffic levels will remain small*” and they “*will not impact on road safety or capacity*”.

Water

- 3.14 A [Water Resources Report](#) has been undertaken by the consultancy, Envireau Water and explains,
“*As the sites are existing, the risks associated with construction works and drilling will not apply, and controls are already in place in terms of relevant planning conditions and environmental permit requirements to ensure protection of water resources. Measures to protect water are built into the site design and operational procedures, which prevent leakage of any spills on site into the surrounding soils and from there into watercourses. Although the existing discharge of site runoff into nearby watercourses/ field drains via an interceptor will continue from the infrastructure (as outlined in the relevant environmental permits) there will be no additional discharge points to water as a result of the proposed development, and measures in place to protect nearby watercourses will be retained*” ([Environmental Report](#), dated 16th May 2018).

Additional considerations:

- soil protection

As “*there will be no extension of the footprint of any sites as a result of the [proposals] there will be no additional loss of soil from the local environment*” and “*measures to protect soil are built into the site design and operational procedures, which prevent leakage of any spills on site into the surrounding soils*”. Furthermore, “*the wells are lined with steel and cement*”

to ensure no loss of gas or drilling chemicals to the formation or overlying soils. Routine monitoring...will ensure any potential leaks are isolated and fixed. Therefore soils in the surrounding area are protected". Upon approaching the restoration stage, the applicant intends to submit a *Restoration Plan* (including a five-year programme of 'after-care') "to ensure soils are restored appropriately to return the sites to agricultural use";

- cultural heritage & archaeology

The continuation of operations on site which have already been constructed are not anticipated to lead to a disturbance of soils and, thereby, any disturbance of potential archaeological resource.

- lighting

The [Environmental Report](#) explains the sites "are not routinely lit at night, and only if there is a requirement for routine visits within the consented hours (0700-1900)", but should work-overs be required, temporary mobile lighting units would be installed as necessary for safety purposes and controlled by a *Lighting Management Plan*;

- human health

The effects of the continuation of the operations for the defined extended time period have been assessed in respect of hydrology/hydrogeology, noise and air quality ensuring that the 'source' (pollutant) and the 'pathway' (emission of the pollutant into the environment do not impact upon 'receptors' (humans); concluding that the continuation of operations "will not have a significant adverse effect on human health".

- major accidents & disasters

The required mitigation is described by the applicant as "either integrated into the design of the scheme or considered to be a regulatory or industry standard practice requirement and thus considered 'embedded' mitigation".

- climate change considerations

Climate change impacts resulting from the proposed continuation of operations for the specified period of time are, in the main, attributable to the emissions (most notably CO₂) from the process of electricity production at the Knapperton Gas Station (KGS) and emissions from the wellsites themselves have been assessed as being "negligible in comparison".

Cumulative impacts

- 3.15 These are deemed to be taken to mean impacts resulting from incremental changes caused by other past, present or reasonably foreseeable/committed development together with those that are proposed. With this in mind, the assessment of cumulative impacts discusses the proposals in the context of gas-related developments as well as other existing developments and future developments for which planning permission has been granted, but which have yet to be implemented. It identified 1,071 developments within its assessment; a list which was then 'refined' down to 62 for further assessment of cumulative effects and after which the conclusion arrived at was an absence of any significant cumulative effects.

Town & Country Planning (Environmental Impact Assessment) Regulations 2017

- 3.16 The application has not been accompanied by an *Environmental Statement*, but nevertheless, it falls to the County Planning Authority to determine whether the proposals constitute EIA development. Advice contained within the online national planning practice guidance directs that applications must be assessed on their individual merits. While it is mandated that EIA will be required for
- *pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres for the transport of [inter alia] gas*;
- both circumstances of which do not arise in this instance. Furthermore, the criteria of "a design operating pressure exceeding 7 bar gauge" has not been exceeded.
- 3.17 The proposals have therefore been subject to the process of 'screening' "to determine whether [they are] likely to have significant effects on the environment" ([PPG para. 17, Section 4](#)) under the provisions of the [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017](#) (2017 EIA Regulations). A 'screening opinion'

has been formally adopted; an opinion consistent with the previous 'screening opinion' adopted by the County Planning Authority on [16th May 2006](#) in that no environmental statement is required to accompany the application.

[Conservation of Habitats and Species Regulations 2017](#)

- 3.18 Under Article 6(3) of the [Habitats Directive \(92/43/EEC\)](#) an 'appropriate assessment' is required where a plan or project is likely to have a significant effects upon a European site either alone or in combination with other plans or projects. The Habitats Directive is implemented through the '[Conservation of Habitats and Species Regulations 2017](#)', A screening exercise has been undertaken on behalf of the County Planning Authority and 'HRA screening reports' for all applications have been produced which have, in turn, been the subject of notification to the national expert body, Natural England. That body responded on 2nd August 2019 stating their local area team concur with the conclusions drawn within those reports.

Access to information

- 3.19 All of the documentation to which reference is made within this section has been made available to view on the County Council's [Online Planning Register](#) since receipt and any Members wishing to view full copies of the documentation, will find all available information using the links provided.

4.0 Consultations

- 4.1 As required by regulation, including the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#), formal consultation has been undertaken with statutory bodies, agencies and organisations. Whilst the responses to consultation are not reproduced in full within this report, copies of all responses received are available on the County Council's [Online Planning Register](#). Consultation with statutory consultees, along with those with whom the County Planning Authority has consulted under Officer discretion commenced on Tuesday 11th June 2019.
- 4.2 The latest date by which responses to consultation were sought was Friday 5th July 2019; however, a number of requests for extensions beyond this date were received from consultees. Where responses to consultation have been received, they are reported in this section.
- 4.3 During the course of considering the submissions, it has been necessary to seek further information and points of clarification from the applicant. This was made, in writing, on [17th May 2019](#) and a response was received on [30th May 2019](#) from the agent acting on behalf of the applicant company. Communications made on behalf of the County Planning Authority and the applicant company have been made available for public view on the County Council's [Online Planning Register](#) throughout the course of the consideration of the application; including the applicant's responses received on [9th August 2019](#) and [14th August 2019](#) in respect of matters raised as a result of consultation and those made in representation.
- 4.4 All responses to consultation, received by the County Planning Authority, are published on the County Council's [Online Planning Register](#) either on the date of receipt or shortly thereafter.

Consultation responses received to date:

- 4.5 **Ryedale District Council** – responded on [15th August 2019](#) stating it is, *"strongly opposed to the exploitation of unconventional gas resources through hydraulic fracturing in the Vale of Pickering. The applicant has, in part justified their development proposals by claiming that it would help to ensure a coherent network of infrastructure is in*

place to support hydraulic fracturing in the future. This is not acceptable to this Authority and it objects to the applications on this basis.

The development should and can only be justified on the basis of what the applicant is applying for. In this instance this is for an extension of time to undertake existing consented activity. In this respect, it is considered that the only information that is required to support the application and which should be considered as part of the decision-making process, is information which is confined to conventional gas production. However, against a context of what this Council understands to be a substantial decline in conventional gas production in the Vale of Pickering, it is considered that there is insufficient information to justify why a further extension of time of 17 years and a further borehole at the KM-A well site is required. There is insufficient information relating to or justifying the rate of production or anticipated levels/rate of continued exploitation of the conventional reserves. This Authority also objects to the applications on this basis and the lack of information provided to justify the development applied for."

- 4.6 **Kirby Misperton Parish Council** – responded to consultation on [24th July 2019](#), returning an objection solely in respect of the KM-A extension site.
- 4.7 **Great & Little Barugh Parish Council** – responded to consultation on [4th July 2019](#) returning their comments summarised below as:
- questioning viability in that they understand the Knapton Generating Station (KGS) “will require extensive modification/re-building” and believe the pipeline to be “in excess of thirty years old” and ask two questions; the first being “Does NYCC take into account the life of the dependant infrastructure when deciding a 17 year extension?” and the second, “Have Third Energy provided a plan for future taking this into account?”;
 - questioning the availability of gas;
 - suggesting 10 years extension (and, in the particular case of KM8, 9 years) rather than 17 years;
 - stating that the *Community Liaison Group* has not met in over a year and their frustration about not being kept informed; and,
 - questioning how this sits with the Government’s plans of reducing emissions to Net Zero by 2050.
- 4.8 **Habton Parish Council** – responded to consultation on [5th August 2019](#) returning an objection and stating,
- “If the planning developments are related to conventional gas extraction, there is insufficient gas remaining to make this viable and therefore no requirement for the various developments. If it is for gas that is from ‘fracking’, then this contravenes the Planning Policy to develop a fracking site within 500 m of a residential property”.*
- 4.9 **Normanby Parish Meeting** – responded to consultation on [28th June 2019](#) and make the following comments as follows:
1. *This view is based upon conversations with a number of residents;*
 2. *The overwhelming view is that we strongly oppose Fracking;*
 3. *We believe it will cause environmental issues, including earthquakes;*
 4. *There will be lot more traffic on local roads, which were not designed to cope with this level of traffic;*
 5. *Fracking will add to climate change”*
- 4.10 **Environment Agency - Yorkshire Area Oil and Gas Team** – responded to consultation on [14th June 2019](#) returning a response of ‘no comment’.
- 4.11 **Historic England** – responded to consultation on [1st July 2019](#) returning a response of ‘no comment’.
- 4.12 **Natural England** - responded to consultation on [26th June 2019](#) returning a response of ‘no comment’.
- 4.13 **Yorkshire Water Services Limited** – responded to consultation on [2nd July 2019](#) returning a response of ‘no comment’.

- 4.14 **Health & Safety Executive (Well engineering & Operations)** – responded to consultation on [20th June 2019](#) confirming that they “*have no statutory duty to respond to planning applications*”; nevertheless, they set out their regulatory approach to health and safety matters in their response for information purposes.
- 4.15 **Public Health England (Centre for Radiation, Chemical and Environmental Hazards, Nottingham)** - responded to consultation on [18th June 2019](#) on the understanding that the applications seek solely an extension to the time in which to continue consented and permitted activities for a further 17 years and stated, “*Based solely on the information contained in the application provided, PHE has no significant concerns regarding risk to health of the local population from this proposed activity, providing that the applicant takes all appropriate measures to prevent or control pollution, in accordance with the relevant sector technical guidance or industry best practice*”.
- 4.16 **North York Moors National Park Authority** – responded to consultation on [15th July 2019](#) returning no objections stating, “*The sites are considered not to be visually intrusive within the setting of the national park and as such there are no objections from a National Park context for objecting to a further 17 year extension of the six well sites*”.
- 4.17 **Howardian Hills Area of Outstanding Natural Beauty (AONB)** - responded to consultation on [26th June 2019](#) returning no comments.
- 4.18 **NYCC Highway Authority** - responded to consultation on [16th August 2019](#) stating no objections as, “*all sites benefit from existing accesses onto the highway network that are considered appropriate for the type of traffic and vehicle movements generated by the sites.*”
- 4.19 **NYCC Public Rights of Way Team** – responded to consultation on [12th June 2019](#) commenting that, “*No works are to be undertaken which will create an obstruction, either permanent or temporary, to any Public Rights of Way which cross or adjoin the pipeline network*”.
- 4.20 **NYCC landscape adviser** – responded to consultation on [27th June 2019](#) stating “*general satisfaction*” with the overall approach, methodology, findings and summary within each site appraisal within the applicant’s submitted *Landscape and Visual Appraisal* and returned no comments or objection in respect of the pipelines.
- 4.21 **NYCC adviser on matters of ecology** - responded to consultation on [8th July 2019](#) advising there are no concerns in respect of ecology and, having undertaken a screening exercise under the provisions of the [Conservation of Habitats and Species Regulations 2017](#), has provided a *HRA screening report* for each of the sites “*which confirms that the proposals will not have a likely significant effect upon any Natural 2000 sites*”.
- 4.22 **Yorkshire Wildlife Trust** – returned their comments on [17th July 2019](#) objecting, focussing their comments upon
- the potential impacts of CO₂ emissions and the knock-on effects of failing to achieve ‘*Net Zero by 2050*’;
 - the quashing of NPPF Paragraph 209a;
 - the uncertainty about the contribution of shale gas toward energy security; and,
 - the extension of the applications “*will lead to increased CO₂ emissions, air quality impacts, HGV and traffic impacts and be contrary to local and national policies*”.

4.23 Although views have been sought on behalf of the County Planning Authority, no responses have been received from:

- Malton Town Council;
- Marishes Parish Meeting;
- Pickering Town Council;
- Rillington Parish Council;
- Scampston Parish Council
- Heslerton Parish Council;
- Rye Internal Drainage Board;
- Northern Gas Networks;
- National Grid (Plant Protection);
- Northern PowerGrid (Yorkshire); and,
- NYCC Lead Local Flood Authority.

Notifications:

4.24 **County Councillors Mrs Lindsay Burr, Mrs Janet Sanderson and Mr Greg White** have been notified of the application.

Important note:

All responses to consultation received by the County Council have been presented here within this report either in their entirety or in summary. The full responses are available to view on the County Council's [Online Planning Register](#). However, should the County Planning Authority receive any communications from consultees following the publication of this report, they will be reported orally at the meeting and either a written summary or full copies of the responses will be provided to Members prior to the meeting where possible or at the start of the meeting and time will be allowed for Members to read those submissions.

5.0 Advertisement and representations

5.1 Under the provisions of the [Town and Country Planning \(Development Management Procedure\) Order 2015](#), this application has been advertised by means of Site Notices erected in locations along the pipeline network (village notice boards (where possible to do so) and other points of public access) on Tuesday 18th June 2019 and a Press Notice which appeared in the Malton Gazette & Herald newspaper also on Wednesday 19th June 2019.

5.2 In addition to the publicity afforded to this application under statute by means of Press and Site Notices, Neighbour Notification letters have also been sent to residential properties within the vicinity of the application; not necessarily due to an arbitrary distance. Those properties are as follows:

- Malton Road:
 - 1 & 2 Knapton Lodge;
 - 1, 2, 3, 4 & 5 Station Cottages;
 - Poplars Farm;
 - The Larches;
- Kirby Misperton Lane:
 - 1, 2 3 Ryedale Cottages;
 - 1, Wellfield House;
 - Raikes Farm;
 - Tuiffit annexe;
 - Tuiffit Manor;
 - Wellfield Farm;
 - Wellfield House;
- Habton Lane:
 - 11 & 12 Beech View;
 - Rowan cottage;
 - The Ellers;
 - Whiteholme Farm;
- Malton Postal town;
 - 4, 9 & 11 (Lead Full) Alverton Close
- Low Moor South Lane:

- Abbey Farm;
- Breckney Farm;
- Ivy Lea Farm;
- Rose Bank;
- Sleights Farm;
- Kirby Misperton to Little Barugh
 - Alma Farm;
 - Cottage at Great Carr Farm;
 - Great Carr Farm;
 - Glebe Farm
- Ings Lane, Pickering
 - Barker Stakes Farm;
 - Combined Ings Farm;
 - Ings Hill Farm;
 - North Barker Stakes Farm;
 - Pry End House;
- Haygate Lane, Pickering
 - Buckthorn Farm;
 - Summerfields;
- Howe Bridge to Bellerbyhurn Road:
 - Costa farm bungalow;
 - Costa farm cottage;
 - Costa farm;
 - Howe Bridge Farm;
 - Lower bellafax grange
- Habton Road:
 - Kirby O'Carr Farm;
 - Marlin
- Riggs Road:
 - Burrow Nooks, West Farm;
 - North Farm House;
 - North Farm;
 - West Farm
- Marishes Low Road:
 - Wath Hall;
 - The Granary;
- Oliver Lane:
 - Gosling Green;
 - Shotten Hall
- Greencore Malting Group, Poplars Lane, Malton;
- Low Moor Farm, Village Street, Malton;
- Manor Farm, Breckney Lane, Malton.

5.3 The Authority has received ten representations either via e-mail or letter where their comments cite all eight applications and two representations where comments are related to specific applications. The campaign group, *Frack Free Ryedale*, has made representations (an interim representation on [17th December 2018](#) and a further representation received on [8th August 2019](#)) in respect of all eight applications and their comments have been made available to view online. *Friends of the Earth* have made representation (dated [15th July 2019](#)) in respect of one of the applications which relates to application ref. no. NY/2019/0079/FUL (KM-A extension) and that representation has been made available to view online.

5.4 Those representations that have been '*duly made*' have been registered and logged as '*duly made*' representations. One representation received by e-mail on 13th June 2019 from an individual member of the public did not provide an address and, although contacted to request their address such that due weight may be given, no response has been received to date. This is similarly the case in respect of an e-mailed representation made on 14th August 2018. Two of the representations were also from the same residential address. A representation has also been received from Ryedale District Councillor Mr Steve Mason (Amotherby Ward).

5.5 Of the seven representations received from individual members of the public whose address has been provided, two in Little Barugh and one in Great Habton had been sent *neighbour notification* letters on behalf of the County Planning Authority.

- 5.6 Areas of concern, material to the consideration of the application, raised in objection include the potential for:
- *conflict with planning policy;*
 - *air quality impacts;*
 - *harm to biodiversity;*
 - *threat to water quality;*
 - *unacceptably high levels of noise;*
 - *high levels of traffic;*
 - *impacts on local economy & tourism;*
 - *industrialisation of the countryside;*
 - *climate change, need more renewables and abandonment of reliance upon fossil fuels;*
 - *17 years is excessive; and,*
 - *an absence of any gas left being demonstrated by an absence of any production.*
- 5.7 Another issue which has been raised in objection is more broad in scope and lies outwith land use planning considerations:
- *out-dated infrastructure.*
- 5.8 It is also important to note that there are matters that have been raised in objection to the proposals to continue operations to which regard cannot be had in the determination of the planning application and these include, *inter alia*,
- *negative impact on property prices;*
 - *increased insurance premiums; and,*
 - *anti-fracking comments.*
- 5.9 Where reasonably practicable to do so, the applicant has (subject to the redaction of personal information) had access to the queries that have been raised and, thereby, has been provided with an opportunity to respond to those queries. A response to the points raised both as a result of formal consultation and/or as a result of the publicity afforded, the County Planning Authority received responses to the queries raised within the communication earlier referred (Section 4.0 above) dated [30th May 2019](#) and more recently on [9th August 2019](#) and [14th August 2019](#).

Important note:

Letters of representation from private individuals are not uploaded to the [Online Planning Register](#) unless an express request to do so from the individual is received.

6.0 Planning guidance and policy

- 6.1 Our planning system is a plan-led system. [Section 38 \(6\) of the Planning and Compulsory Purchase Act 2004](#) requires planning applications to be determined in accordance with the *Development Plan*, unless material considerations indicate otherwise. Other material considerations that need to be taken into account include, *inter alia*, other relevant policy and guidance, particularly national planning policy in the [National Planning Policy Framework](#) (NPPF) and other relevant Government policy statements, as well as that which is provided within the [National Planning Practice Guidance](#) (NPPG). Key policy and guidance of particular relevance are identified within this section of the report.

The Development Plan

- 6.2 In this instance, the *Development Plan* comprises the ‘saved’ policies of the [North Yorkshire Minerals Local Plan](#) (NYMLP) (insofar as having been ‘saved’ by Direction of the Secretary of State in 2007) and the policies contained within the [Ryedale Plan-Local Plan Strategy](#) (RP-LPS) (2013).

- 6.3 Where Local Plans have not been updated to take into account the policies in the NPPF, as is the case with the *North Yorkshire Minerals Local Plan* ‘saved’ policies, due weight should be given to relevant policies in such plans according to their degree of consistency with the framework (that is to say, the closer the policies in the Local Plan to the policies in the Framework, the greater the weight that may be given). Such an assessment against the policies of the RDC-LPS is not required as the policies therein post-date the publication of the NPPF in 2012.
- 6.4 Members are asked to note that, where appropriate to do so, extracts rather than full reproduction of policy text has been used for the purposes of the preparation of this substantive report. Should Members wish to read the full text of the policies themselves and their reasoned justification, the links to the documents in which they are contained are provided below:
- [North Yorkshire Minerals Local Plan](#) (policies ‘saved’ by SoS Direction in 2007); and,
 - [Ryedale Plan- Local Plan Strategy](#) (September 2013).

North Yorkshire Minerals Local Plan

- 6.5 The principal relevant ‘saved’ policies of the NYMLP comprise:
- environmental considerations:
 - ‘saved’ Policy 4/1 - *determination of planning applications*;
 - ‘saved’ Policy 4/6a - *local nature conservation & habitat protection*;
 - ‘saved’ Policy 4/10 - *water protection*;
 - ‘saved’ Policy 4/14 - *local environment and amenity*;
 - ‘saved’ Policy 4/15 - *public rights of way*;
 - ‘saved’ Policy 4/18 - *restoration*; and,
 - ‘saved’ Policy 4/20 - *after-care*.
 - oil and gas-related policies:
 - ‘saved’ Policy 7/6 - *development scheme*;
 - ‘saved’ Policy 7/7 - *development of new reserves*;
 - ‘saved’ Policy 7/10 - *restoration*; and,
 - ‘saved’ Policy 7/11 - *retention of features*.

Policies in respect of ‘environmental considerations’

- 6.6 **‘Saved’ Policy 4/1** establishes (in addition to the focus of ‘saved’ policies 4/6a, 4/10, 4/14 and 4/15) the criteria against which applications for mining operations² are to be assessed as follows:
- (a) *the mineral deposit on the application site has been fully investigated;*
 - (b) *the siting and scale of the proposal is acceptable;*
 - (c) *the proposed method and programme of working would minimise the impact of the proposal;*
 - (d) *landscaping and screening has been designed to effectively mitigate the impact of the proposal;*
 - (e) *other environmental and amenity safeguards would effectively mitigate the impact of the proposals;*
 - (f) *the proposals and programme for restoration are acceptable and would allow a high standard to be achieved;*
 - (g) *a high standard of aftercare and management of the land could be achieved;*
 - (h) *the proposed transport links to move the mineral to market are acceptable; and*
 - (i) *any cumulative impact on the local area resulting from the proposal is acceptable”.*

While the NPPF is silent in respect of the matters raised within criteria (a), (b), (c), and (d), Paragraph 205 of the NPPF empathises with criterion e) in stating that authorities should, “ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety...[as well as ensuring]...that any

² explanatory text within paragraph 4.1.6 makes explicit that the term ‘mining operations’ used in ‘saved’ Policy 4/1 and elsewhere in the Plan “includes the winning and working of minerals both on the surface of land and underground”

unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties". It is, therefore, considered that this criterion of the 'saved' policy is consistent with the NPPF and can therefore be given weight. Criteria (f) and (g) are also reflected within Paragraph 205 of the NPPF in that it requires provision for "restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions". With regard to criterion (h), no conflict with the NPPF arises, as Paragraph 102 also seeks to ensure that potential impacts on the highway network can be addressed, but also seeks "appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains". Finally, criterion (i) is consistent with Paragraph 205 of the NPPF in taking into account "the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality".

- 6.7 **'Saved' Policy 4/6a**, consistent with Paragraph 170 of the NPPF, seeks to "protect the nature conservation or geological interest of Local Nature Reserves and of other sites having a nature conservation interest or importance, and will have regard to other wildlife habitats".
- 6.8 **'Saved' Policy 4/10**, again consistent with Paragraph 170 of the NPPF, seeks to ensure only proposals which do not pose unacceptable surface or groundwater resource impacts are permitted.
- 6.9 **'Saved' Policy 4/14**, similarly consistent with Paragraph 170 of the NPPF, requires proposals to not give rise to an unacceptable impact upon the local environment or residential amenity.
- 6.10 In instances where proposals would give rise to the interruption, obstruction or conflict with a public right of way, consistent with NPPF Paragraph 98, **'saved' Policy 4/15**, states it would "only be permitted where satisfactory provision has been made in the application for protecting the existing right of way or for providing alternative arrangements both during and after working".
- 6.11 As the provide for the return of sites to their former use, i.e. agricultural use, **'saved' Policy 4/18**, consistent with Paragraph 205 of the NPPF, requires the best practicable standard of agricultural restoration including provision for landscaping, conservation or amenity so long as there follows no loss of 'best and most versatile land'.
- 6.12 Embedded within policy for minerals development proposals is the long-term 'after-care' of sites, **'saved' Policy 4/20**, applies in this instance. The 'after-care' requirement seeks to "bring the restored land up to an approved standard for the specified after-use. Normally this requirement will run for a period of five years following restoration" and, like 'saved' Policy 4/18 above, this is also consistent with Paragraph 205 of the NPPF.

Policies in respect of oil and gas-related proposals

- 6.13 **'Saved' Policy 7/6** relates to schemes of development and states, "the Mineral planning Authority defines a gasfield or oilfield as including a number of separate hydrocarbon reservoirs within a single area, irrespective of licence rights and obligations. Planning permission for commercial production will be granted only within the framework of an overall development scheme relating to all proven deposits within the gasfield or oilfield. Where appropriate, applications should be accompanied by an Environmental Statement and schemes should provide for the full development of the proven field".
- 6.14 **'Saved' Policy 7/7** (relating to the development of new reserves) states,

“unless such development would be technically impracticable or environmentally unacceptable, planning permission for the development of oil or gas reserves as yet undiscovered will only be granted where the development utilises existing available surface infrastructure or pipelines”.

- 6.15 **‘Saved’ Policy 7/10** which relates to the restoration of oil and gas related development sites and states planning permission
“will only be permitted when provision is made for the full restoration of the site and its related means of access to a beneficial after use. In particular, the Mineral Planning Authority will impose:-
- i) a 1 year time limit for the restoration of exploration sites or the submission of proposals for continued appraisal work;*
 - ii) a 2 year time limit for the restoration of appraisal sites or the submission of proposals for development as a production site; and*
 - iii) a 2 year time limit for the restoration of a production site, to run from the cessation of significant oil or gas production from the site”.*
- 6.16 **‘Saved’ Policy 7/11** would not support proposals seeking to retain features such as access roads and hard-standings etc. *“only where a clear agricultural or other benefit can be demonstrated”.*

Emerging North Yorkshire, York and North York Moors National Park Authority Minerals and Waste Joint Plan

- 6.17 Paragraph 48 of the NPPF states that decision takers may give weight to relevant policies in emerging plans according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
 - c) the degree of consistency of the relevant policies in the emerging plan to the [NPPF] (the closer the policies in the emerging plan to the policies in [the NPPF], the greater the weight that may be given).*
- 6.18 Members will be aware that work continues towards the adoption of a [Joint Minerals and Waste Plan](#) together with the City of York Council and North York Moors National Park Authority. When adopted, the new policies in the *Joint Plan* will replace existing ‘saved’ policies of both the County Council’s *Minerals Local Plan* and *Waste Local Plan*. The current timetable for the *Joint Plan* anticipates adoption 2019/20; although, in the first instance, this is dependent upon having undertaken prior public consultation on *Main Modifications* to the Plan.
- 6.19 The [Joint Plan](#) was published in November 2016 for representations and consultation was undertaken on an [Addendum Schedule of Proposed Changes](#) for an 8 week period over the summer of 2017. The [Joint Plan](#) was submitted to the *Secretary of State for Communities and Local Government* on 28th November 2017 and *Examination in Public (EiP) Hearing Sessions* took place between 27th February and 13th April 2018. At present, the [Joint Plan](#) is still in *examination* as *Main Modifications* remain to be consulted upon.
- 6.20 In accord with Paragraph 48 of the NPPF, weight can be apportioned to the draft policies of the [Joint Plan](#) on the basis that it is at ‘*examination*’ and that the Inspector has indicated an acceptance that the *Addendum* formed part of the [Joint Plan](#) for examination purposes having been subject to consultation. Draft *Main Modifications* were discussed during the *Hearing Sessions*, principally on 13th April 2018 and two further *Hearing Sessions* were held on 24th and 25th January 2019. The degree of weight which can be given to the MWJP policies should be mindful of the fact that consultation on *Main Modifications* to the *draft Plan* has still to take place and, therefore, the precise wording below may well be subject to change and will not

become formal policy, to which full weight will be able to be afforded, until such time as *the Plan* is adopted.

- 6.21 Notwithstanding, to the extent that any weight can be attached, the relevant policies of the *draft Plan* acknowledge and, in certain circumstances, continue to support the gas industry within the Plan area. It does so, while at the same time, acknowledging that there must be a robust means of assessing and preventing unacceptable impacts upon relevant interests of acknowledged importance, but also under the provisions of **draft Policy D01** ensuring that “*proposals can be approved wherever possible...[which]... improves the economic, social and environmental conditions in the area*”.
- 6.22 The development of hydrocarbon resources is one of a number of mineral-related topics within Chapter 5 (starting at paragraph 5.93 on page 75) of the draft [Joint Plan](#). **Draft Policies M16, M17 and M18** are particularly relevant. Chapter 9 addresses development management issues more generally.
- 6.23 The *draft Plan* proposes the overall spatial policy for the development of hydrocarbon resources. In accord with national policy, NPPF Paragraph 204, authorities must provide for the extraction of mineral resources of local and national importance which include both oil and gas.
- 6.24 Paragraph 5.111 of the [draft Plan](#) explains that “*a range of issues are likely to be relevant when considering planning applications for hydrocarbon development [such as] the potential for landscape and visual impact, impacts from noise, vibration and traffic, and impacts on the natural environment*”.
- 6.25 The [publication draft Plan](#) currently contains **draft Policy M16** concerning the key spatial principles for hydrocarbon-related development stating that, where proposals involve the exploration, appraisal or production of conventional hydrocarbons without hydraulic fracturing, such development will be permitted in locations where draft Policies M17 & M18 can be satisfied; however, where surface hydrocarbon proposals fall within (or 3.5km of) a National Park or AONB or have the potential to cause significant harm to a National Park and/or AONB (**Part d i**) refers), “*applications must be supported by a detailed assessment of the potential impacts on the designated areas...[including]... views of and from the associated landscapes from significant view points and an assessment of the cumulative impact of development in the area*”.
- 6.26 Where any conflict arises with **draft Policy D04** (*Development affecting the North York Moors National Park and the AONBs*) or where proposals “*would result in unacceptable harm to the special qualities of the designated area/s*”, then permission will not be granted.
- 6.27 **Part 2 of draft Policy D04** requires all other development proposals to either contribute to, or be consistent with, the aims, policies and aspirations of the relevant *Management Plan* and consistent with other development management policies in the *Joint Plan*.
- 6.28 **Part 3 of draft Policy D04** is concerned with proposals which impact the setting of *Designated Areas* and states,
“*proposals for development outside of the National Parks and AONBs will not be permitted where it would have a harmful effect on the setting of the designated area.*”
However, in this particular instance, bearing in mind the consideration of whether a proposal’s scale, nature and location would detract from the special qualities of the designated area (para. 5.127 MWJP), it is noted that Officers of the Howardian Hills Area of Outstanding Natural Beauty have responded to consultation with a response of ‘*no comments*’ and the North York Moors National Park Authority have returned the comment that “*the sites are considered not to be visually intrusive within the setting of*

the national park and as such there are no objections from a National Park context for objecting to a further 17 year extension of the six well sites". The adviser on landscape matters to the County Planning Authority makes reference to landscaping requirements within the immediate vicinity of sites and does not raise any issue with regards potential impacts upon either the setting of the AONB or the National Park; thus, *'harmful effect'* is absent in this particular instance.

- 6.29 The assessment of the potential landscape impacts of development proposals outwith the *'designated areas'* covered by the above referred *draft Policy D04*, lies with **draft Policy D06** which seeks to protect valued landscapes from unacceptable adverse effects.
- 6.30 When considering proposals in respect of *'other spatial and locational criteria applying to hydrocarbon development'* (noting that, with the exception of *Parts 2 ii) and 4 i) & iii)*, there is no distinction within this policy between conventional vs. unconventional hydrocarbons) **draft Policy M17** directs, in respect of:
1. *accessibility and transport:*
proposals *"will be permitted in locations with suitable direct or indirect access to classified A or B roads"*. In addition, proposals should be accompanied by a *Transport Assessment*³ which demonstrates the existence of road network capacity to accommodate the proposal's associated traffic without giving rise to unacceptable community impacts as well as being able to appropriately mitigated residual impacts; appropriate access and egress in addition to room to manoeuvre on-site traffic etc. Furthermore, any infrastructure improvements should be included in application details and, lastly, a steer is given within this policy that any produced gas should be transported via pipeline. This part of the Policy requires to be read in conjunction with development management **draft Policy D03** too;
 2. *cumulative impact:*
proposals *"will be permitted in locations where it would not give rise to unacceptable cumulative impact as a result of a combination of individual impacts from the same development and/or through combinations of impacts in conjunction with other existing, planned or unrestored hydrocarbons development"*; an assessment of which would include well pad and/or well density/proximity to one another, activity longevity as well as site sensitivity. In addition, proposals would be expected to make use of existing or planned supporting infrastructure, such as, existing pipelines etc., otherwise new infrastructure required should demonstrate its capability of serving more than one development so as to *"reduce adverse cumulative impact"* and, in any event, should be located on brownfield, industrial or employment land;
 3. *local economy:*
proposals should ensure *"environmental, recreational, cultural, heritage or business assets important to the local economy including, where relevant, important visitor attractions"* can be protected.
 4. *...local amenity considerations...*
proposals should not give rise to unacceptable impact on local communities or public health through adequate separation distances to safeguard against *"adverse impacts from noise, light pollution, emissions to air or ground and surface water and induced seismicity"*, determined through the analysis of environmental information baseline data (a non-exhaustive list of the environmental considerations is provided within the Plan's development management **draft Policy D02** and provide for comprehensive mitigation measures.
- 6.31 The accompanying policy justifications for both *draft Policy M16* and *M17* also cite the development management **draft Policy D11** as being equally applicable in that *Part 1* of that policy addresses sustainable design, construction and operations seeking the demonstration that greenhouse gas emissions, waste, water consumption and flood

³ A comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies measures required to improve accessibility and safety for all modes of travel, particularly for alternatives to the car such as walking, cycling and public transport, and measures that will be needed deal with the anticipated transport impacts of the development (NPPF, 2019).

risk can be minimised, that proposals provide appropriate landscaping and that they mitigate any impacts of any predicted mining subsidence or land instability.

- 6.32 Also within the justification for draft Policy M17, Paragraph 5.145 acknowledges that “*some of the adverse impacts of hydrocarbon development can be of relatively short duration, or intermittent in nature. Examples include the need for increased heavy vehicle movements during the installation and removal of drilling equipment, or during phases where any hydraulic fracturing is taking place, and the need for ‘workovers’ at existing well sites*”.
- 6.33 The third and last of the draft hydrocarbon-specific planning policies, **draft Policy M18**, addresses two other remaining considerations; namely, waste management and reinjection wells as well as decommissioning and restoration.
- 6.34 In respect of waste management, *draft Policy M18* expects proposals, in addition to satisfying development management **draft Policy D09** (*‘water environment’*), to be permitted “*where it can be demonstrated, through submission of a waste water management plan, that arrangements can be made for the management or disposal of any returned water and Naturally Occurring Radioactive Materials arising from the development*” and, for proposals involving the re-injection of returned water via an existing borehole or the drilling and use of a new borehole for this purpose, “*will only be permitted in locations where a high standard of protection can be provided to ground and surface waters; they would comply with all other relevant requirements of Policy M16 and M17 and where it can be demonstrated that any risk from induced seismicity can be mitigated to an acceptable level*”.
- 6.35 In respect of the latter, proposals are expected (only insofar as criteria **i)** and **ii)** because criterion **iii)** relates to unconventional hydrocarbons), in addition to satisfying development management **draft Policy D10** (*‘reclamation and after-use’*) and **draft Policy D12** (*‘protection of agricultural land and soils’*), to demonstrate that:
- i) Following completion of the operational phase of development, or where wells are to be suspended pending further hydrocarbon development, any wells will be decommissioned so as to prevent the risk of any contamination of ground and surface waters and emissions to air; and,*
 - ii) All plant, machinery and equipment not required to be retained at the site for operational purposes would be removed and the land restored to its original use or other agreed beneficial use within an agreed timescale.*
- 6.36 Finally, other draft development management policies that are both relevant and should be read in conjunction with the draft hydrocarbon-specific policies include:
- **draft Policy D07** (*‘biodiversity and geodiversity’*) which seeks to safeguard against unacceptable impacts upon interests of biodiversity and geodiversity; and,
 - **draft Policy D08** (*‘historic environment’*) which seeks to safeguard against unacceptable impacts upon the historic environment.

Ryedale Plan – Local Plan Strategy (2012-2027)

- 6.37 Whilst this policy document contains no policies directly relating to planning decisions in respect of minerals and waste development which are ‘*county matters*’ under the provisions of [Schedule 1](#) of the *Town and Country Planning Act 1990* (as amended), it nevertheless forms an integral part of the relevant ‘*Development Plan*’ against which the applications under consideration must be assessed.
- 6.38 Those policies considered most relevant, in this particular instance, comprise
- *Policy SP6 - ‘delivery and distribution of employment/industrial land and premises’;*
 - *Policy SP13 - ‘landscapes’;*
 - *Policy SP14 - ‘biodiversity’;*

- Policy SP17 - 'managing air quality, land and water resources'; and,
- Policy SP20 - 'generic development management issues'

6.39 Under the sub-heading of 'significant industrial processes in open countryside locations' within **Policy SP6** is written "major industrial processes involving the extraction, utilisation, working or harnessing of natural materials or land assets will be supported where:

- they are required in that location and no other suitable sites are available in the locality;
- they can be satisfactorily accommodated on the highway network and will not lead to significant adverse highways impacts;
- they do not adversely affect the amenity of neighbouring occupants of the site in line with Policy SP20;
- they can be satisfactorily accommodated in the surrounding landscape in line with Policies SP13 and SP16;
- the economic benefits to the District outweigh any adverse impacts.

6.40 Reasoned justification accompanying this Policy, in respect of new major industrial uses in the open countryside, explains they "can be sensitive in terms of landscape impact, visual impact and the amenity of neighbouring occupants. It is essential that these proposals, where they are required, take into account these potential impacts. Where possible, the most suitable site for this use should be considered which results in the lowest overall impact and the greatest economic benefit".

6.41 Specific elements of **Policy SP13** ('landscapes'), reproduced in part herein for the purpose of this report, include the following:

"The quality, character and value of Ryedale's diverse landscapes will be protected and enhanced by:

- Encouraging new development and land management practises which reinforce the distinctive elements of landscape character within the District's broad landscape character areas of: [inter alia]
 - Vale of Pickering

With respect to landscape character, this policy expects proposals to "contribute to the protection and enhancement of distinctive elements of landscape character that are the result of historical and cultural influences, natural features and aesthetic qualities including:

- the distribution and form of settlements and buildings in their landscape setting;
- the character of individual settlements, including building styles and materials;
- the pattern and presence of distinctive landscape features and natural elements (including field boundaries, woodland, habitat types, landforms, topography and watercourses);
- visually sensitive skylines, hill and valley sides;
- the ambience of the area, including nocturnal character, level and type of activity and tranquillity, sense of enclosure/exposure.

With respect to locally valued landscapes, "the Council will carefully consider the impact of development proposals on the following broad areas of landscape which are valued locally: [inter alia]

- The Vale of Pickering

The Vale of Pickering [...is...] of significant historic landscape value and loss or degradation of the elements that are integral to [its] historic landscape character make[s] [this] landscape particularly sensitive to change".

6.42 The Ryedale Local Plan Strategy also contains **Policy SP14** which covers the subject of 'biodiversity'. Within this adopted policy is stated,

"Biodiversity...will be conserved, restored and enhanced by: [inter alia]

- requiring a net gain in biodiversity to be provided as part of new development schemes;
- encouraging the use of native and locally characteristic species in landscaping terms"

"Proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them".

Furthermore, where proposals come forward that would result in those listed below being either lost or significantly harmed, they will,

“only be permitted where it can be demonstrated that there is a need for the development in that location and that the benefit of the development outweighs the loss and harm. Where loss and harm cannot be prevented or adequately mitigated, compensation for the loss/harm will be sought. Applications for planning permission will be refused where significant harm cannot be prevented, adequately mitigated against or compensated for.

- *habitats or species included in the Ryedale Biodiversity Action Plan and priority species and habitat in the UK Biodiversity Action Plan*
- *Local Sites of Nature Conservation Importance or Sites of Geodiversity Importance*
- *other types of Ancient Woodland and Ancient/Veteran Trees.*

Loss or harm to other nature conservation features should be avoided or mitigated. Compensation will be sought for the loss or damage to other nature conservation features which would result from the development proposed.

- 6.43 With respect to the management of air quality, land and water resources, **Policy SP17**, insofar as is relevant, states that *“proposals will be expected to attenuate surface water run off [and where appropriate will] be required to demonstrate that the development will not exacerbate existing problems by modelling impact on the wider drainage system”*. Furthermore, *“full account will be taken of the flood risk vulnerability of proposed uses”*.
- 6.44 In respect of the management of water resources, **Policy SP17** directs that proposals must *“demonstrate how [they will] minimise water consumption”* the that *“impacts on water quality and propose mitigation measures to reduce the risk of pollution and a deterioration of water quality”* must be assessed. More specifically, with regard to the protection of surface and ground water resources, this Policy lists those types of development for which planning permission will not be forthcoming either within or adjacent to a notified *Source Protection Zone 1 (SPZ1)* *“unless adequate safeguards against possible contamination can be agreed”*. Further safeguards are expected within SPZs 2 & 3.
- 6.45 **Policy SP17** continues by addressing the issue of air quality stating that it will be both protected and improved through this policy and the relevant element of the policy states that permission should only be forthcoming *“if the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured”*.
- 6.46 Finally, **Policy SP20** is a criteria-based policy covering matters such as character, design, amenity and safety, and access, parking and servicing and, insofar, as is relevant, expects such an application to be assessed against the following:
- *proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses and, in addition, the cumulative impact of new development on the character of an area will also be considered;*
 - *new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence;*
 - *developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise;*
 - *new development proposals which will result in an unacceptable risk to human life, health and safety or unacceptable risk to property will be resisted. Developers will be expected to address the risks/potential risks posed by contamination and/or unstable land in accordance with recognised national and international standards and guidance;*
 - *all sensitive receptors will be protected from land and other contamination. Developers will be expected to assess the risks/ potential risks posed by contamination in accordance with recognised national and international standards and guidance;*

- *access to and movement within the site by vehicles...would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads.*

Other material considerations:

National planning policy and guidance:

- 6.47 National planning policy relevant to the determination of this planning application is contained within the [National Planning Policy Framework](#) (NPPF). Whilst first published in 2012, it was revised in February 2019. The NPPF sets out the Government's planning policies for England and how these are expected to be applied (**Paragraph 1**). Although the NPPF does not form part of the *Development Plan*, it, nevertheless, is an important material consideration when determining applications (**Paragraph 2**). **Paragraph 3** stresses the importance of the NPPF being "*read as a whole*" and outlines other material considerations that can include [National Policy Statements](#) that form part of the overall framework of national planning policy, **Paragraph 5**, and the paragraph thereafter, also references [Written Ministerial Statements](#) as being capable of being material to determining applications.
- 6.48 The NPPF continues in Chapter 2 to indicate that "*the purpose of the planning system is to contribute to the achievement of sustainable development*" (**Paragraph 7**) and a system which is required to perform an economic, social and environmental role, with net gains across all three of these broad objectives being sought simultaneously. It sets out a presumption in favour of sustainable development which, for decision-taking, means approving applications that accord with the *Development Plan* without delay.
- 6.49 The NPPF discusses how sustainable development is to be achieved through a "*presumption in favour of sustainable development*" (**Paragraph 10**).
- 6.50 **Paragraph 11** explains the existence of a '*presumption in favour of sustainable development*' without delay in those circumstances either where:
- *proposals accord with an up-to-date development plan or,*
 - *there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the [NPPF's] policies [when] taken as a whole"; or,*
 - *specific policies...indicate development should be restricted".*
- 6.51 Where an application conflicts with an up-to-date *development plan*, the NPPF explains that "*permission should not usually be granted*" (**Paragraph 12**).
- 6.52 The more detailed elements of the NPPF of particular relevance are those within the paragraphs below:
- Chapter 4 'Decision-making'
- 6.53 In taking decisions, authorities should approach them "*in a positive way and creative way*" and "*should seek to approve applications for sustainable development where possible*" [...working...] "*proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*" (**Paragraph 38** refers).
- 6.54 With regard to planning conditions and obligations, **Paragraph 54** asks that authorities "*consider whether otherwise unacceptable development could be made acceptable through the use of conditions* [so long as they fulfil the six tests of necessity, relevance to planning and to the development, enforceability, precision and reasonableness (**Paragraph 55**)] *or planning obligations. Planning obligations should only be used*

where it is not possible to address unacceptable impacts through a planning condition". Furthermore, planning obligations should only be sought where they are "necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind" (Paragraph 56 refers).

- 6.55 This Chapter is supported by guidance within the online national *Planning Practice Guidance* (NPPG) was first published online on 6th March 2014 and has been subsequently updated on a number of occasions and in a number of respects. In respect of climate change, Section 21a of the online guidance at **Paragraph 001** advises,
"When used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls".
- 6.56 Where a condition might require a matter to be dealt with prior to any works starting on a development, a pre-commencement condition, the prior written agreement of the applicant is needed (**Paragraph 002**) and wherever a condition is sought to be imposed, it should satisfy the six tests of necessity, relevance to both planning and to the development proposed, enforceability, precision and reasonableness (Paragraph 003). When conditions are inappropriate, **Paragraph 005** explains the following circumstances:
- where a condition would
 - unreasonably impact on the deliverability of a development;
 - reserve outline application details;
 - a condition requiring
 - a development to be carried out in its entirety;
 - compliance with other regulatory requirements; and,
 - land to be given up.
- 6.57 Any condition requiring the submission of further details must be justified and should have been subject to prior discussion with the applicant. Such conditions should not be used in a circumstance where they would "*unnecessarily affect an applicant's ability to bring a development into use, allow a development to be occupied or otherwise impact on the proper implementation of the planning permission*" (Paragraph 006). Furthermore, conditions should not be sought where the aim would be to modify a proposal to make it acceptable rendering it "*substantially different from that set out in [an] application*" (Paragraph 012); nor should conditions require a development to be carried out to the satisfaction of a third party (Paragraph 016). Paragraph 014 deals with the use of conditions to impose a temporary duration of permission. The provisions of Section 72(1)(b) of the Principal Act, the *Town & Country Planning Act 1990*, allow "*for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.*"
- 6.58 Furthermore, there are special provisions in respect of development consisting of the winning and working of minerals within Schedule 5 to the Act which mandates that every such permission "*shall be subject to a condition as to the duration of the development*". The condition imposed should direct that that the winning and working of minerals "*must cease not later than the expiration of a period of the specified length beginning with the date of the permission*". Similarly, Schedule 5 provides the power to impose *after-care* conditions requiring land to be restored to a '*required standard*' which is also defined in the Schedule.

- 6.59 **Paragraph 002** of Section 23b states that planning obligations “assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests”. These tests are that obligations are:
- necessary to make the development acceptable;
 - directly related to the development; and,
 - fairly and reasonably related in scale and kind.
- 6.60 **Paragraph 004** continues stating, *inter alia*, that planning obligations “assist in mitigating the impact of development which benefits local communities”.
- 6.61 These paragraphs align with and support national policy expressed within the NPPF at paragraphs 54 and 55.

Chapter 6 ‘Building a strong, competitive economy’

- 6.62 **Paragraph 80** of Chapter 6 of the NPPF encourages decisions “help create the conditions in which businesses can invest, expand and adapt” going on to state that “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” and later, in **Paragraph 82**, to state that “decisions should recognise and address the specific locational requirements of different sectors”.

Chapter 9 ‘Promoting sustainable transport’

- 6.63 Ensuring sustainable transport and that “safe and suitable access” can be achieved for all users of the highway and that “any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree” are the focus of **Paragraph 108**. **Paragraph 109** directs that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. Furthermore, adding in **Paragraph 111**, applications “should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed”.
- 6.64 In light of the proposed continuance of the use of the public highway and traffic characteristics along affected routes, these paragraphs of the NPPF are considered relevant.
- 6.65 Chapter 9 is supported by guidance within the NPPG. **Paragraph 004** of Section 42 of the NPPG explains that transport assessments are “ways of assessing the potential transport impacts of developments”.

Chapter 14 ‘Meeting the challenge of climate change, flooding and coastal change’

- 6.66 **Paragraph 148** explains that the planning system should, *inter alia*, help to “shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimising vulnerability and improve resilience” and, with regards to flood risk, **Paragraph 155** and **Paragraph 163** relate to the avoidance of inappropriate development in areas at risk of flooding “by directing development away from areas of highest risk...without increasing flood risk elsewhere”. Paragraph 163 explains that, where a development site lies within areas at risk of flooding, it should demonstrate, *inter alia*, that “the most vulnerable development is located in areas of lowest flood risk”, that the “development is appropriately flood resilient and resistant” and that safe access and escape routes are planned for.

- 6.67 The existence of the potential for greenhouse gas emissions arising from the proposals to continue operations through vehicle emissions; emissions from equipment on site; and fugitive emissions, renders this element of the NPPF to be considered relevant. Furthermore, the red line boundaries of certain of the applications are affected by land identified as *Flood Zone 2* by the *Environment Agency* and, therefore, this element of the NPPF relating to flooding is also considered relevant.
- 6.68 This Chapter is supported by guidance within the online NPPG. In respect of climate change, Section 6 of the online guidance “*advises how to identify suitable mitigation and adaptation measures [...] to address the impacts of climate change*” and aligns with and supports policy expressed within Paragraph 148. Guidance **Paragraph 003** cites the consideration of the “*availability of water and water infrastructure for the lifetime of the development and design responses to promote water efficiency and protect water quality*” as an example of the planning system’s means of adapting to a changing climate; while, at the same time, being “*realistic*” such as looking at the “*the potential vulnerability of a development to climate change risk over its whole lifetime*” (**Paragraph 005** refers).
- 6.69 With regards flood risk and coastal change, Section 7 of the online guidance “*advises how to take account of and address the risks associated with flooding and coastal change in planning process*”. In particular, **Paragraph 001** advises where development needs to be in locations where there is a risk of flooding that “*development is appropriately flood resilient and resistant, safe for its users for the development’s lifetime, and will not increase flood risk overall*”. Furthermore, flood risk both to, and from, sites needs to be considered and flood risk should also be assessed, avoided, managed and/or mitigated (**Paragraph 029** refers); aligning with and supporting policy expressed within Paragraphs 155 and 163 of the NPPF.
- 6.70 This Chapter is supported by guidance within the online NPPG. **Paragraph 016** of Section 34 (*‘water supply, wastewater and water quality’*), in asking the question of when water supply, wastewater and water quality are likely to be planning considerations, advises, in respect of water supply, that it is “*unlikely to be a consideration for most planning applications*”. However, it does point out that there might be exceptions to this, for example:
- *large developments not identified in plans that are likely to require a large amount of water; and/or,*
 - *where a plan requires enhanced water efficiency in new developments as part of a strategy to manage water demand locally and help deliver new development.*
- 6.71 With respect to water quality, **Paragraph 016** states that water quality “*is only likely to be a significant planning concern when a proposal would:*
- *involve physical modifications to a water body such as flood storage areas, channel diversions and dredging, removing natural barriers, construction of new locks, new culverts, major bridges, new barrages/dams, new weirs (including for hydropower) and removal of existing weirs; and/or,*
 - *indirectly affect water bodies, for example,*
 - *as a result of new development such as the redevelopment of land that may be affected by contamination, mineral workings, water or wastewater treatment, waste management facilities and transport schemes including culverts and bridges;*
 - *result in runoff into surface water sewers that drain directly, or via combined sewers, into sensitive waterbodies e.g. water bodies with local, national or international habitat designations;*
 - *through a lack of adequate infrastructure to deal with wastewater; and,*
 - *through a lack of adequate infrastructure to deal with wastewater where development occurs in an area where there is a strategic water quality plan e.g. Nutrient Management Plans, River Basin Management Plans, water cycle studies, diffuse water pollution plans or sewerage undertakers’ drainage strategies which set out strategies to manage water quality locally and help deliver new development*

- 6.72 When assessing the impacts upon water quality, they could include:
- *impacts...on water quantity and flow, river continuity and groundwater connectivity, and biological elements (flora and fauna);*
 - *how the proposed development will affect measures in the river basin management plan to achieve good status in water bodies,,,,;*
 - *how it is intended the development will comply with other relevant regulatory requirements relating to the water environment (such as those relating to bathing waters, shellfish waters, freshwater fish and drinking water) bearing in mind compliance will be secured through the Environment Agency's permitting responsibilities.*

Chapter 15 'Conserving and enhancing the natural environment'

- 6.73 Within NPPF paragraphs 170, 175, 177, 178, 180 and 183, it is clear that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.
- 6.74 **Paragraph 170** states that decisions “*should contribute to and enhance the natural and local environment by:*
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils;*
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
 - c) ...*
 - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
 - d) preventing new and existing development from contributing to, being put at an unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability’...”.*
- 6.75 This Chapter is supported by guidance within the NPPG. **Part 1 of Section 8** of the online planning practice guidance (*‘agricultural land soil and brownfield land of environmental value’*) contains **Paragraph 001** which reiterates the NPPF’s stated policy in its Paragraph 170 by expecting authorities “*to take account of the economic and other benefits of the best and most versatile agricultural land*”. Similarly, **Paragraph 002** reiterates that “*soil is an essential natural capital asset that provides important ecosystem services...*”
- 6.76 **Part 4** of Section 8 of the online guidance, concerning ‘*landscape*’, advises within **Paragraph 036** that planning should recognise “*the intrinsic character and beauty of the countryside*”. This guidance paragraph also advises that the “*cumulative impacts of development on the landscape need to be considered carefully*”.
- 6.77 NPPF Chapter 15 is also supported by the section of the guidance on air quality (**Section 32**) which provides “*guiding principles on how planning can take account of the impact of new development on air quality*” and explains within **Paragraph 001** when referring to why planning should be concerned about air quality that,
- “action to manage and improve air quality is largely driven by EU legislation. The 2008 Ambient Air Quality Directive [...] sets legally binding limits for concentrations in outdoor air of major air pollutants that impact public health such as particulate matter (PM₁₀ and PM_{2.5}) and nitrogen dioxide (NO₂). As well as having direct effects, these pollutants can combine in the atmosphere to form ozone, a harmful air pollutant (and potent greenhouse gas) which can be transported great distances by weather systems”.*
- 6.78 This section also notes that when deciding whether air quality is relevant (**Paragraph 005** refers), considerations could include whether the proposals would, in summary:

- significantly affect traffic (through congestion, volumes, speed, or traffic composition on local roads);
 - introduce new point sources of air pollution;
 - give rise to potentially unacceptable impact (such as dust) during construction; or,
 - affect biodiversity.
- 6.79 A flowchart appears within **Paragraph 009** which explains the considerations in respect of air quality in the development management process. Possible options for mitigation are likely to be “*locationally specific*”, “*proportionate to the likely impact*” and can be secured through appropriate conditions or obligations. Examples of mitigation could include amendments to a site’s layout to increase distances between pollution sources and receptors; control of emissions and dust during both construction and operation; and the provision of funding to offset any air quality impacts.
- 6.80 These paragraphs within the online guidance align with and give support to Paragraph 170 of the NPPF.
- 6.81 With specific respect to habitats and biodiversity, **Paragraph 175** directs,
- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
 - b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
 - c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and,*
 - d) *...opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”*
- 6.82 **Paragraph 177** directs the,
- “presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.*
- 6.83 In respect of ground conditions and pollution, **Paragraph 178** states,
- “decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining...”* and *“adequate site investigation information, prepared by a competent person, is available to inform these assessments”.*
- 6.84 Furthermore, NPPF Chapter 15 is also supported by the section of the guidance on land affected by contamination (**Section 33**); **Paragraph 001** of which impresses upon authorities the need to adequately deal with contamination, as failure to do so, could lead to harm to human health, property and the wider environment; aligning with policy expressed within Paragraphs 170 and 178 of the NPPF and Section 45 of the NPPG places an expectation that authorities will take into account and consider land stability issues, especially within areas of known landslides, mining hazards or subsidence and ensuring against development where instability exists.
- 6.85 **Paragraph 180** states decisions should,

“ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development”.

Authorities should:

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁴;*
- b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and,*
- c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”*

- 6.86 NPPF Chapter 15 is supported by guidance within the online national *Planning Practice Guidance* (NPPG) within Section 31 and specifically **Paragraph 001** asks *“when is light pollution relevant to planning?”* and answers this by explaining that light *“can be a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky”* and advises that appropriately designed lighting schemes are key. **Paragraph 002** advises authorities to consider whether proposals will *“materially alter light levels outside and/or have the potential to adversely affect the use or enjoyment of nearby buildings or open spaces...protected site or species...or protected area of dark sky”* and when light spills onto areas outside the immediate area of proposals, **Paragraph 003** explains that it *“can impair sleeping, cause annoyance to people, compromise an existing dark landscape and/or affect natural systems (e.g. plants, animals, insects, aquatic life)”*. Mitigation measures can include lighting schemes which ensure the minimum level and usage of artificial light and the positioning and choice of lamp design (**Paragraph 004**).
- 6.87 These paragraphs within the online guidance serve to support policy which is set down within the NPPF at Paragraph 180 cited above.
- 6.88 Importantly, **Paragraph 183** expressly makes clear that authorities should focus upon the acceptability of the use of the land the subject of proposals and the impacts resulting therefrom, *“rather than the control of processes or emissions (where these are subject to separate pollution control regimes”*. Authorities should assume that *“these regimes will operate effectively”*.
- 6.89 These elements of the NPPF are considered relevant by dint of the continuation of the development having the potential to give rise to impacts upon interests of acknowledged importance including, *inter alia*, the landscape, ecology and those living within the local community.
- 6.90 NPPF Chapter 15 is supported by guidance within the online national *Planning Practice Guidance* (NPPG) within [Section 8](#) and specifically **Part 3** (*‘Biodiversity, geodiversity and ecosystems’*). **Paragraph 009** asks whether there exists a statutory basis for seeking to conserve and enhance biodiversity and answers this by explaining the statutory responsibilities of authorities and, at its core, the duty of *“conserving biodiversity”*. In asking how authorities can plan for biodiversity and geodiversity, it explains authorities should *“consider the opportunities that individual development proposals may provide to conserve and enhance biodiversity and geodiversity, and contribute to habitat connectivity in the wider area”* (**Paragraph 010**).
- 6.91 **Paragraph 016** refers to the importance of considering the potential for impacts upon protected and priority species and assessing the scope to avoid or mitigate any such

⁴ the term ‘significant adverse impacts’ and ‘adverse’ are explained in the [‘Noise Policy Statement for England’](#) (DeFRA, 2010) and further advice is also referenced below in the context of the national online planning practice guidance

impacts. [European protected species](#) include all species of bats; great crested newts; hazel or common dormice; otters; natterjack toads; reptiles (some species); protected plants (some species); large blue butterfly and sturgeon and other protected species and groups include badgers; water voles; wild birds; ancient woodland and veteran trees; white-clawed crayfish and freshwater pearl mussels.

- 6.92 **Paragraph 018** advises how biodiversity and geodiversity can be taken into account in applications stating “*an ecological survey will be necessary in advance of a planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate*”. Furthermore, “*where protected species may be present or where biodiverse habitats may be lost*”, an ecological survey, “*proportionate to the nature and scale of development proposed and the likely impact on biodiversity*” might still be appropriate; however, when requested, they must be “*clearly justified*”. It goes on to advise that “*planning conditions, legal agreements or undertakings may be appropriate in order to provide for monitoring and/or biodiversity management plans where these are needed*”.
- 6.93 **Paragraph 019** explains the ‘*mitigation hierarchy*’ of information (i.e. evidence collated through EIA or available from other sources such as that provided by Natural England etc.), *avoidance* (i.e. can harm be avoided?), *mitigation* (i.e. if harm is unavoidable, can it be mitigated?) and *compensation* (i.e. if, despite mitigation, significant harm would still exist, what compensatory measures can be provided?) to facilitate decision-taking.
- 6.94 **Paragraphs 020 to 023** discuss biodiversity and environmental net gain (i.e. a state where the natural environment is left “*in a measurably better state than it was beforehand*”. For instance, improved access for communities to nature could be given consideration (paragraph 021), “*biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures*” (paragraph 022) and “*off-site measures can sometimes be secured from ‘habitat banks’, which comprise areas of enhanced or created habitats which generate biodiversity unit ‘credits’*” (paragraph 023).
- 6.95 These paragraphs within the online guidance support the implementation of national policy expressed within Paragraphs 174 to 177 of the NPPF.

Chapter 17 ‘Facilitating the sustainable use of minerals’

- 6.96 Paragraphs 203–211 (with the exception of Paragraph 209a) focus upon facilitating the sustainable use of minerals and, in the opening paragraph, states that it is “*essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs*”. However, “*since minerals are a finite natural resource, and can only be worked where they are found, it is important to best use needs to be made of them to secure their long term conservation*” (**Paragraph 203**).
- 6.97 Specifically relating to decision-taking, sub-paragraphs *b*), *c*) and *e*) within **Paragraph 205** are considered relevant. In addition to giving “*great weight to the benefits of mineral extraction, including to the economy*”, they require authorities to:
- b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;*
 - c) ensure that any unavoidable noise, dust and particle emissions [...] are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties”; and,*
 - e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances”.*

- 6.98 **Paragraph 209** states, *inter alia*, (with the exception of sub-paragraph a) which has been quashed as a result of a case in the High Court in March of 2019) that authorities should “*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*” when planning for on-shore oil and gas development.
- 6.99 Chapter 17 of the NPPF is supported by guidance within the online national *Planning Practice Guidance* (NPPG) within Section 27 and, more specifically, paragraphs 012-014, 017 and 019-022.
- 6.100 The relationship between planning and other regulatory regimes reflecting national policy expressed within Paragraph 183 of the NPPF is set out within **Paragraph 012** of the online guidance also noting that “*the planning system controls development and the use of land in the public interest*” including ensuring development is appropriate for its location and an acceptable use of land. The guidance reiterates the NPPF’s stated approach advising that “*the focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under regimes...authorities should assume that these non-planning regimes will operate effectively.*”
- 6.101 The environmental issues that need addressing are listed within **Paragraph 013** as: *noise, dust, air quality, lighting, visual impact, landscape character, archaeological and heritage features, traffic, risk of contamination to land, soil resources, geological structure, impact on best and most versatile agricultural land, flood risk, land stability/subsidence, designated wildlife sites (local, national or international), protected habitats and species etc., impacts on nationally protected landscapes, nationally protected geological and geo-morphological sites and features, site restoration and after-care, surface and, in some cases, ground water issues, and water abstraction.*
- 6.102 Other regulatory regimes including ground and surface water and mining waste permits, for which the Environment Agency is responsible, is explained in **Paragraph 014**.
- 6.103 The fact that the cumulative impact of mineral development is capable of being a material consideration is reiterated in **Paragraph 017**.
- 6.104 The control noise emissions is addressed in **Paragraph 019**:
“Those making mineral development proposals [...] should carry out a noise impact assessment, which should identify all sources of noise and, for each source, take account of the noise emission, its characteristics, the proposed operating locations, procedures, schedules and duration of work for the life of the operation, and its likely impact on the surrounding neighbourhood.
- Proposals for the control or mitigation of noise emissions should:*
- *consider the main characteristics of the production process and its environs, including the location of noise-sensitive properties and sensitive environmental sites;*
 - *assess the existing acoustic environment around the site of the proposed operations, including background noise levels at nearby noise-sensitive properties;*
 - *estimate the likely future noise from the development and its impact on the neighbourhood of the proposed operations;*
 - *identify proposals to minimise, mitigate or remove noise emissions at source;*
 - *monitor the resulting noise to check compliance with any proposed or imposed conditions.*
- 6.105 Authorities are advised in **Paragraph 020** to
“take account of the prevailing acoustic environment and in doing so consider whether or not noise from the proposed operations would:

- give rise to a significant adverse effect;
- give rise to an adverse effect; and
- enable a good standard of amenity to be achieved.

... this would include identifying whether the overall effect of the noise exposure would be above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation..."

6.106 The appropriate noise standards for mineral operators for normal operations are explained in **Paragraph 021** advising authorities should

"aim to establish a noise limit, through a planning condition, at the noise-sensitive property that does not exceed the background noise level⁵ ($L_{A90,1h}$)⁶ by more than 10dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55dB(A) $L_{Aeq, 1h}$ (free field)⁷. For operations during the evening (1900-2200) the noise limits should not exceed the background noise level ($L_{A90,1h}$) by more than 10dB(A) and should not exceed 55dB(A) $L_{Aeq, 1h}$ (free field). For any operations during the period 22.00 – 07.00 noise limits should be set to reduce to a minimum any adverse impacts, without imposing unreasonable burdens on the mineral operator. In any event the noise limit should not exceed 42dB(A) $L_{Aeq, 1h}$ (free field) at a noise sensitive property.

Where the site noise has a significant tonal element, it may be appropriate to set specific limits to control this aspect. Peak or impulsive noise, which may include some reversing beepers, may also require separate limits that are independent of background noise (e.g. L_{max} ⁸ in specific octave or third-octave frequency bands – and that should not be allowed to occur regularly at night.)

Care should be taken, however, to avoid any of these suggested values being implemented as fixed thresholds as specific circumstances may justify some small variation being allowed.

6.107 When advising on what type of operations may give rise to particularly noisy short-term activities and what noise limits may be appropriate **Paragraph 022** advises,

"Activities such as soil-stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance.

Increased temporary daytime noise limits of up to 70dB(A) $L_{Aeq, 1h}$ (free field) for periods of up to eight weeks in a year at specified noise-sensitive properties should be considered to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs.

Where work is likely to take longer than eight weeks, a lower limit over a longer period should be considered. In some wholly exceptional cases, where there is no viable alternative, a higher limit for a very limited period may be appropriate in order to attain the environmental benefits. Within this framework, the 70 dB(A) $L_{Aeq, 1h}$ (free field) limit referred to above should be regarded as the normal maximum".

6.108 These paragraphs within the online guidance align with, and support, policy expressed within Paragraph 205 of the NPPF. Further national policy in respect of noise is contained within the published [Noise Policy Statement for England](#) (NPSE) (March 2010, DeFRA) and signposting to this for development control purposes is provided within the online NPPG which further explains the concepts of the adverse effects of noise, following on from their introduction in the national policy document. 'Significant adverse' and 'adverse' as concepts were introduced in the NPSE and the former, 'significant observed adverse effect level' (SOAEL) is defined as the level above which significant adverse effects on health and quality of life occur and the latter, 'lowest

⁵ Background noise level is defined as "the A-weighted sound pressure level of the residual noise at the assessment with no operation occurring at the proposed site, defined in terms of the $L_{A90,T}$ "

⁶ $L_{A90,1h}$ is defined as "the "A weighted" noise level exceeded for 90 per cent of the specified measurement period" (in this case 1 hour)

⁷ $L_{Aeq, 1h}$ is defined as "the "A weighted" equivalent continuous sound level – the sound level of a notionally steady sound having the same energy as the actual fluctuating sound over the same time period" (in this case 1 hour)

⁸ L_{max} is defined as "the highest noise level recorded during a noise event or measuring period". The time weighting should be stated

observed adverse effect level' (LOAEL) is defined as the level above which adverse effects on health and quality of life can be detected. While taking into account the guiding principles of sustainable development, this policy has three main aims:

- *significant adverse effects on health and quality of life should be avoided;*
- *where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life; and,*
- *where possible, positively to improve health and quality of life through the pro-active management of noise.*

6.109 Part 9 of Section 27 of the NPPG is especially concerned with '*Planning for Hydrocarbon Extraction*'. '*Conventional hydrocarbons*' are defined within the guidance as referring to "*oil and gas where the reservoir is sandstone or limestone*". More specifically, **Paragraph 091 to Paragraph 146** of Section 27 of the NPPG (inclusive) provide guidance and technical annexes in respect of:

- *the phases of onshore hydrocarbon extraction;*
- *how Mineral Planning Authorities plan for hydrocarbon extraction;*
- *the planning application process pertaining to proposed hydrocarbon extraction development;*
- *the relevant development management procedures;*
- *environmental impact assessment;*
- *determining planning applications relating to proposed hydrocarbon extraction development; and,*
- *after-care and restoration.*

Certain key paragraphs are described below for their particular relevance.

6.110 In discussing the roles and responsibilities of other regulators **Paragraph 112** advises, "*there exist a number of issues which are covered by other regulatory regimes and mineral planning authorities should assume that these regimes will operate effectively. Whilst these issues may be put before mineral planning authorities, they should not need to carry out their own assessment as they can rely on the assessment of other regulatory bodies. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body [including]:*

- ***well integrity during operation*** – *under health and safety legislation the integrity of the well is subject to examination by independent qualified experts throughout its operation, from design through construction and until final plugging at the end of operation;*
- ***operation of surface equipment on the well pad*** – *whilst planning conditions may be imposed to prevent run-off of any liquid from the pad, and to control any impact on local amenity (such as noise), the actual operation of the site's equipment should not be of concern to mineral planning authorities as these are controlled by the Environment Agency and the Health and Safety Executive;*
- ***well decommissioning/abandonment*** – *following exploration, the well is likely to be suspended and abandoned for a period of time. Health and Safety Legislation requires its design and construction that, so far as reasonably practicable, there is no unplanned escape of fluids from it. The mineral planning authority is responsible for ensuring the wells are abandoned and the site is restored".*

Paragraph 112 highlights where authorities are able to have regard to matters which would ordinarily be assumed to fall to others stating,

"some issues may be covered by other regulatory regimes but may be relevant to mineral planning authorities in specific circumstances. For example, the Environment Agency has responsibility for ensuring that risk to groundwater is appropriately identified and mitigated. Where an Environmental Statement is required, mineral planning authorities can and do play a role in preventing pollution of the water environment from hydrocarbon extraction, principally through controlling the methods of site construction and operation, robustness of storage facilities, and in tackling surface water drainage issues".

6.111 Other bodies which may be involved in the consenting of the process include:

- a. the *Coal Authority*, whose permission will be required should drilling go through a coal seam;
- b. *Natural England*, who may need to issue European Protected Species Licences in certain circumstances;

- c. the *British Geological Survey*, who need to be notified by licensees of their intention to undertake drilling and, upon completion of drilling, must also receive drilling records and cores; and
- d. *Hazardous Substances Authorities*, who may need to provide hazardous substances consents.

There may also be additional consents and orders, such as stopping up rights of way or temporary road orders, which must be obtained (Paragraph 111).

- 6.112 Account should be taken of national energy policy, making clear “*energy supplies should come from a variety of sources*” including onshore oil and gas, as set out in the [Annual Energy Statement](#) (October 2013) (Paragraph 124 refers).

Other relevant elements of the online planning practice guidance:

- 6.113 In support of the chapter on ‘*promoting healthy and safe communities*’, Paragraph 004 of Part 2 of Section 37 signposts authorities to the [Rights of Way Circular \(1/09\)](#) published by DeFRA in October 2009 and advises that the effect of proposals on a public right of way is a material consideration and authorities should “*ensure that the potential consequences are taken into account*”. Similarly, in respect of the requirements upon developers, it states “*the information supplied by an applicant should therefore make clear how [proposals] will impinge on any rights of way*”.

Other relevant material considerations:

National policy on climate change

- 6.114 National Government has a key role in managing and regulating the supply of energy resources to ensure that the UK has access to secure, clean affordable energy supplies whilst also aiming to meet international obligations on climate change including reduction in greenhouse gas emissions.
- 6.115 In 2007, the Government White Paper on energy (‘[Meeting the Energy Challenge](#)’) (Department of Trade & Industry, May 2007) set out the Government’s intended approach to the two main challenges:
- cutting greenhouse gases to meet climate change objectives and targets; and;
 - ensuring the availability of secure, clean and affordable energy as imports replace declining North Sea production.
- The White Paper identified that these challenges should be addressed in a way that was consistent with energy policy goals including cutting CO₂ emissions, maintaining reliability of energy supplies, promoting competitive markets and ensuring that every home is adequately and affordably heated.
- 6.116 In 2008, the [Climate Change Act](#) required that levels of the main greenhouse gases in 2050 emitted by UK households, industry, transport and the energy generation sector are at least 80% lower than 1990 levels.
- 6.117 In 2009, the [UK Low Carbon Transition Plan – national strategy for climate and energy](#) (DECC, 2009) proposed a move towards a system based on renewables in order to meet climate change objectives, including relevant obligations in the [Climate Change Act](#) of 2008. The Plan identifies that there will be a continuing need for energy generation from fossil fuel sources, including gas, as part of this transition together with an emphasis on use of associated carbon capture technologies in order to help meet climate change objectives.
- 6.118 In 2011, the Government published its [Carbon Plan - Delivering our local carbon future](#) (DECC, 2011) which outlines how the intentions for implementation of the reductions in greenhouse gas emissions as mandated the 2008 [Climate Change Act](#).

- 6.119 The [Paris Climate Change Agreement](#) (12th December 2015) under the *United Nations Framework Convention on Climate Change* aims to “set a new goal to reach net zero emissions in the second half of the century” “to limit warming below 2°C and strive to keep temperatures at 1.5°C above pre-industrial levels”.
- 6.120 On [27 June 2019](#) the UK government amended the *Climate Change Act* and set a legally binding target to achieve net zero greenhouse gas emissions from across the UK economy by 2050.

National Policy on Energy

- 6.121 In 2011, the [Overarching National Policy Statement for Energy \(EN-1\)](#) published by the DECC (July 2011) had an intention which was primarily to provide national policy for consideration of proposals for energy infrastructure dealt with by the *Infrastructure Planning Commission* under the provisions of the *Planning Act 2008* (*nb.* the Commission was abolished in 2012 with responsibility being passed to the Planning Inspectorate). However, the Statement indicates that it is likely to be a material consideration in decision making on planning applications that fall under the *Town and Country Planning Act (as amended)*. It indicates that whether, and to what extent, the Statement is a material consideration will be judged on a case by case basis. There are a number of policy objectives within the policy document that are considered to be relevant.
- 6.122 These include, *inter alia*, the need:-
- to meet legally binding targets to cut greenhouse emissions by at least 80% by 2050, compared to 1990 levels, which will require major changes in the way that energy is generated and used by individuals, industry and the public sector;
 - to have secure and reliable supplies of energy resources to be achieved by ensuring the existence of reliable supply chains (for example fuel for power stations) to meet demand as it arises;
 - to have a diverse mix of technologies and fuels including the need to source fuels from a wide range of locations;
 - to address issues raised by increased imports of oil and gas as North Sea reserves decline in an environment where energy demand is rising and supply is increasingly politicised; and,
 - to make substantial and timely investment in new infrastructure over the next two decades including in new fossil fuel generating capacity during the transition to a low carbon economy.
- 6.123 In 2012, the Government published a [Gas Generation Strategy](#) (DECC, December 2012). The Strategy notes that a third of UK energy demand is met by gas and, as coal use declines for use in power generation, gas will have an important role to play in filling the gap alongside renewable and nuclear generation thereby helping to reduce carbon emissions. The Government’s forecast is that gas use in 2030 will be at similar levels to 2012 and that gas will still be needed for many years into the future. The Strategy notes that the important role of gas in energy generation has been supported by a secure supply of fuel and that the global outlook for gas supply is good. It also states that an important component of Government energy security policy is to ensure that the UK is not over dependant on any individual fuel source and that over reliance on gas, or any single energy resource, could put the UK at more risk if there were any disruption to supply. Such risks are likely to become greater for gas as the UK become dependent upon imports as domestic production declines.
- 6.124 DECC’s [Annual Energy Statement 2013](#) stated “energy supplies should come from a variety of sources” including onshore oil and gas and this was later followed by the

publication [Annual Energy Statement 2014](#) which sets out the government's progress against its energy policy priorities, namely:

1. *supporting consumers and keeping energy bills down;*
2. *supporting investment in the UK's energy infrastructure; and*
3. *promoting action in the EU and internationally to maintain energy security and mitigate dangerous climate change as we chart the way towards a global deal on climate change in 2015.*

In summary, the Government's energy policies "*seek to meet three primary objectives: ensuring light, power, heat and transport are affordable for households and businesses; providing energy security; and reducing carbon emissions in order to mitigate climate change. In addition, government policy supports the energy sector in its role as a major contributor to the UK economy*" and the fundamental aim of the AES is to provide guidance on how the UK can move towards an energy-secure future, ensuring that all energy consumers have access to reliable and secure energy supplies. AES 2014 remains a material consideration until such a time as it is superseded.

- 6.125 A '[Planning Update](#)' within a *Written Ministerial Statement* made on the 23rd May 2019 reiterated that the *Written Ministerial Statement* made on 17th May 2018 on '[Planning and Energy Policy](#)' "*remain unchanged and extant*" and that the statement sits alongside the NPPF. The statement reinforced the view held by Government that the use of, and the search for, indigenous gas resources should be maximised; thereby reducing the country's dependency upon importation.

7.0 Material planning considerations

- 7.1 As referred earlier within this report, the starting point for determining applications must be the '*Development Plan*' (which includes those Plans to which reference is made within Section 6.0 above) and it must be made in accordance with that '*Development Plan*', unless there are material considerations including any impacts upon interests of acknowledged importance that would indicate that planning permission should not be forthcoming. The overall assessment of the planning balance is conveyed here within this section of the report.
- 7.2 In this particular instance, there are a range of policies within the '*Development Plan*' that need to be taken into account, as well as a number of other material considerations and, in considering the relationship of the proposals to the '*Development Plan*', Members are asked to note that proposals should be judged against the '*Development Plan*' as a whole (paragraph 1.10 of the *draft Minerals & Waste Joint Plan* refers) rather than against individual policies in isolation. Members are also advised of the need to bear in mind the relative weight to be attached to the applicable policies in the various elements of the '*Development Plan*' against policy which is laid down at the national level in the NPPF (Section 6.0 refers).
- 7.3 The analysis that follows assesses the proposed continuation of operations against the extant planning policies contained within the '*Development Plan*'. Section 6.0 of this report refers to those policies that are considered most relevant. This assessment establishes the acceptability, or otherwise, of what is proposed against policies to establish whether '*in principle*' the proposals either are, or are not, acceptable by virtue of degree of compliance and/or conflict with policies contained within each of the relevant '*Development Plan*' documents. It should be noted that it does not follow that where proposals conflict/comply with just one policy that proposals must be deemed unacceptable/acceptable, but it is a question of the degree of conflict/compliance and the weight apportioned in that circumstance that gives rise to the final analysis.

- 7.4 Within the paragraphs that follow the outcome of this *'in principle'* acceptability or otherwise, lies the analysis of the proposals upon various interests of acknowledged importance and the establishment of whether there exist any *'other material considerations'* that would outweigh/override the earlier referred *'in principle'* position.
- 7.5 The NPPF also confirms that while certain local plan policies might be ones pre-dating the publication of the NPPF, they should not be considered out-of-date simply because of their age (NPPF Paragraph 213 refers). This is particularly relevant within the applicable and extant planning policy context within which the proposals are currently being considered. The NPPF states that “*due weight should be given to [relevant policies in existing plans] according to their degree of consistency with [the NPPF] (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*”.
- 7.6 The NYMLP was adopted in 1997 under legislation pre-dating the *Planning and Compulsory Purchase Act 2004* (but with certain policies *'saved'* by Direction of the Secretary of State in 2007). Weight should therefore be attached to the policies according to their degree of consistency with the NPPF.

The principle of the proposals

- 7.7 Amongst the aims of the NYMLP are those ensuring the adequate and steady supply of minerals, preventing the unnecessary sterilisation of mineral resources and sustaining the contribution of mineral-related employment to the rural economy while, at the same time, ensuring the sustainable use of resources in a way which protects the local environment, both natural and historic, as well as safeguarding the amenities of those living and working in local communities. Those representations made in objection against the proposals to continue operations for a defined period of time ‘til 2035 have cited the need for more renewables and an abandonment of reliance upon fossil fuels arguing that 17 years, in their opinion, is excessive and that the absence of production is an indication that there is no gas left. However, these policy matters have to be *'weighed'* in the planning balance against those policies that lend support or *'weight'* to the argument in favour.
- 7.8 The emerging *Joint Plan* reiterates long-established national policy (NPPF Paragraph 203) that an important consideration in planning for minerals is that “*they can only be worked where they occur in sufficient quantity and quality and this fundamental geological constraint will always be a key influence on minerals planning*” (Paragraph 2.61, *draft Joint Plan*).
- 7.9 This aligns with national policy expressed in Chapter 17 of the NPPF (2019) which is similarly supportive of the development of the country’s oil and gas resources and this is mirrored within the array of national policy statements. In its continuing program of works for the exploitation of the county’s hydrocarbon resources, the applicant company is seeking to ensure the security of gas supply to its existing electricity generating station and maximise its use of existing infrastructure; thereby avoiding the duplication thereof and contributing to the objectives of sustainable development in accord with the overarching theme set out within government policy. NPPG’s Paragraph 124 gives emphasis to the government’s view that, nationally, energy should come from a variety of sources, including oil and gas, and states that when making decisions, authorities should have regard to national energy policy, that is to say, that energy supplies should come from a variety of sources, including onshore oil and gas. The Government’s *Annual Energy Statement* (published in October 2013), referred to in that same paragraph, points out that national energy policy has two key drivers; namely, the need for energy security and carbon emission reduction. Whilst acknowledging that renewable energy will have a part to play, the government’s view

is that oil and gas, especially indigenous oil and gas, will remain key to energy security and, at the same time, facilitate the reduction of greenhouse gas emissions.

- 7.10 There was, and continues to be, no requirement for specific landbank provision for energy minerals such as oil and gas, and, therefore, no specific allocations of land for such purposes. Each application seeking permission for energy mineral-related development must be considered on its individual merits and with due regard to the relevant '*Development Plan*' policies at the time of determining applications.
- 7.11 With the exception of two specific planning policies (namely one relating to noise and the other to transport), the planning policies contained within Chapter 7 relating to oil and gas development within the NYMLP have been '*saved*' by *Direction* of the *Secretary of State* and remain extant in respect of the determination of planning applications (Section 6.0 above refers). The text within Chapter 7 explains that "*gas operations are significantly different [to mines and quarries in that] ownership, statutory controls, the release of land, method of working, surface installations and environmental impact all differ...the pursuit of such a high value product should make it easier to attain good standards of environmental protection, landscaping and other restoration...land take is normally less [and] locational flexibility [can be achieved and they] normally have less impact on local amenity and the environment*"; depending upon the stage of development (i.e. exploration/appraisal/production).
- 7.12 Importantly then, and still now, as explained within paragraph 5.97 of the emerging *Joint Plan*, oil and gas are minerals of national and local importance and prospective developers are not expected to make an argument of need by justifying proposals in terms of their economic credentials. The development of hydrocarbon resources is thus seen as a national need.
- 7.13 While there are no extant policies within the existing adopted *Minerals Local Plan* which cater for a circumstance of proposals seeking the continuity of existing infrastructure within the county, the proposals do not conflict with the general thrust of extant policy including '*saved*' **NYMLP Policy 7/6** which supports proposals forming part of an overall scheme and '*saved*' **NYMLP Policy 7/7** which supports in the utilisation of existing available surface infrastructure and pipelines. The proposals seek to continue to utilise available infrastructure already in existence.
- 7.14 Further qualified support can be found within *draft Policy M16* in the emerging *Joint Plan* within which are stated guiding principles where the exploration, appraisal and production of conventional hydrocarbons should take place provided that certain criteria are satisfied. This has been explained in Section 6.0 above. The principle of continued use of the existing infrastructure for the production and conveyance of gas until 2035 is, therefore, both established and supported in terms of planning policy and gives rise to no locational planning policy conflict which could justify refusal on this ground alone.
- 7.15 In addition, the proposals to continue operations for the period defined do not give rise to any significant material conflict with spatial distribution-related/locational policy within **RDC-LPS Policy SP6** when it is acknowledged that minerals can only be worked where they are found. Notwithstanding technical possibilities of exploiting oil and gas resources from locations remote from positions vertically above a target reservoir, by deviated drilling for example, regard is to be had to the existence of infrastructure already in place which weighs heavier in the planning balance.
- 7.16 Unlike many other non-mineral related developments, the question of whether the proposals could take place elsewhere other than the chosen location does not arise because consideration must be made of the underlying geology and likely location of

the target formations and both the formation structure and depth as well as the earlier referred to infrastructure which is already in existence.

- 7.17 The County Planning Authority must also be mindful that consideration should bear in mind the areas of land for which the applicant holds an extant licence. It would be irrational to refuse proposals in the expectation of proposals coming forward outside areas so licenced because such proposals could not come forward without an extant licence in place. Notwithstanding, continued regard must be had to environmental and social considerations in the assessment of proposals for continuity of use. The proposals have been reviewed in respect of distances from areas of residential properties, distances from protected areas by dint of either their landscape or ecological designation and access to the public highway.
- 7.18 The analysis of relevant '*Development Plan*' policies (including spatial/locational policies) outlined within the preceding paragraphs indicates that the proposals do not raise any additional issues of principle and are considered to generally accord with relevant planning policy and, therefore, acceptable '*in principle*'.
- 7.19 It is, nevertheless, open to the County Planning Authority to judge each application on its individual merits and to consider whether the circumstances in this particular instance are materially significant so as to find the proposal, i.e. the continuity of the use of the land for the purposes for which planning permission was previously granted, unacceptable in land use planning terms.
- 7.20 The assessment that follows comprises those matters that are regarded as the principal considerations arising from the proposals to continue operations until 2035; although the order in which they appear below is not an indication of their importance relative to one another. These comprise effects upon interests of acknowledged importance including those of both the environment (flora and fauna) and local communities:
- *hydrology & hydrogeology;*
 - *ecology & biodiversity;*
 - *landscape & visual impact;*
 - *air quality;*
 - *noise;*
 - *traffic; and,*
 - *cumulative & in-combination impacts.*

Hydrology & hydrogeology

- 7.21 The assessment of the effects of the proposals to continue operations for the period of time sought in respect of the water environment, including potential adverse impacts upon both ground and surface waters, is provided within the site-specific *Hydrological Risk Assessments (HRAs)* and *Flood Risk Assessments (FRAs)* (produced by consultants, *Envireau Water* on behalf of the applicant) together with further explanation provided within Chapter 8 of the submitted *Environmental Report* which covers all of the sites. Although the assessments acknowledge the existence of water resource safeguarding measures already '*in situ*', they have nevertheless identified risks to both surface and ground waters in light of any changes which may, or may not, have arisen since their original installation with a view to identifying any additional mitigation that may now be warranted. Identified risks have included the potential for leaks and/or spills of fluids and their possible effects upon the receptors of surface and ground waters. Existing mitigation measures (such as the method utilised at the time of site construction, surface water management infrastructure, means of fluid storage etc.) and additional proposed mitigation measures (including replacement of storage tanks with double-skinned tanks, avoidance of works during periods of heavy rainfall etc.) have rendered the assessment of risk to conclude risk levels of either '*low*', '*very*

low or *'none'* in respect of the continuity of operations until 2035. An *Hydrogeological Risk Assessment* (HRA) has been carried out and the submitted report explains that *"embedded mitigation provides the highest level of mitigation and no additional mitigation is proposed"* and demonstrates that *"there are no significant impacts associated with extending the lifetime of the pipeline network"*. Similarly, the FRAs have identified an absence of increased flood risk or cumulative impacts arising.

- 7.22 The foremost extant policies against which to assess the effects upon the water environment include **'saved' NYMLP Policy 4/1** and, in particular, **critterion (b)**, which requires developments to be acceptable in both siting and scale, **critterion (c)** (seeking, through the method and proposed programme of works, that any impacts would be minimised), **critterion (e)** (directing that proposals are assessed for their environmental and amenity safeguards to effectively mitigate against any impacts) and **critterion (i)** (seeking to ensure against unacceptable cumulative impacts), **'saved' NYMLP Policy 4/10** which *"seeks to ensure only proposals which do not pose unacceptable surface or groundwater resource impacts are permitted"* and **'saved' NYMLP Policy 4/14** similarly ensuring against unacceptable impacts, but also upon the environment more generally. The thrust of these policies is carried forward within the emerging *Joint Plan* in **draft Policies M16, M17 & M18. RDC-LPS Policy SP17** requires that proposals do not give rise to either exacerbating flooding-related and/or water consumption-related problems, whilst at the same time, ensuring that any risk to the quality of water resources through pollution is minimised as far as possible. It is necessary for due regard to be had to these policies in assessing the potential impacts of the development.
- 7.23 Those in objection against the proposals to continue operations until 2035 have raised concerns that, *inter alia*, the proposals pose *"a threat to water quality"*, present a *'real risk of unacceptable impacts on surface and groundwater'* and *"the risk to water contamination still remains a great concern - there can be NO guarantee that this will not happen - this would be irreversible"* and the proposals do not adequately safeguard the water environment from potential adverse effects including possible pollution to surface and/or ground waters, either by way of accidental spillage or leaks or contamination of potable water resources (i.e. drinking water) potentially through infrastructure failure and inadequate storage facilities.
- 7.24 The key impacts which need to be addressed are impacts upon sources of water (in terms of their conservation i.e. quantity and/or quality) and their sensitivity; the extent, duration, timing and frequency of the effects and the effects which could arise from accidental spills or leaks arising from the continuity of the existing operations until the extended date in 2035.
- 7.25 The proposals are accompanied by supporting information compiled and prepared by experts in their respective fields and all have been scrutinised by their relevant counterparts working on behalf of those with whom the County Planning Authority have sought advice including those Officers of the Health & Safety Executive, Yorkshire Water Services Limited, the Lead Local Flood Authority, the Rye Internal Drainage Board, the District Council and the Environment Agency (Section 4.0 of this report refers).
- 7.26 Of those who have responded to consultation, none have returned either objections to the proposals, or indeed offered any comments in respect of potential hydrological or hydrogeological effects of the proposals; from which a general conclusion of satisfaction of the existence of suitable, adequate and appropriate measures either are, or will, be in place to mitigate against any such effects can be drawn.

- 7.27 In taking into consideration the above responses to consultation from experts within both Yorkshire Water and the Environment Agency, the information, as submitted, is considered to be both adequate and sufficient upon which to determine the application whilst having regard to the statutory obligations placed upon the County Planning Authority. These obligations also include having regard to the advice provided within national *Planning Practice Guidance* which at Annex C to the *'Minerals'* section (*Section 27*) (Paragraph 139) pays specific attention to the matter of planning for hydrocarbons and suggests model planning conditions that authorities should consider; at the same time being mindful of the obligation to impose conditions aligned with those as previously imposed.
- 7.28 With specific regard to ground and surface water protection, the relevant guidance in respect of the cases where there remains no further drilling activity proposed to take place, advises the imposition of the following conditions:
- *any oils, fuels, lubricants or other liquid materials shall be located on an impervious base and/or within an impervious bunded area or purpose made self-bunding tanks so as to prevent any discharge or spillage into any watercourse, land or underground strata. Spill kits shall also be located in appropriate locations around the Site and utilised in the event of any accidental discharge/spillages; and,*
 - *no ground or surface water contaminated by oil, grease or other pollutants used on or in connection with the site operations shall be discharged into any ditch or watercourse.*
- However, in the specific instance of the pipeline, there are no proposed activities in relation to the continued use and maintenance that would give rise to the necessity for these particular conditions to be relevant for the reason that, operationally, normal routine maintenance and inspections would continue to be undertaken, externally, by ground inspection and overhead flights and, internally *"using approved techniques designed to assess pipeline integrity"*. The company has confirmed that the pipeline network is *"protected by pressure safety valves and emergency shut down valves"*.
- 7.29 Other than the standard condition relating to the carrying out of the development in accordance with the application details, the only other condition relating to the protection of the water environment attached to the previous permission includes former condition no. 5. These state,
- 5. Where the pipeline may affect any water course, well or aquifer belonging to any statutory water undertaker, any works for the operation or maintenance of the pipeline shall, except in so far as the Secretary of State directs, be carried out in accordance with the requirements of the appropriate authority.*
- 7.30 This previously imposed condition is considered necessary in light of the requirement to maintain the pipeline and, therefore, considered appropriate should the continuation of the use of the pipeline prove to be acceptable in land use planning terms.
- 7.31 In,
- assessing the submissions relating to the protection of the water environment;
 - acknowledging the jurisdictional controls of the Environment Agency (as distinct from those of the County Planning Authority in accord with Paragraph 183 of the NPPF)
 - recognising that the submissions have not given rise to any comments forthcoming from the Environment Agency (a position concurrent with that of Yorkshire Water) and that environmental permits remain extant; and,
 - acknowledging the absence of any unacceptable and/or adverse cumulative effects upon the water environment of any material significance in light of their effects in terms of magnitude, extent, duration, timing and frequency,
- criteria (b), (c), (e) and (i) of 'saved' NYMLP Policy 4/1, 'saved' NYMLP Policy 4/10, 'saved' Policy 4/14 and RDC-LPS Policy SP17 are considered to have been satisfied.
- 7.32 The consultation responses received by the County Planning Authority are those expressed by experts in their respective fields and have returned their independent and impartial opinions insofar as their individual areas of expertise. Upon reviewing the

submissions of expert consultants and taking into account the responses from Yorkshire Water and the Environment Agency, it is considered that the risks of an adverse impact upon either the aquifer or potable water supply by the continuation of operations for the period of time sought is minimal provided appropriate measures to ensure that the protection of ground and surface water and nearby watercourses are implemented.

7.33 While representations have cited a threat to water quality in objecting to the proposals to continue the operations for a defined time period, the proposals have been assessed for their effects and, when appropriately mitigated and weighed in the planning balance, acknowledging the degree of consistency of the extant policies of the '*development plan*' with the NPPF, they are not considered to be in conflict with **criteria (b), (c), (e) and (i) of 'saved' NYMLP Policy 4/1, 'saved' NYMLP Policy 4/10, 'saved' NYMLP Policy 4/14 or adopted Policy SP17 of the RDC-LPS.**

7.34 Taking into consideration the following in respect to the possible impacts upon the water environment (including both surface water and ground water) arising from the proposals to continue operations:

- environmental and other additional information received;
- the hydrological and hydrogeological assessments undertaken and their conclusions regarding both the possible effects upon surface and ground waters;
- representations received;
- the measures proposed by the applicant in mitigation;
- responses from consultees, including the absence of any objection having been returned from relevant '*technical*' consultees; and,
- the absence of any conflict with relevant '*development plan*' policies and/ or extant national policy

there is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that impacts on the water environment would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Ecology & biodiversity (including internationally, nationally or locally designated wildlife sites, protected habitats and species, and ecological networks)

7.35 The assessment of the effects of the continuation of the operations for a defined time period in respect of the natural environment (its conservation and its enhancement), and, more specifically, protected species and designated habitats, is provided within the site-specific *Ecological Appraisals* and within Chapter 4 the *Environmental Report* which covers each element of the proposals. The assessments acknowledge the importance of each protected species and habitat (for example its rarity, diversity, fragility etc.) and their sensitivity and have had regard to the parameters of impact of magnitude as well as extent, duration, reversibility, timing and frequency of the effects of continued operations. The assessments identify an absence of any direct impacts through the absence of protected or notable species or habitats along the pipeline route; although the potential exists for possible effects that could arise insofar as species/habitats in either adjacent or nearby vicinity of the pipeline such as possible adverse impacts upon surface and/or ground waters. The appraisals undertaken by expert consultants, AECOM, appointed by the applicant have concluded the potential for any pathways for impacts on protected or notable habitats and species as '*negligible*' due to the pipeline already being in existence and below ground. It explained that there exists "*embedded mitigation in the design, construction and maintenance of the gas pipeline to ensure pipeline integrity*". It goes on to state that there is no requirement for ecological mitigation because there exist no pathways by which the continuation of the use of the pipeline could result in any impacts upon designated sites or protected species.

- 7.36 Desk-based studies and a number of ecological surveys have been undertaken (including *Extended Phase 1 Habitat Surveys*) and the information used to support additional submissions such as the *Ecological Appraisals* prepared by AECOM on behalf of the applicant. In the various surveys undertaken, assessed species have included great-crested newts, badgers, bats, water vole, otter, white-clawed crayfish, brown hare, migratory fish, birds, reptiles, amphibians and invertebrates.
- 7.37 The assessments acknowledge that the infrastructure is already in existence and, for the most part, are devoid of any habitat or species present of any significance and the continuation of the operations for the time period sought do not give rise to any direct habitat loss, any potential for significant adverse effects upon protected species and/or designated habitats by virtue of dust deposition, possible contamination of either sources of surface or ground water, process contributions to air quality parameters, noise emissions (including those generated by traffic movements) or the emission of artificial light. These have all been assessed as unlikely to give rise to significant effects and any residual effects are capable of being mitigated, for instance, through site management practices.
- 7.38 Again, as with the assessment of effects with regard to the water environment, the assessments have identified mitigation measures that would include, *inter alia*, site containment protections such as the containment of surface water, air quality monitoring, the selection and design (i.e. downward and directional) of the external artificial lighting and the design of the perimeter fencing, species surveys and the limited duration of the activities that could give rise to disturbance (such as well maintenance activities).
- 7.39 The principal extant policies against which to assess the effects upon the natural environment, including protected species, include **'saved' NYMLP Policy 4/1** and, in particular, **criterion (b)** of that policy (requiring proposals to be acceptable in both siting and scale), **criterion (c)** (seeking, through the method and proposed programme of works, that any impacts would be minimised), **criterion (e)** (directing that proposals are assessed for their environmental and amenity safeguards to effectively mitigate against any impacts) and **criterion (i)** (seeking to ensure against unacceptable cumulative impacts); **'saved' NYMLP Policy 4/6a** (seeking to ensure that protection is afforded to areas of nature conservation interest and importance) and **'saved' NYMLP Policy 4/14** (ensuring proposals do not give rise to unacceptable environmental impacts). The thrust of these policies is carried forward within our emerging *Joint Plan* in **draft Policies M16, M17 & M18. RDC-LPS Policy SP14** requires that proposals do not give rise to adverse effects on any site or species protected under international or national legislation and that proposals should seek to conserve, restore and enhance biodiversity whilst at the same time ensure that any loss or harm to nature conservation interests are avoided in the first instance, minimised as far as possible or compensated for. It is necessary for due regard to be had to these policies in assessing the potential impacts of the development.
- 7.40 Those in objection have raised concerns that, *inter alia*, the proposals do not adequately safeguard the acknowledged interests of the natural environment from potential adverse effects and that, in their opinion, the proposals to continue operations until 2035 will "*harm biodiversity*".
- 7.41 The key impacts which need to be addressed are, therefore, impacts upon protected species and nationally and internationally designated habitats as well as any other species or area of nature conservation interest or importance that could arise as a result of, for example, possible adverse impacts upon surface and/or ground waters through, for example, accidental spills or leaks etc.

Protected species – all species of bats, great crested newts, birds, badger, water vole, otter, brown hare and roe deer

7.42 Standing advice provided by Natural England states surveys must be undertaken “*if there is a reasonable likelihood of protected species being present on the site or affected by the development*”. The applicant’s ecologist and the County Council’s own adviser are satisfied, having considered the evidence, that, in the main there are no bats present along the route of the pipeline taking into account its existence sub-surface. However, it is necessary to consider whether there is any likelihood of protected species being ‘*affected*’ by the continuation of operations for the extended time period. The interpretation of being ‘*affected*’ is important. It’s a question of whether that effect is *material*. Natural England’s standing advice guides authorities as to the circumstances in which bat surveys would normally be required and asks questions such as whether proposals would affect bats and provides examples; none of which are applicable in this instance; notwithstanding that they are potentially present further afield beyond pipeline boundaries. The expert advisers have previously concurred that it is highly likely that more suitable foraging bat habitats exist within the wider arable landscapes with intervening woodland copses, hedgerows and trees that surround the well sites rather than the well sites themselves. The standing advice goes on to inform authorities that bats are more likely to roost ideally in trees of large complex growth forms, possessing natural cavities, loose bark and rot damage within an ancient woodlands or parklands.

7.43 With regards the species of great crested newts, birds, badger, water vole, otter, brown hare and roe deer, the expert advisers found no suitable habitats to exist along the route of the pipeline as its already lies underground and, in response to consultation neither Natural England nor the County Council’s expert have outlined any ecological concerns with the regards to the proposed continuity of the operations for the time period sought by the applicant company.

Designated habitats – local

7.44 The applicant has assessed its proposed continuity of operations in light of the presence of locally-designated sites of importance for nature conservation and its expert advisers found no effects resulting from solely extending the period of time and no objections have been raised on this specific ground.

Designated habitats – national and international

7.45 With regard to the potential effects of the continuity of existing operations upon nationally and/or internationally designated habitats, again, the potential exists for adverse effects to arise from direct pathways from the site (as the ‘*source*’) of pollution to both ground and surface waters (the ‘*pathways*’) to designated sites (the ‘*receptors*’).

7.46 Due regard has been had to the requisite duties placed upon the Authority under EU and national legislation including the [Conservation of Habitats and Species Regulations 2017](#) and a ‘*Habitats Regulations Assessment Screening Report*’ in respect of the application has been prepared and consulted upon. Provided the mitigation measures that have been put forward by the applicant are implemented and maintained during the time period sought by the applicant, impacts that could potentially be regarded as adverse are considered unlikely to arise. The conclusions of the HRA *Screening Reports* confirm the *proposals* “*will not have a likely significant effect upon any Natural 2000 sites*” and that ‘*appropriate assessments*’ are not required are conclusions with which Natural England concurs.

7.47 The responses to consultation from experts both within the County Council, the Environment Agency and Natural England have been considered and the information,

as submitted, is both adequate and sufficient upon which to make a determination whilst having regard to the statutory obligations placed upon the County Planning Authority.

- 7.48 The proposals have been accompanied by supporting information within the site-specific *Ecological Appraisals* and within Chapter 4 the *Environmental Report* both compiled and prepared by experts in their respective fields and have all been scrutinised by their relevant counterparts working on behalf of those from whom advice has been sought including those Officers of the County Council and Natural England within their respective jurisdictions. Their expert opinions have returned either ‘*no comments*’ or ‘*no concerns*’ (Section 4.0 above refers). From this, a general conclusion of satisfaction of the existence of suitable, adequate and appropriate measures either are, or will be, in place to mitigate against any such effects, can be drawn.
- 7.49 Due regard is also to be had to the advice provided within national *Planning Practice Guidance* which at Annex C to [Section 27](#) (Paragraph 139) pays specific attention to the matter of planning for hydrocarbons and suggests model planning conditions that authorities should consider when making decisions; while, at the same time, being mindful of the obligation to impose the conditions as those previously imposed in respect of applications made under S73 of the Principal Act.
- 7.50 With specific regard to protected species and wildlife habitats, the relevant guidance therein advises the imposition of the following conditions:
- *Prior to the commencement of development, a method statement for the protection of wildlife, flora and fauna during construction and during operation of the facility shall be submitted to and approved in writing by the mineral planning authority; and,*
 - *No later than one year before the decommissioning of the site, an ecological survey shall take place to establish the presence, or otherwise, of any protected species on the site within the site boundary and immediately outside. The survey and measures for the protection of and minimisation of disturbance during the decommissioning phase shall be submitted to the mineral planning authority for approval in writing. The development shall be implemented strictly in accordance with approved details of protection.*
- 7.51 While conditions relevant to the mitigation of effects upon nature conservation interests are absent from the previous consent, the imposition of conditions aligned with those recommended within national planning practice guidance, where they would be both reasonable and warranted, is considered to have merit with certain textual revisions, such as:
- *No external lighting shall be installed except in accordance with a scheme approved in writing by the County Planning Authority. Such an approved scheme shall include details of location, height, type, orientation and intensity of the lighting.*
- 7.52 In,
- assessing the submissions relating to both species and wildlife protection;
 - recognising the submissions have not given rise to any comments forthcoming from either Natural England or the County Council’s expert advisers; and,
 - acknowledging the absence of any unacceptable and/or adverse cumulative effects upon the interests of ecological importance of material significance in light of their effects in terms of magnitude, extent, duration, timing and frequency,
- criteria (b), (c), (e) and (i) of ‘*saved*’ NYMLP Policy 4/1, ‘*saved*’ NYMLP Policy 4/6a and ‘*saved*’ Policy 4/14 are considered to have been satisfied and, also in acknowledging the existence of proposals for bio-diversity enhancement in the form of ‘*gapping-up*’ planting areas and the provision of nest boxes, RDC-LPS Policy SP14 is also considered to have been satisfied.

- 7.53 The consultation responses received by the County Planning Authority are those expressed by experts in their respective fields and have returned their independent and impartial opinions insofar as their individual areas of expertise. Upon reviewing the submissions of expert consultants and taking into account the responses from Natural England and the County Council's own expert. The conclusions of the applicant's consultant's reports are accepted and the mitigation of effects, which are considered satisfactory with regard to safeguarding the natural environment, are both appropriate and proportionate. Where controls are necessary, appropriately worded planning conditions are capable of ensuring the safeguards can be put in place.
- 7.54 Notwithstanding representations (outlined within Section 5.0 above) made in objection, the proposals to continue the operations for a defined time period, having been assessed for their effects, appropriately mitigated as put forward by the applicant within the submitted details, and weighed in the planning balance, acknowledging the degree of consistency of the extant policies of the '*development plan*' with the NPPF, are for the reasons explained in the preceding paragraphs, not considered to be in conflict with '**saved**' NYMLP Policy 4/1 (in particular criteria (b), (c), (e) and (i)) , '**saved**' NYMLP Policy 4/6a, '**saved**' NYMLP Policy 4/14 and RDC-LPS Policy SP14.
- 7.55 Consideration has been had to existing site characteristics, including the absence of suitable or ideal habitat of any significance in light of the proposal to continue operations for a defined period of time acknowledging they do not give rise to any direct habitat loss, any potential for significant adverse effects upon protected species and/or designated habitats by virtue of dust deposition, possible contamination of either sources of surface or ground water, process contributions to air quality parameters, noise emissions (including those generated by traffic movements) and the emission of artificial light from the site which have all been predicted to be of minimal impact.
- 7.56 Taking into consideration the following in respect of possible impacts upon the natural environment, and in particular protected species and designated habitats arising from the proposals to continue operations:
- environmental and other additional information received;
 - the assessments undertaken and their conclusions regarding the possible effects upon both protected species and designated habitats;
 - representations received;
 - the measures proposed by the applicant in mitigation;
 - responses from consultees, including the absence of objection having been returned from relevant '*technical*' consultees; and,
 - the absence of any conflict with relevant '*development plan*' policies and/ or extant national policy
- there is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that these impacts on the natural environment including those upon protected species and/or designated habitats would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Landscape & visual impacts (including visual intrusion and impacts upon nationally-protected landscapes (NPs & AONBs)

- 7.57 The assessment of the effects of the proposals to continue operations for a further period of time in respect of landscape is provided within Chapter 5 of the submitted *Environmental Report*. Landscape impacts are distinct from visual impacts in that they relate to changes in the fabric, character and quality of the landscape; whereas visual impacts relate to specific changes in views and the attendant impacts therefrom upon others such as those living in the vicinity a site or those enjoying the outdoors along public footpaths for instance. The parameters of both landscape and visual impacts

studied include magnitude/scale, significance and sensitivity. While the *Environmental Report's* Chapter 5 is informed by site-specific *Landscape & Visual Appraisals* (LVAs) prepared on behalf of the applicant by DRaW (UK) Ltd.), no such appraisal has been undertaken in respect of the existing pipeline network, for the reason that the pipeline network was installed over a decade ago and is entirely buried below ground. The applicant company has explained that "*the disturbed land along the route has been restored back to agricultural use, and all severed hedgerows have been reinstated. Consequently, because the proposed 'extension of time' would not give rise to any new landscape or visual effects the underground pipeline is excluded from this assessment*".

- 7.58 The experts, taking into account that the continuation of gas production "*will not result in changes to the existing infrastructure, or to the approved site activity*", have concluded that "*there would be no physical or perceived changes to the landscape or visual effects*". Their appraisal goes on to explain that "*no notable landscape or visual effects have been identified and there will be no change to the setting of the protected landscapes, visitor attractions, or cultural assets, including listed buildings, scheduled monuments or conservation areas*".
- 7.59 The foremost extant planning policies against which to assess the continuity of operations for an extended period of time until 2035 in respect of both the landscape and visual impacts include '**saved** NYMLP Policy 4/1, in particular, **criterion (b)** (requiring both siting and scale to be acceptable), **criterion (d)** (seeking to ensure that landscaping and screening have been designed so as to effectively mitigate any effects), **criterion (e)** (directing that proposals are assessed for their environmental and amenity safeguards to effectively mitigate against any impacts) and **criterion (i)** (seeking to ensure against unacceptable cumulative impacts); **RDC-LPS SP6** in which proposals must be satisfactorily accommodated in to the landscape and **RDC-LPS Policy SP13** relating to landscape protection and enhancement and particularly with regard to the '*locally valued landscape*' of the Vale of Pickering. It is necessary that due regard is had to these policies in assessing the potential impacts of the proposals to continue operations for the period sought.
- 7.60 In making representations against the proposals to continue operations until 2035, those objecting have cited the impacts on the local economy and tourism and, in their view, the industrialisation of the countryside. However, the supporting information submitted by the applicant has been compiled and prepared by experts in their respective fields and scrutinised by the relevant experts within Natural England and the County Council who (in the case of the latter expert) has expressed general satisfaction with the overall approach, methodology, findings and summary of the submitted '*Landscape and Visual Appraisals*', together with additional observations and recommendations. The expert adviser comments general agreement with the applicant's consultant that the continuity of operations "*would not change the landscape character, composition or extent of views compared to existing, subject to implementation of additional mitigation measures*", but also advises, insofar as relates to the wellsites, that further mitigation is warranted to improve screening and the subsequent submission of *Landscape Management Plans* should the continuity of operations until 2035 be found to be acceptable.
- 7.61 Taking into account the responses to consultation, the information, as submitted, is considered to be both adequate and sufficient upon which to assess the proposals whilst having regard to the statutory obligations placed upon the County Planning Authority. There is no disagreement with the applicant's contention that, taking into consideration that the pipeline has been constructed and lies underground and that there are no significant groundworks either existing or proposed (other than the

attendant and necessary waymarkers), there are no impacts upon the landscape in which the pipeline is situated.

7.62 While national *Planning Practice Guidance* which at Annex C to the [‘Minerals’](#) section ([Section 27](#)) (Paragraph 139) pays specific attention to the matter of *‘planning for hydrocarbons’* and suggests model planning conditions that authorities should consider when making decisions, no such obligations are considered to be relevant in the particular circumstance of the seeking of a continuation of the use of the existing underground pipeline network.

7.63 Notwithstanding, there continues to be an obligation to ensure maintenance of any landscaping as required under the terms of the previous consent. Due regard has been had to the comments of the County Council’s expert adviser on landscape matters who responded with no further comment or objection on the basis of the pipeline network being underground with no significant above ground works either existing or proposed. Therefore, should the application to continue to use the existing pipeline network for a further period of time until 2035 prove acceptable in land use planning terms, the following conditions would serve to ensure continuation of safeguards in respect of landscaping:

- *Existing landscaping along the pipeline route shall be maintained for the duration of the development; and,*
- *Any trees or shrubs planted or retained in accordance with condition no. ## which are removed, uprooted, destroyed, die or become severely damaged or diseased within five (5) years of planting shall be replaced within the next planting season.*

7.64 In,

- assessing the submissions demonstrating how the extended period of time in which to continue operations with appropriate working methods and safeguards, as well as the attendant separation distances of the sites from sensitive receptors, are capable of ensuring any landscape and visual impacts are both minimised and localised;
 - recognising that the submissions have not given rise to any objections on the grounds of either landscape or visual impact; and,
 - acknowledging the absence of any unacceptable and/or adverse cumulative effects thereon of material significance in light of their effects in terms of magnitude, extent, duration, reversibility, timing and frequency,
- criteria (b), (d), (e) and (i) of ‘saved’ NYMLP Policy 4/1 and RDC-LPS SP6 are considered to have been satisfied and, no significant conflict is considered to appear with RDC-LPS Policy SP13, especially when weighed in the planning balance that the screening and now mature landscaping affords the sites in order to minimise views.

7.65 The consultation responses received are the views expressed by experts in their respective fields and they have returned their independent and impartial opinions insofar as their individual areas of expertise. Upon reviewing the submissions of the expert consultants, those consulted have accepted the findings of the applicant’s experts and are satisfied that the mitigation of the effects of the proposals with regard to the safeguarding the local landscape and protection against adverse visual impacts are both appropriate and proportionate and that, where the consultee is of the opinion that controls are necessary, they have offered up suggested wording for consideration in the form of planning conditions.

7.66 The proposals for the continuation of operations for a defined period of time until 2035, having been assessed for their effects, appropriately mitigated, weighed in the planning balance, acknowledging the degree of consistency of the extant policies of the *‘development plan’* and those of the NPPF, any landscape and visual impacts have been demonstrated to be capable of being mitigated. The proposals to extend the operational time period is considered to be, overall, without significant conflict such as

to argue a contravention of planning policy. With regard to ‘**saved**’ NYMLP Policy 4/1, in particular, **criteria (b), (d), (e) and (i)** and RDC-LPS SP6 are considered to have been satisfied, without, on balance, giving rise to any significant conflict with other policies that comprise the ‘*development plan*’.

7.67 Taking into consideration the following in respect of the possible visual impacts and impacts upon the landscape arising from the proposals to continue operations:

- environmental and other additional information received;
- representations received;
- measures proposed by the applicant in mitigation;
- responses from consultees, including the absence of objection having been returned from relevant ‘*technical*’ consultees; and,
- the absence of any significant conflict with relevant ‘*development plan*’ policies and/ or extant national policy

there is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that any landscape or visual impacts would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Air Quality (including dust, odour and fugitive emissions)

7.68 The assessment of the effects of the proposals to continue operations for a further period of time in respect of air quality is provided within the applicant’s submitted *Environmental Report* (Chapter 3 refers). This chapter on air quality is informed by an accompanying report ‘*Air Quality Review of Existing Planning Consents and Impact of Lifetime Extension*’ prepared on behalf of the applicant by SOCOTEC. The findings of the review found that any losses of natural gases from the existing infrastructure were considered to be “*adequately controlled by the current loss prevention measures*” and that solely extending the time period in which to continue operations until 2035 is not anticipated to “*pose any significant risk of greater losses than those already considered*”. The review also explains that “*there is no combustion of natural gas*” along its infrastructure under consideration (with the exception of the gas station itself) and any “*releases to atmosphere are most likely to be fugitive releases of natural gas resulting from leakages in the pipeline network*”. These fugitive releases are described in the *Environmental Report* as “*minimal*” and the report goes on to explain that “*temporary emissions of other pollutants such as dust, particulates and VOCs and other combustion related emissions [are those] arising from site equipment during workovers or site maintenance*”.

7.69 The review goes on to explain that air quality assessments have previously been undertaken and the impacts were expected to be ‘*negligible*’. Such assessments have previously reviewed the impacts upon air quality affecting both residents and sensitive habitats in respect of their scale, extent, duration, timing and frequency and the principal sources of air quality impacts can include vehicle emissions, emissions from equipment on site, odour, fugitive emissions and dust; although the generation of both dust is likely to differ depending upon the time of year and how dry conditions are likely to be. The conclusion drawn within the *Environmental Report*, following the assessment of the effects in respect of air quality, asserts that “*levels set within relevant environmental permits can be met*”.

7.70 The principal extant planning policies against which to assess the continuity of operations for an extended period of time until 2035 in respect of air quality impacts include ‘**saved**’ NYMLP Policy 4/1, and, in particular, **criterion (b)** (requiring proposals to be acceptable in both siting and scale), **criterion (c)** (seeking, through the method and proposed programme of works, that any impacts would be minimised), **criterion (e)** (directing that proposals are assessed for their environmental and

amenity safeguards to effectively mitigate against any impacts) and **criterion (i)** (seeking to ensure against unacceptable cumulative impacts), **'saved' NYMLP Policy 4/14** safeguarding against any unacceptable environmental impacts and the safeguarding of the amenities of those living and working nearby have been taken into account, **RDC-LPS Policy SP17** supporting proposals provided that *"the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured"* and **RDC-LPS Policy SP20** seeking to ensure that the character of place is safeguarded through compatible land use planning so as not to *"prejudice the continued operation of existing neighbouring land uses"* and that proposals do not incur material adverse impacts, such as that through dust and odour, upon the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community. It is necessary for due regard to be had to these policies in assessing the potential impacts of the development.

7.71 The assessment of the effects of the continuation of operations for the time period sought upon air quality within the *Air Quality Review* described the mitigation measures as:

- *loss prevention procedures which were adopted at the commencement of the well site and pipeline development and which continued in the subsequent operations. Third Energy operate a loss prevention programme which entails:*
 - *prevention activities and solutions to avoid natural gas leaks from happening in the first place through proper design, construction, operation, maintenance, training, and education.*
 - *detection activities to quickly identify any potential leaks at an early stage and undertake effective corrective action.*

This is coupled with precautions during well workover to minimise the potential for natural gas release.

In addition, the submitted [Schedule of Mitigation](#) refers to the following examples in mitigation:

- *no flaring is permitted on the wellsites.*
- *the mining waste permits require that gas (fugitive emissions) is correctly managed as a hazardous waste, and a closed system is used;*
- *during any drilling operations, and during gas production, ambient air quality monitoring, together with gas detection (for health and safety purposes), would be used to monitor air quality;*
- *all operations to be enclosed, and facilities made available to deal with accidental spillage, including application of sodium hydroxide or sodium hypochlorite to reduce smell from any mercaptans present; and,*
- *atmospheric emissions generated to be monitored in accordance with scheme approved by the planning authority, and results to be submitted annually*

With the above measures in place, the consultant considers the continuation of operations for the defined period would not pose *"any significant additional risk"* and that *"the potential for any pathways for impacts on air quality...is negligible"* ([Planning Statement](#)).

7.72 The supporting information submitted by the applicant has been compiled and prepared by experts in their respective fields and has been scrutinised by the relevant experts within the Environment Agency and Public Health England (the former returned a consultation response of *'no comment'* and the latter advised that, provided all appropriate measures to prevent or control pollution were taken, they had *"no significant concerns regarding risk to health of the local population"*). Taking this into account, the information, as submitted, is considered to be both adequate and sufficient upon which to assess the proposals whilst having regard to the statutory obligations placed upon the County Planning Authority. The consultation responses received are the views expressed by experts in their respective fields and they have returned their independent and impartial opinions insofar as their individual areas of expertise. Upon reviewing the submissions of expert consultants, those consulted are

assumed to be satisfied that the mitigation of the effects with regard to safeguarding the amenity of local residents from potential adverse impacts upon air quality are both appropriate and proportionate.

- 7.73 The Authority is also obliged to have regard to the advice provided within national *Planning Practice Guidance* which at Annex C to the '[Minerals](#)' section ([Section 27](#)) (Paragraph 139) pays specific attention to the matter of '*planning for hydrocarbons*' and suggests model planning conditions that authorities should consider in making decisions. In order to safeguard interests of acknowledge importance such as those living in the vicinity of operations or ecological interests, the imposition of the following condition is considered to be warranted:
- *No activity hereby permitted shall cause dust to be emitted so as to adversely affect adjacent residential properties and/or other sensitive uses and/or local environment. Should such an emission occur, the activity shall be suspended until a revised Dust Management Plan is submitted and approved by the County Planning Authority*
- 7.74 While air quality impacts have been cited by those in objection against the proposals to continue operations until 2035, the continued operations have been assessed, as has the method and programme of working, the safeguards that would be put in place, as well as the separation distances from sensitive receptors including both local residents and sensitive habitats. Furthermore, due regard has been had to the jurisdictional controls of the Environment Agency, including the fact that it has issued relevant *environmental permits* and also to the controls available to the District Council Environmental Health Officer in terms of environmental safeguards. These considerations, together with the absence of unacceptable and/or adverse cumulative effects upon air quality of material significance in light of their effects in terms of magnitude, extent, duration, timing and frequency, render criteria (b), (c), (e) and (i) of 'saved' NYMLP Policy 4/1, 'saved' NYMLP Policy 4/14 and RDC-LPS Policies SP17 and SP20 to have been satisfied.
- 7.75 The proposals for the continuation of operations for a defined period of time until 2035, having been assessed for their effects, appropriately mitigated, weighed in the planning balance, acknowledging the degree of consistency of the extant policies of the '*development plan*' with the NPPF, have been demonstrated to be capable of being mitigated. The extended operational time period is considered to be, overall, without significant conflict such as to argue a contravention of planning policy. Appropriately mitigated and weighed in the planning balance, acknowledging the degree of consistency of the extant local planning policies with the NPPF, the extended operational time is not considered to give rise to conflict with '**saved** NYMLP Policy 4/1, in particular criteria (b), (c), (e) and (i), '**saved** NYMLP Policy 4/14 or RDC-LPS Policies SP17 and SP20.
- 7.76 Taking into consideration the following in respect to the possible impacts upon air quality arising from the proposals to continue operations:
- environmental and other additional information received including the submitted '*Air Quality Review*';
 - representations received;
 - the measures proposed by the applicant in mitigation;
 - responses from consultees, including the absence of objection having been returned from relevant '*technical*' consultees;
 - the absence of any conflict with relevant development plan and extant planning policy
- there is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that any impacts upon air quality would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Noise

- 7.77 The assessment of the effects of the proposals for the continuation of the operations for the time period sought in respect of noise is provided within the *Environmental Report* (Chapter 6 refers). The noise impact assessment considered that while the likely noisier impacts are those associated with any maintenance, *workovers* or drilling activities, the “*noise from ongoing gas production activities, including routine site visits is very low and effectively inaudible at the nearest residence to the wellsites*”. This would similarly be the case in respect of any routine monitoring visits along the pipeline network. The chapter within the *Environmental Report* has also been informed by a later submitted [‘Assessment of Environmental Noise Emissions’](#) in May of 2019.
- 7.78 The assessment of effects with regard to noise in the *Environmental Report* described existing mitigation measures as including, *inter alia*, the adherence to best noise avoidance and noise reduction practices with regard to site working e.g. avoiding idling engines; a prohibition on any flaring; the utilisation of noise attenuation equipment; the implementation of a noise management and monitoring plan; the “*bunding, planting and fencing*” and the limited duration of activities that could give rise to excessive noise impacts.
- 7.79 The submitted [Schedule of Mitigation](#) refers to the following examples in mitigation:
- “*General good practice relating to wellsite maintenance applies – for example:*
 - *positioning of any noisy equipment to ensure noise is minimised.*
 - *use of appropriate silencers on equipment as appropriate.*
 - *no night-time vehicle movements, except in an emergency.*
 - *regular maintenance of equipment to minimise noise generation*”.
- 7.80 The foremost extant planning policies against which to assess the proposals to continue operations in respect of any noise impacts include ‘**saved**’ NYMLP Policy 4/1, and, in particular, **criterion (b)** (requiring both siting and scale to be acceptable), **criterion (c)** (seeking, through the method and proposed programme of works, that any impacts would be minimised), **criterion (e)** (directing that proposals are assessed for their environmental and amenity safeguards to effectively mitigate against any impacts) and **criterion (i)** (seeking to ensure against unacceptable cumulative impacts), ‘**saved**’ NYMLP Policy 4/14 (ensuring unacceptable environmental impacts do not arise) and RDC-LPS Policy SP20 (seeking to ensure that the character of place is safeguarded through compatible land use planning so as not to “*prejudice the continued operation of existing neighbouring land uses*” and that material adverse impacts, such as that through noise, upon the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community are not incurred). It is necessary for due regard to be had to these policies in assessing the potential impacts of the development.
- 7.81 The objections that have been raised against the proposals to continue operations until 2035 have pointed to “*unacceptably high levels of noise*”; however, in recognising the key impacts which need to be addressed include those who are likely to be affected by associated noise including those living and working in the local area and local wildlife too such as that associated with both activities on-site and vehicles associated with the proposals to continue operations off-site, nothing in the documentation supporting the seeking of the continuity of operations supports this contention that noise levels would be ‘*unacceptably high*’ when taking into consideration that the more noisier activities were those experienced when the pipeline network and associated infrastructure was originally installed. The activities likely to occur, for the large part of the duration of the continued operations, are likely to be limited in both their nature, scale and duration.

- 7.82 The proposals have been the subject of consultation with relevant experts within their respective jurisdictions (Section 4.0 of this report refers). On the basis of the responses to consultation from experts, either returning a statement of *'no comment'* or, indeed, making no response to consultation, together with an absence of any advice to the contrary, the information, as submitted, is considered to be both adequate and sufficient upon which to assess the proposals to continue operations whilst having regard to the statutory obligations placed upon the County Planning Authority.
- 7.83 Such obligations also include having regard to NPPF Paragraph 54 of the NPPF which requires authorities to *"consider whether otherwise unacceptable development could be made acceptable through the use of conditions..."*. Such conditions as those covering noise control ensure that noise limits do not exceed those specified and that adequate maintenance of all plant and machinery is such as to ensure against excessive noise being generated. Advice is also provided within the national *Planning Practice Guidance* which at Annex C to [Section 27](#) (Paragraph 139) pays specific attention to the matter of planning for hydrocarbons and suggests model planning conditions that planning authorities should consider in the determination of applications; at the same time being mindful of the obligation to impose the conditions as those previously imposed. In order to safeguard interests of acknowledge importance such as those living in the vicinity of operations or ecological interests, the imposition of the following condition is considered to be warranted:
- *All plant and machinery shall be adequately maintained and silenced in accordance with the manufacturer's recommendations at all times.*
- 7.84 In,
- assessing the submissions relating to noise impact assessment including the explanations with regards the method and programme of working together with the safeguards that would be in place, as well as the separation distance from those living and working within the vicinity of the application site;
 - recognising the submissions have not given rise to any comments forthcoming from any of those with whom the County Planning Authority has consulted; and,
 - recognising the absence of unacceptable and/or adverse cumulative effects of noise of material significance in terms of magnitude, extent, duration, reversibility, timing and frequency
- criteria (b), (c), (e) and (i) of 'saved' NYMLP Policy 4/1, 'saved' NYMLP Policy 4/14 and RDC-LPS Policy SP20 are considered to have been satisfied.
- 7.85 The consultation responses received are those expressed by experts in their respective fields and have returned their independent and impartial opinions insofar as their individual areas of expertise. Upon reviewing the submissions of expert consultants and taking into account the responses to consultation, the conclusions of the assessments are considered to be acceptable and the mitigation of effects which are considered satisfactory with regard to safeguarding against the adverse effects of noise and are considered to be both appropriate and proportionate.
- 7.86 While representations have cited *"unacceptably high levels of noise"* as a ground for objection, the proposals to continue operations for a defined period of time, having been assessed for their effects, appropriately mitigated and weighed in the planning balance, acknowledging the degree of consistency of the extant local planning policies with the NPPF, are not considered to give rise to significant conflict with **'saved' NYMLP Policy 4/1**, in particular criteria (b), (c), (e) and (i), **'saved' NYMLP Policy 4/14** and **RDC-LPS Policy SP20**.
- 7.87 Taking into consideration the following in respect of the possible impacts upon the local community and/or environment from noise arising from the proposals to continue operations:
- environmental and other additional information received;

- the noise impact assessment and the conclusions drawn therein;
- representations received;
- the measures proposed by the applicant in mitigation;
- responses from consultees, including the absence of objection having been returned from relevant *'technical'* consultees; and,
- the absence of any conflict with relevant *'development plan'* policies and/ or extant national policy

there is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that these noise impacts would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Highway & traffic impacts (including access, routing, other users of the public highway, public rights of way and safety)

- 7.88 The assessment of the effects of the continuation of operations until 2035 in respect of traffic and transport is provided within the *Environmental Report* (Chapter 7 refers). It explains there are no changes to the operations and *"traffic levels will remain small"*, accord with a generalised *Traffic Management Plan* covering site operations and, as the pipeline is already in existence, their respective points of access/egress are already in place and in use. The applicant company has explained that the pipeline network is routinely inspected to ensure the integrity of their infrastructure.
- 7.89 In light of the stated absence of any *"material impact on the operation or safety of the road network"*, the assessment has concluded that the vehicle numbers involved as a result of the proposed extension of lifetime of the infrastructure until 2035 pose only a *'negligible'* impact and, while it is possible that there may be cumulative effects arising from the use of operator vehicles associated with the sites, in all likelihood any routine inspections would be conducted by as few concurrent vehicle movements as possible.
- 7.90 The assessment of the effects of the continuation of the operations until 2035 upon traffic levels and the local highway network described the existing mitigation measures as including, *inter alia*, the availability of parking and manoeuvrability space avoiding the need for any parking on tracks or roads, site personnel present in the event of the use of large vehicles, the provision for the passage of all vehicles in forward gear and, the use of *Traffic Management Plans* (including *"details of specific route management requirements, driver behaviour requirements and management measures and parking strategies for the wellsites"*) (as identified within the submitted [Schedule of Mitigation](#)).
- 7.91 The principal extant planning policies against which to assess the continuity of operations for an extended period of time until 2035 resulting from associated vehicle movements upon interests of acknowledged importance are **'saved' NYMLP Policy 4/1** and, in particular, **critterion (c)** (seeking, through the method and proposed programme of works, that any impacts would be minimised), **critterion (e)** (directing that proposals are assessed for their environmental and amenity safeguards to effectively mitigate against any impacts), **critterion (h)**, requiring transport links to be acceptable (acknowledging while associated HGV traffic would be involved with delivery and removal of equipment, the transport of the gas, *per se*, would continue to be via pipeline) and **critterion (i)** (seeking to ensure against unacceptable cumulative impacts); **'saved' NYMLP Policy 4/14** similarly ensuring against unacceptable impacts but upon the environment in general; **'saved' NYMLP Policy 4/15** safeguarding public rights of way and **RDC-LPS Policy SP20** ensuring the character of place is safeguarded through compatible land use planning so as not to *"prejudice the continued operation of existing neighbouring land uses"* and that proposals do not incur material adverse impacts, such as that through noise, upon the amenity of present or

future occupants, the users or occupants of neighbouring land and buildings or the wider community.

7.92 While '*high levels of traffic*' have been cited by those in objection against the continuation of operations, the considerations are whether the impacts that would result from the scale, nature and characteristics of traffic and their likely consequences in transport terms associated with the proposals to continue existing operations for a further period of time, are deemed to be such that the residual cumulative impacts of the development are of such severity as to warrant a refusal of the application.

7.93 The supporting information has been scrutinised by the relevant experts within the Highway Authority who have returned '*no objection*' to the extension of the time period in which to continue operations, subject to the imposition of appropriate planning conditions to ensure reasonable control in the interest of both highway safety and amenity safeguards. Such conditions, previously imposed, include ones controlling site access, parking, turning, loading and unloading as well as the time limitations upon vehicular activity. Taking this into account, the information, as submitted, is considered to be both adequate and sufficient upon which to assess the proposals whilst having regard to the statutory obligations placed upon the County Planning Authority. Safeguards to protect highway safety are capable of being imposed through the such as conditions as those below:

- *There shall be no access or egress between the highway and the route of the pipeline by any vehicles other than via the points of access, as indicated in the application details, and no other points of access shall be used. Access shall be gained in a safe manner and measures shall include the repair of any damage to the existing adopted highway, or any public right of way, should any occur during operations;*
- *There shall be no HCV access to the route of the pipeline until a survey recording the condition of the existing adopted highway at the point of access has been carried out in accordance with a scheme previously approved in writing by the County Planning Authority in consultation with the Highway Authority. Within one month of the completion of the operations, the applicant shall carry out a second survey recording the condition of the highway at the point of access. The survey shall be submitted to the County Planning Authority for its written approval and, thereafter, any works reasonably required in order to rectify any damage to the public highway resulting from traffic arising from the operations shall be completed to the satisfaction of the County Planning Authority in consultation with the Highway Authority.*

7.94 The findings of the assessment are considered to be acceptable and the mitigation measures with regard to associated traffic and highway-related impacts are considered both appropriate and proportionate.

7.95 In,

- assessing the submissions relating to associated traffic including the explanations with regards the method and programme of working together with the safeguards that would be in place, as well as the separation distance from those living and working nearby;
- recognising the submissions have not given rise to any comments forthcoming from any of those with whom the Authority has consulted; and,
- recognising the absence of unacceptable and/or adverse cumulative effects of any material significance in terms of magnitude, extent, duration, reversibility, timing and frequency criteria (c), (e), (h) and (i) of 'saved' NYMLP Policy 4/1, 'saved' NYMLP Policy 4/14, 'saved' NYMLP Policy 4/15 and RDC-LPS Policy SP20 are considered to have been satisfied.

7.96 The proposals for the continuation of operations for a defined period of time until 2035, having been assessed for their effects, appropriately mitigated, weighed in the planning balance, acknowledging the degree of consistency of the extant policies of the '*development plan*' with the NPPF, are not considered to be in conflict with **criteria (c)**,

(e), (h) and (i) of 'saved' NYMLP Policy 4/1, 'saved' NYMLP Policy 4/14, 'saved' NYMLP Policy 4/15 or adopted RDC-LPS Policy SP20.

7.97 Taking into consideration the following in respect to the possible impacts upon the local community and/or environment arising from traffic associated with the proposals to continue operations:

- environmental and other additional information received;
 - representations received;
 - the measures proposed by the applicant in mitigation;
 - responses from consultees, including the absence of objection having been returned from relevant 'technical' consultees;
 - the absence of any conflict with relevant 'development plan' and extant planning policy
- there is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that any impacts arising from associated traffic would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Site restoration

7.98 The proposals to continue operations until 2035 make no change to the proposals to restore the wellsites, other than the consequence that the restoration of the sites would be dependent upon the circumstances imposed upon the previous grants of consent which are as follows:

- (i) *by a defined date;*
- (ii) *within 6 months of the cessation of significant gas production;*
- (iii) *within 6 months of the cessation of electricity generation at Claypit Plantation; or,*
- (iv) *within 6 months following the abandonment of the site, whichever is the sooner.*

7.99 National planning practice guidance emphasises the importance of the care and management of the soils resource on sites as well as site restoration and 'after care'; although in respect of the already in existence underground pipeline, the requirements are more likely to focus upon the removal of any above-ground infrastructure associated with the pipeline and rendering the pipeline inert in accord with good oil field practice. With regards the latter, this mirrors the previously imposed condition which reads,

"When gas is no longer produced from all of the well heads services by the pipelines measures shall be taken to render the pipelines inert in accordance with good oil field practice."

7.100 Such an undertaking outlined above finds support within extant **NYMLP Policy 4/18, Policy 4/20, Policy 7/10 and Policy 7/11** rendering the proposals either compliant or avoiding any significant conflict with these particular policies.

Cumulative & in-combination impacts

7.101 The assessment of the cumulative and 'in-combination' impacts of the continuation of operations until 2035 is included within the *Environmental Report* (Chapter 10 refers). The parameters of impact studied include magnitude, extent, duration, reversibility, timing and frequency of effects. Cumulative impacts may be defined as effects on any interest of acknowledged importance that result from incremental changes arising from a combination of past, current and reasonably foreseeable future developments. Over time, direct and indirect human activities combine to collectively impact the environment. The assessment of impacts discusses the proposals in the context of other gas-related developments (previously referred within paragraph 3.1 above) as well as other existing developments and future developments for which planning permission has been granted, but which have yet to be implemented and identified 1,071 developments within its assessment; a list which was then 'refined' down to 62 for further assessment of cumulative effects.

- 7.102 The assessment acknowledges that “*other development unrelated to onshore gas production could also result in cumulative effects relating particularly to noise, air quality, traffic or hydrology/flood*” and, furthermore, that “*there is also the potential for “combined” effects from a single site on the same receptor; for example, the effect of noise, air quality and traffic changes on a single residence*”. The assessment found there to be, with mitigation and controls in place, “*no significant cumulative effects*” arising from the continuation of operations until 2035 and “*where cumulative effects could occur these would either be minimal, or measures would be put in place to control these impacts, which would ensure no significant cumulative effects would arise*”.
- 7.103 The foremost extant planning policies against which to assess the proposals to continue operations are ‘**saved**’ **NYMLP Policy 4/1** and, in particular, **criterion (i)** (seeking to ensure against unacceptable cumulative impacts), and **RDC-LPS Policy SP20** (seeking to ensure that the character of place is safeguarded through compatible land use planning so as not to “*prejudice the continued operation of existing neighbouring land uses*” as well as ensuring that the cumulative impacts of new development are also considered together with ensuring proposals do not incur material adverse impacts, such as that through light pollution, upon the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community).
- 7.104 The consideration of the proposals have also had due regard to national policy concerning safeguarding against potential significant adverse cumulative impacts; attention to which is drawn in **NPPF Paragraph 180** seeking to ensure that account is taken of the effects (including cumulative effects) of pollution on health, living conditions and the natural environment as well as potential site sensitivity and further reinforced by reference to the need “*to take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality*” in **Paragraph 205(b)**.
- 7.105 Where guidance at the national level is provided in specific regard to oil and gas-related proposals, the NPPG advises “*there are occasions where other existing or approved development may be relevant in determining whether significant effects are likely*” and authorities “*should always have regard to the possible cumulative effects arising from any existing or approved phases of hydrocarbon extraction*”. Pointing to multiple proposals, due regard must be made of “*the overall combined environmental impact [which] might be greater or have different effects than the sum of their separate parts*”.
- 7.106 The proposal to continue operations until 2035 having been assessed for its effects, appropriately mitigated and weighed in the planning balance, acknowledging the degree of consistency of the extant planning policies with the NPPF, is not considered to give rise to conflict with ‘**saved**’ **Policy 4/1 of the NYMLP**, in particular **criterion (i)** and **RDC-LPS Policy SP20**.
- 7.107 The supporting information has been subject to scrutiny during the consideration of the proposals and returned consultation responses are ones of ‘*no comments*’, ‘*no objections*’ or ‘*no objections subject to conditions*’. The consultation responses received are the views expressed by experts in their respective fields and have returned their independent and impartial opinions. Those from whom advice has been sought have accepted the findings of the applicant’s experts and are satisfied that the mitigation of possible cumulative effects of the proposals contained within the submitted [Schedule of Mitigation](#) are both appropriate and proportionate. Furthermore, planning conditions are capable of being imposed which would in themselves, either individually and collectively, also serve to mitigate against any adverse significant

cumulative and/or *'in-combination'* effects upon interests of acknowledged importance should Members be minded to grant planning permission.

- 7.108 Taking into consideration the following in respect to the possible cumulative and/or *'in-combination'* effects arising from the continuation of operations for the period sought:
- environmental and other additional information received including the assessment of cumulative impacts;
 - representations received;
 - the measures proposed by the applicant to mitigate against possible cumulative impacts;
 - responses from consultees, including the absence of any objection having been returned from relevant *'technical'* consultees; and,
 - the absence of any conflict with relevant and extant planning policy
- there is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that the cumulative impacts would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Additional material considerations:

The wider issues of national energy and climate change policy

- 7.109 Those making representations against the proposals to continue operations until 2035 have cited the impacts upon climate change as a reason to object to the proposals. While there are no extant *'development plan'* policies specifically addressing the issue of climate change, *per se*, within the adopted *North Yorkshire Minerals Local Plan*, the release of greenhouse gas emissions to atmosphere are considered to be *'caught'* by *'saved'* NYMLP Policy 4/1 and, in particular, **criteria (e)** (directing that proposals are assessed for their environmental and amenity safeguards to effectively mitigate against any impacts). This would include the release of greenhouse gases to atmosphere; the most notable of which is methane (CH₄). The emerging Minerals & Waste Joint Plan's **draft Policy M17** and **draft Policy D11** also seek to address the issue of greenhouse gas emissions.
- 7.110 At the national level, within the national online *Planning Practice Guidance*, the section on *'Minerals'*, at Paragraph 124, gives emphasis to the government's view that, nationally, energy should come from a variety of sources, including oil and gas, and states that when making decisions, authorities should have regard to national energy policy, that is to say, that energy supplies should come from a variety of sources, including onshore oil and gas. The Government's *Annual Energy Statement* (published in October 2013) referred to in that same paragraph points out that national energy policy has two key drivers; namely, the need for energy security and carbon emission reduction. Whilst acknowledging that renewable energy will have a part to play, the government's view is that oil and gas, especially indigenous oil and gas, will remain key to energy security and, at the same time, facilitate the reduction of greenhouse gas emissions.
- 7.111 The assessment of the effects of continued operations for a defined period of time with respect to climate change provided within the *Environmental Report* identified that the main sources of greenhouse gases (principally CO₂) arising from the combustion of gas at the Knapton Electricity Generating Station are emitted from both the existing stack and flare. Emissions also arise from associated traffic as well as fugitive emissions (e.g. gases arising from equipment under pressure due to leaks and/or unintended/irregular gas releases) and principally methane (CH₄). It is important to note that the methane (CH₄) is, in fact, the resource which the applicant company is seeking to continue to exploit. There is not only, therefore, an environmental, but an economic imperative that fugitive emissions of greenhouse gases, including emissions

of methane are reduced to a minimum as far as possible. As discussed earlier in the sub-section on 'air quality impacts', with mitigation in place, the residual effects from greenhouse gases from the wellsites, pipelines and associated traffic are considered to be "negligible in comparison from CO₂ emissions at KGS". The Report reminds readers that NPPF Paragraph 122 (which is now replaced by Paragraph 183 in NPPF2019) that authorities should focus upon the acceptability of land use rather than controlling processes or emissions "where these are subject to separate pollution control regimes".

- 7.112 Members are asked to note that to determine an application's individual contribution in the wider context of climate change as being material would be unreasonable in the circumstance of any calculation of the predicted emissions arising from the continuation of operations until 2035. Notwithstanding, the applicant has provided a calculation by way of explanation of the existing impacts resulting in the statement, "the total greenhouse gas emissions in 2016 from the energy supply sector was 120.2 MtCO_{2e} (120,200,000 tonnes). Assuming the maximum emissions from KGS since EU ETS reporting commenced (<126,000 tonnes CO_{2e}/y) and maximum predicted emissions from 10 wells (2,600 tonnes CO_{2e}/y), this would contribute just over 0.1% of the UK's 2016 CO₂ emissions from the energy supply sector, which is negligible".

It is acknowledged that this is indeed a calculated and predicted contribution, but one against upon which it would be unreasonable to sustain an argument of refusal of the proposals to continue operations on this ground alone and the argument to sustain such a refusal sufficiently compelling.

Other matters:

Relationship with the exploitation of unconventional hydrocarbon resources:

- 7.113 One of the grounds of objection expressed by Ryedale District Council is that of being "strongly opposed to the exploitation of unconventional gas resources through hydraulic fracturing in the Vale of Pickering. It goes on to state "The applications are, in part justified on the basis that the development proposed would ensure that a network of infrastructure is in place to support hydraulic fracturing in the future. This is not acceptable to this Authority and it objects to the applications on this basis".
- 7.114 The proposals concern the continuation of the use of the infrastructure for the purpose of the exploitation of conventional gas resources and any proposal that lies outwith this purpose would, depending upon the nature of that proposal, require the express grant of planning permission to do so. Ryedale District Council point out that the proposals concern "an extension of time to undertake existing consented activity".
- 7.115 However, Ryedale District Council go on to state that it "understands [there] to be a substantial decline in conventional gas production" and that therefore "there is insufficient information to justify why a further extension of time of 17 years and a further borehole at the KM-A well site is required". The information which the District Council believes to be sparse is that "relating to or justifying the rate of production or anticipated levels/rate of continued exploitation of the conventional reserves".
- 7.116 However, to suggest that any reduction in the rates of gas from the infrastructure could justify a refusal of planning permission would be both unreasonable and unsustainable on the basis that remaining reserves of commercially exploitable natural gas exist and more is believed to be capable of being discovered as well as the possibility of advances in technological improvements within the gas industry that could render more reserves becoming available in the future. As referred earlier (paragraph 7.12 above), oil and gas are minerals of national and local importance and prospective developers are not expected to make an argument of need by justifying proposals in terms of their

economic credentials. It would neither serve the wider public interest or satisfy the principle of sustainable development were decisions to be made to abandon and decommission existing infrastructure, if only to find additional new green-field sites were the only choice further down the line. A sustainable approach would be one which allows for as much of the gas to be exploited using existing infrastructure as possible mirroring the national expectation of maximising the economic recovery of natural gas. Furthermore, as referred earlier in this report, national policy reiterates that oil and gas are minerals of national and local importance and prospective developers are not expected to make an argument of need by justifying proposals in terms of their economic credentials. The development of hydrocarbon resources continues to be consistent with government policy that it is seen as a national need.

Out-dated infrastructure

- 7.117 Those making representations in objection against the proposals to continue operations until 2035 have cited the ground of the infrastructure being '*out-dated*'. However, the jurisdiction of decision-making as to whether such infrastructure is '*fit for purpose*' lies outwith the jurisdiction of the town and country planning system. The Authority must instead defer to those with the relevant expertise to make the appropriate decisions using the knowledge and experience within their respective fields and disciplines.

8.0 Conclusion

- 8.1 Each application must be considered on its individual merits. Furthermore, notwithstanding that the effects of any development will, of course, have certain degrees of impact upon those living, working and holidaying within the locality, there has been no demonstrable evidence to substantiate such statements to a material degree to warrant re-consideration of the assessment of the proposals. That said, the consideration of such effects of the proposals to continue operations has been subject to the scrutiny of those from whom advice has been sought and opportunity to have due regard to such effects has been had in the assessment of the proposals. The application must be determined in accordance with the principles applying to the determination of all applications; the starting point of which are the policies that comprise the '*Development Plan*' and Members are advised to determine the application in accordance with the '*Development Plan*', unless material considerations indicate otherwise.
- 8.2 In this particular case, there are a number of individual policies within the '*Development Plan*' that are considered to be relevant. However, it is important to note that, in assessing the proposals against the '*Development Plan*', regard should be had to the '*Development Plan*' as a whole. It may not therefore be necessary for a proposal to comply with all policies in order to be found compliant with the '*Development Plan*'.
- 8.3 Consideration of this application against the provisions of the '*Development Plan*' is also influenced by the status of its various elements relative to national policy expressed within the NPPF, which, itself, is an important material consideration. A key element of the '*Development Plan*', relevant to this decision, is the NYMLP. As the NYMLP was adopted under provisions pre-dating the *Planning and Compulsory Purchase Act 2004*, the NPPF advises that due weight should be given to policies in such plans according to their degree of consistency with the NPPF. Members are asked to note that the advice in the NPPF is, however, one of a number of material considerations and does not usurp the statutory duty to determine applications in accordance with the '*Development Plan*' unless material considerations indicate otherwise. Furthermore, it should also be noted that, while relevant and material and also forming part of the '*Development Plan*', policies adopted by Ryedale District

Council within their *Local Plan Strategy* have not been prepared specifically to address the particular purposes under consideration in this instance.

- 8.4 As discussed in Section 7.0 of this report, it is concluded that the proposals receive support, or do not conflict with, some policies in the '*Development Plan*'. This includes support from those policies relating to minerals development and particularly those relating to oil and gas. It is considered that the continuation of operations for the further time period sought would not conflict with those policies seeking to prevent unacceptable harm from being caused to residential amenity (including air quality, pollution, impact on health, noise, dust, odour and litter), highways and transport interests, ecology, restoration and aftercare, archaeology, flooding, land instability and cumulative impact. As such, there are similarly no conflicts to such a degree that would warrant or justify refusing the proposals.
- 8.5 As has also been discussed earlier, the continuation of operations also receives support at the national policy level in the contribution that it could make to the continued supply of energy through the exploitation of indigenous gas resources consistent with the objectives set at the national level and with a range of other national strategies supporting the increased supply of gas for energy security.
- 8.6 Those raising objection against the proposals to continue operations for a further period of time have done so on a number of grounds including planning policy conflict; air quality impacts; harm to biodiversity; threat to water quality; unacceptably high levels of noise; high levels of traffic; impacts on local economy & tourism; industrialisation of the countryside; climate change, need more renewables and abandonment of reliance upon fossil fuels; 17 years is excessive; absence of any gas left demonstrated by absence of production; and, out-dated infrastructure. However, those from whom expert advice has been sought, have returned their independent and impartial opinions insofar as their individual areas of expertise which, upon reviewing the submissions have accepted the findings of the applicant's experts and are satisfied that the mitigation of the effects with regard to safeguarding the both the natural and the water environment, amenity, traffic and highways are appropriate and proportionate and that, where the consultee is of the opinion that controls are necessary, they have '*offered-up*' suggested wording for the consideration in the form of revised or updated planning conditions.
- 8.7 As has also been earlier referred, the proposals seek solely the continuity of the operations and do not propose any other changes and, therefore, the conditions to which the applicant has been previously working (subject to those that may have already been discharged) are considered to be equally applicable in this instance. Due regard has been had to government guidance with regards the consideration of "*whether otherwise unacceptable development could be made acceptable through the use of conditions*". The conditions bear in mind the applicable tests of conditions (**Paragraph 55 of the NPPF** refers) i.e. that a condition must be *necessary; relevant to both planning and to the development to be permitted; enforceable; precise and; reasonable in all other respects*.
- 8.8 Planning conditions relating to the safeguarding of both the natural environment and the amenity of local residents include those seeking to protect both ground and surface waters, the safeguarding of both protected species and designated habitats, the enhancement of the landscape through the augmentation of screen planting, ensuring impacts upon the levels of amenity currently enjoyed by local residents are minimised as well as the control of vehicle use associated with the proposals to continue operations and their routes used are all capable of rendering the proposals acceptable in land-use planning terms.

- 8.9 Having assessed the proposals to continue operations with respect to both the ‘*Development Plan*’ and any other material considerations to which the Authority must have due regard (notwithstanding the objectors’ expressed concerns about potential adverse effects which are both acknowledged and understood), it has not been found that there are any material adverse impacts that would “*significantly and demonstrably outweigh the benefits*”. The necessary circumstances that would give rise to a refusal of planning permission have not been satisfied.

Decision-taking

- 8.10 Members will be aware that when taking decisions, one must:
- a) act fairly and openly;
 - b) approach each case with an open mind;
 - c) refer to the *Development Plan* and material considerations in decision making;
 - d) carefully weigh up relevant issues;
 - e) determine each case on its own merits; and,
 - f) ensure that there are clear and substantive reasons for their decisions and that those reasons are clearly stated.
- 8.11 The Authority is obliged, as it is with all applications, to determine the applications on their individual merits and not on the basis of any future decisions, whether they be for an approval or a refusal and regardless of their nature.
- 8.12 The Authority is bound, by obligation, to consider only those matters that are considered material to determine whether the proposals before the Committee are acceptable in land use planning terms. Furthermore, Members consideration of any future applications for hydrocarbon-related operations would be unfettered by any decision here.

Obligations under the Equality Act 2010

- 8.13 In carrying out its duties, the Authority must have regard to the obligations placed upon it under the *Equality Act 2010* and due regard has, therefore, been had to the requirements of *Section 149* (Public Sector Equality Duty) to safeguard against unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act. It also requires public bodies to advance equality of opportunity between people who share a *protected characteristic* and people who do not share it; and foster good relations between people who share a *protected characteristic* and people who do not share it. It is considered that the proposals would not give rise to significant adverse effects upon the communities in the area or socio-economic factors, particularly those with ‘*protected characteristics*’ by virtue that the impacts can be mitigated so that they will not have a significant impact on groups with ‘*protected characteristics*’.

Obligations under the Human Rights Act 1998

- 8.14 The *Human Rights Act 1998* requires the Authority to take into account the rights of the public under the *European Convention on Human Rights* and prevents the Authority from acting in a manner which is incompatible with those rights. *Article 8* of the *Convention* provides that there shall be respect for an individual’s private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (*inter alia*) public safety and the economic wellbeing of the country. *Article 1* of *Protocol 1* provides that an individual’s peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 8.15 Having had due regard to the Act, the relevant issues arising from the continued operations have been assessed as the potential effects upon those living within the vicinity of the site namely those affecting the right to the peaceful enjoyment of one’s

property and the right to respect for private and family life and homes, and considering the limited interference with those rights is in accordance with the law, necessary and in the public interest.

9.0 Recommendation

9.1 Upon considering that the submitted information, including further and other information submitted by the applicant, includes such information as is reasonably required to assess the environmental effects of the proposals and which the applicant could be reasonably required to compile; and

9.2 Having taken into account the environmental information, namely the submitted *Environmental Report*, including further and other information submitted by the applicant, and duly made representations about the environmental effects of the proposals; and

9.3 Having had due regard to the *Human Rights Act*, the relevant issues arising have been assessed as the potential effects upon those living within the vicinity of the application site, namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering that the limited interference with those rights is in accordance with the law, necessary and in the public interest;

9.4 For the following reasons:

- i. the proposal accords with the relevant national objectives and policies as stated in the NPPF (2019) and as outlined within Section 6.0 above;
- ii. the proposal accords with 'saved' NYMLP policies 4/1 ('*determination of planning applications*'), 4/6a ('*local nature conservation and habitat protection*'), 4/10 ('*water protection*'), 4/14 ('*local environment and amenity*'), 4/15 ('*public rights of way*'), 4/18 ('*restoration*'), 4/20 ('*after-care*') and 7/11 ('*retention of features*') and no significant conflict has been identified with 'saved' NYMLP policies 7/6 ('*development scheme*'), 7/7 ('*development of new reserves*') and 7/10 ('*restoration*') or RDC-LPS Policies SP6 ('*delivery and distribution of employment/industrial land and premises*'), SP13 ('*landscapes*'), SP14 ('*biodiversity*'), SP17 ('*managing air quality, land and water resources*') and SP20 ('*generic development management issues*');
- iii. the proposal does not conflict with the abovementioned policies (including 'saved' policies) as it is considered that the potential environment effects outlined within Section 7.0 above are not considered to be so materially adverse as to be regarded as significant and the operations over an extended period of time until 2035 are capable of being sufficiently controlled either through planning conditions or the operation of the *Environmental Permitting (England and Wales) Regulations 2010 (as amended)* under the jurisdiction of the *Environment Agency*, together with the remits of the *Health and Safety Executive* and the *Oil and Gas Authority* and the implementation of appropriate mitigation measures as proposed by the applicant; and,
- iv. it is considered that the imposition of conditions will ensure that there are no unacceptable impacts, either singularly or cumulatively, on the environment, residential amenity, landscape, cultural heritage, ecology, highway safety, traffic or public health and that appropriate measures are capable of ensuring restoration and aftercare to a satisfactory standard.

9.5 **PLANNING PERMISSION BE GRANTED** for the purpose of the variation of condition no's 1 & 2 of Planning Permission Ref. C3/06/00625/CPO/F for the retention of the existing Vale of Pickering pipeline network between existing wellsites and Knapton Generating Station for a further 17 years from 2018 to 2035 on land at Pipeline to Knapton Generating Station, East Knapton, Malton, North Yorkshire on behalf of Third Energy UK Gas Limited subject to the following conditions:

Definition of development:

1. The development hereby permitted shall be maintained in accordance with the application details dated 10th May 2018 (including the *Planning Statement* (dated 9th May 2018) and *Environmental Report* (v4) (dated 16th May 2018) (including its associated appendices) and all associated plans, subsequent information submitted on 26th September 2018 and 30th May 2019, the *Approved Documents List* below and the following *Schedule of Conditions* which, at all times, shall take precedence.

Reason: To reserve the right of control by the County Planning Authority to monitor the development for compliance with this permission in order to ensure that the development is carried out in accordance with the application details.

Duration of development:

2. The permission hereby granted is valid until 31st December 2035 and the development hereby approved shall cease to be used, all above-ground facilities shall be removed and measures shall be taken to render the pipelines inert in accordance with good oil field practice:

(i) by 31st December 2035; or,

(ii) within eighteen (18) months of the cessation of electricity generation at Knapton Generating Station
whichever is the sooner.

Reason: To reserve the right of control by the County Planning Authority to monitor the development for compliance with this permission and to ensure the restoration of the land with the minimum of delay in the interests of amenity.

Limitations and control of the development:

3. Where the pipeline may affect any apparatus belonging to a statutory undertaker within the meaning of the Town and Country Planning Act 1990, any works for the operation or maintenance of the pipeline shall, except in so far as the Secretary of State otherwise directs, be carried out in accordance with the requirements of the County Planning Authority and of that undertaker.

Reason: To reserve the right of control by the County Planning Authority to monitor the development for compliance with this permission.

Highway matters:

4. There shall be no access or egress between the highway and the route of the pipeline by any vehicles other than via the points of access, as indicated in the application details, and no other points of access shall be used. Access shall be gained in a safe manner and measures shall include the repair of any damage to the existing adopted highway, or any public right of way, should any occur during any operations associated with the development hereby permitted.

Reason: To reserve the rights of control by the County Planning Authority in the interests of both vehicle and pedestrian safety and the visual amenity of the area.

5. There shall be no HCV access to the route of the pipeline until a survey recording the condition of the existing adopted highway at the point of access has been carried out in accordance with a scheme previously approved in writing by the County Planning Authority in consultation with the Highway Authority. Within one month of the completion of the operations, the applicant shall carry out a second survey recording the condition of the highway at the point of access. The survey shall be submitted to the County Planning Authority for its written approval and, thereafter, any works reasonably required in order to rectify any damage to the public highway resulting from traffic arising from the operations shall be completed to the satisfaction of the County Planning Authority in consultation with the Highway Authority.

Reason: To reserve the rights of control by the County Planning Authority in the interests of amenity and highway safety.

6. All vehicles associated with the development hereby permitted shall be checked and, if necessary, cleaned before leaving the site so that no mud or waste materials are deposited on the public highway.

Reason: To reserve the rights of control by the County Planning Authority in the interests of amenity and highway safety and in order to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

Hours of operation:

HCV movements:

7. Any vehicle movements and any works associated with the routine maintenance or repair of the pipelines shall only take place between:

Mondays to Fridays 0700 – 1900 hours
Saturdays 0700 - 1300 hours

There shall be no vehicle movements or works on any Sunday or Bank (or Public) Holiday unless associated with an emergency (which shall be regarded as circumstances in which there is a reasonable cause for apprehending injury to persons or serious damage to property).

Reason: To reserve the rights of control by the County Planning Authority in the interests of both highway safety and safeguarding the amenity of local residents.

Protection of water resources:

8. Where the pipeline may affect any water course, well or aquifer belonging to any statutory water undertaker, any works for the operation or maintenance of the pipeline shall, except in so far as the Secretary of State directs, be carried out in accordance with the requirements of the appropriate authority.

Reason: To ensure the rights of control of the County Planning Authority in the interest of preventing the pollution of surface and/or ground water resources.

External lighting:

9. No external lighting shall be installed except in accordance with a scheme approved in writing by the County Planning Authority. Such an approved scheme shall include details of location, height, type, orientation and intensity of the lighting.

Reason: In accord with Annex 3 ('Model planning conditions for surface area') of Part 9 within Section 27 of the National Planning Practice Guidance and in order to reserve the rights of control of the County Planning Authority in the interest of safeguarding the amenity of local residents and the local environment

Control of noise emissions:

10. All plant and machinery shall be adequately maintained and silenced in accordance with the manufacturer's recommendations at all times.

Reason: In accord with Annex 3 ('Model planning conditions for surface area') of Part 9 within Section 27 of the National Planning Practice Guidance and to secure the rights of control of the development by the County Planning Authority in the interest of protecting the amenity of local residents.

Control of emissions to atmosphere:

11. No activity hereby permitted shall cause dust to be emitted so as to adversely affect adjacent residential properties and/or other sensitive uses and/or local environment. Should such an emission occur, the activity shall be suspended until a *Dust Management Plan* has been submitted to and approved in writing by the County Planning Authority.

Reason: In accord with Annex 3 ('Model planning conditions for surface area') of Part 9 within Section 27 of the National Planning Practice Guidance and in order to reserve the rights of control of the County Planning Authority in the interest of safeguarding the amenity of local residents and the local environment.

Site security & site maintenance:

12. All fencing and gating of the site shall be maintained throughout the duration of the development prior to site restoration.

Reason: In order to reserve the rights of control of the County Planning Authority in the interest of safeguarding the amenity of local residents and the local environment.

Landscaping:

13. Existing landscaping along the pipeline route shall be maintained for the duration of the development.

Reason: In accord with Annex 3 ('Model planning conditions for surface area') of Part 9 within Section 27 of the National Planning Practice Guidance and to reserve the rights of control by the County Planning Authority and imposed in the interests of visual and local amenities and the environment of the area.

14. Any trees or shrubs which are removed, uprooted, destroyed, die or become severely damaged or diseased within five (5) years of planting shall be replaced within the next planting season.

Reason: In accord with Annex 3 ('Model planning conditions for surface area') of Part 9 within Section 27 of the National Planning Practice Guidance and to reserve the rights of control by the County Planning Authority and imposed in the interests of visual and local amenities and the environment of the area.

Protection of nature conservation interests:

15. No vegetation removal or pruning shall take place at the site within the bird nesting season unless a suitably qualified ecologist has confirmed that no nesting birds are present in the vegetation to be removed.

Reason: In the interests of the protection of nesting birds.

Protection of public rights of way:

16. No works required for routine maintenance or repair of the pipelines are to be undertaken which will create an obstruction, either permanent or temporary, to any affected *Public Rights of Way*.

Reason: In order to reserve the rights of control of the County Planning Authority in the interest of safeguarding the amenity of residents.

Site restoration and 'after-care':

17. No later than one year before decommissioning, a *Pre-restoration Ecological Survey* shall take place to establish the presence, or otherwise, of any protected species along the pipeline corridor and immediately outside. The survey and measures for the protection of and minimisation of disturbance during the decommissioning phase shall be submitted to the County Planning Authority for approval in writing. The development shall be implemented strictly in accordance with approved details of protection.

Reason: In accord with Annex 3 ('Model planning conditions for surface area') of Part 9 within Section 27 of the National Planning Practice Guidance and imposed in order to reserve the rights of control of the County Planning Authority and ensure the protection of wildlife, flora and fauna.

18. On cessation of significant gas production from a wellsite, all above-ground facilities relating to pipeline operation associated with that wellsite (that does not also support any other wellsite still producing gas) shall be removed and measures shall be taken to render the pipelines inert in accordance with good oil field practice. This shall be undertaken either:

- (i) within eighteen (18) months of the cessation of significant gas production; or,
 - (ii) in conjunction with restoration of that wellsite
- whichever of these is the sooner.

Reason: In order to ensure the right of control of the development by the County Planning Authority in the interest of the satisfactory restoration and beneficial after-use of the site.

19. Within 12 months of the date of this permission, a detailed '*Restoration and five year 'after-care' Scheme*' shall submitted for the written approval of the County Planning Authority.

The Scheme shall include:

- a) the means by which pipeline shall be abandoned and decommissioned (in whole or in part) (i.e. the treatment of the pipeline);
- b) soil remediation, replacement of subsoils and soils and reinstatement measures (including deep ripping to relieve compaction) to restore the land to the 'required standard' for agricultural use along with details of proposed grass seed mixes and details of five-year 'after-care' of new or retained vegetation;
- c) removal of all imported materials, all building, plant, equipment, machinery, fencing, temporary surfacing materials from the site and access track not required for the purpose of restoration and 'after-care'; and,
- d) details of any pre-restoration ecology surveys to be carried out.

Any damage to land drainage systems shall be fully repaired. The site access shall be removed and the land restored to a condition suitable for agricultural cultivation, the highway verge reinstated, and the field boundary shall be fenced and hedged in accordance with the details within the *Restoration Plan* once approved.

Reason: In accord with Annex 3 ('Model planning conditions for surface area') of Part 9 within Section 27 of the National Planning Practice Guidance and in order to ensure that the restoration of the site is undertaken in accordance with the approved details and in a timely manner to avoid undue delay in the restoration of the site.

20. The site shall be restored in accordance with the approved '*Restoration Scheme*' and the site thereafter managed in accordance with the approved five (5) year '*after-care*' programme. The '*after-care*' period shall commence from the date that the County Planning Authority confirms that

the restoration works have been carried out and fully implemented in accordance with approved details.

Reason: In order to ensure the right of control of the development by the County Planning Authority in the interest of the satisfactory restoration and beneficial after-use of the site.

Approved documents list: [to be completed after the decision of the Committee is known]

Drawing/document ref.		Rev	Title	Scale	Date

Statement of Compliance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption and are referred to in the reason for approval. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

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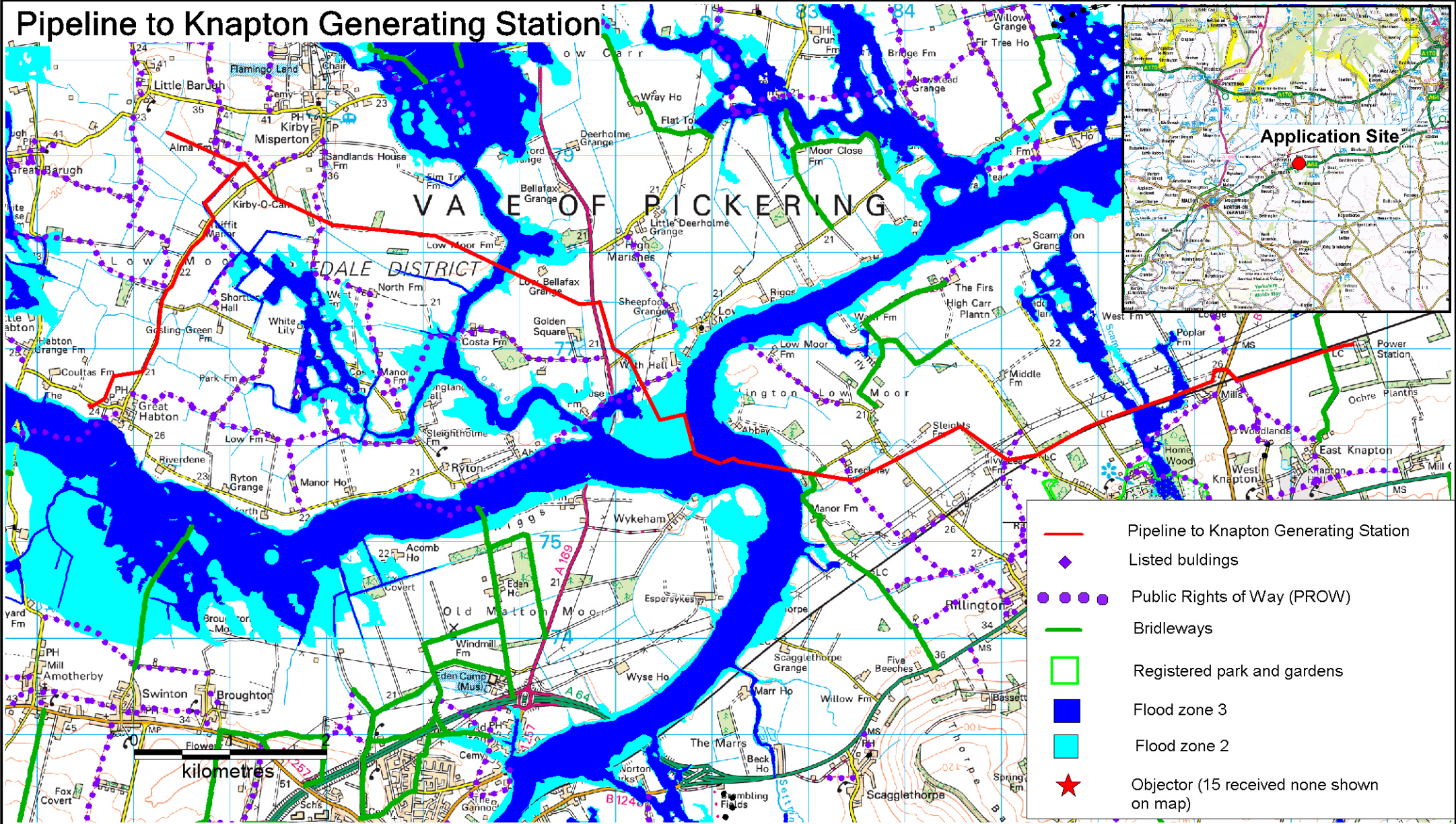
Corporate Director, Business and Environmental Services

Background Documents to this Report:

1. Planning application documents can be found by [clicking here](#).
2. Consultation responses received.
3. Representations received.

Author of report: Victoria Perkin

Pipeline to Knapton Generating Station



Title: Variation of condition No's 1 & 2 of Planning Permission Ref. C3/06/00625/CPO/F for the retention of the existing Vale of Pickering pipeline network between existing wellsites and Knapton Generating Station (including the pipeline from the Pickering wellsite to Kirby Misperton-A wellsite) for a further 17 years from 2018 to 2035

Application No : NY/2018/0113/73A



Business & Environmental Services,
North Yorkshire
County Council
County Hall, Northallerton,
North Yorkshire. DL7 8AH

Scale : 1:50,000
Date : 08/2019
Filename : 0113/73A
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