

# North Yorkshire County Council

## Planning and Regulatory Functions Committee

Minutes of the meeting held at remotely via Skype on 9 July 2020 at 10.00 am.

### Present:-

County Councillors Peter Sowray (Chairman), David Blades, Eric Broadbent, Caroline Goodrick, Robert Heseltine, David Hugill, Mike Jordan, John McCartney and Clive Pearson.

Apologies were submitted by County Councillors Zoe Metcalfe and Chris Pearson.

The meeting was available to watch live via the County Council's website

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**Copies of all documents considered are in the Minute Book**

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### 133 Welcome and Introductions

The Chairman welcomed everyone to the first meeting of the Planning and Regulatory Functions Committee held remotely under The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

Those present introduced themselves.

### 134. Minutes of the meeting held on 21 January 2020 and notes from the consultation meetings held on 31 March 2020 and 12 May 2020

#### Resolved -

- (i) That the Minutes of the meeting held on 21 January 2020, having been printed and circulated, be taken as read and confirmed, to be signed by the Chairman as a correct record at the next available opportunity, subject to the following amendment:-

Minute No.120 – Public Questions or Statements – Statement by Jim Tucker of Frack Free Ryedale – bullet point 4 – change “December 2022” to “August 2021”

- (ii) That the notes of the consultation meetings held on 31 March 2020 and 12 May 2020 be noted.

### 135. Declarations of Interest

There were no declarations of interest.

### 136. Public Questions or Statements

The representative of the Assistant Chief Executive (Legal and Democratic Services) stated that, apart from the persons who had registered to speak in respect of the application below, and whose written statements would be read out during consideration of that item, there were no questions or statements from members of the public.

### 137. Planning applications for the purposes of the variation of conditions in relation to planning permissions:

- C3/06/00625/CPO/C - Kirby Misperton A wellsite (condition no. 2);
- C3/10/00924/CPO - Kirby Misperton B wellsite (condition no. 3);
- C3/06/00625/CPO/A - Malton A wellsite (condition no. 2);
- C3/06/00625/CPO/B - Malton B wellsite (condition no. 2);
- C3/09/00344/CPO - Pickering wellsite (condition no. 9);
- C3/06/00625/CPO/E - Marishes wellsite (condition no. 2);
- C3/06/00625/CPO/F – (pipeline) (condition no.s 1 & 2);
- A full application (ref. no. C3/19/01350/CPO) for continued use of the KMA (extension)

Considered -

The report of the Corporate Director - Business and Environmental Services requested the Committee to determine an application for the variation of conditions, and a full application for the continued use of the KMA (extension), as outlined above.

The Head of Planning Services introduced the report stating that the purpose of the report was to provide an update to Members on the above applications, reported to Committee at the meeting on 21st January 2020, as well as the resolution made at that meeting, together with updates in respect of the preparation of the formal Decision Notices

Jim Tucker, representing Frack Free Ryedale, had submitted the following statement, which was read out by the Clerk:-

I'd like to address three topics this morning,

- a correction to the draft minutes from January,
- a clarification regarding the gas produced at the Malton sites
- and finally to make the committee aware of the High Court case next week against the Oil and Gas Authority and their handling of the change of control of Third Energy.

In the minutes I am quoted as stating that the end of life for the generator at Knapton is Dec 2022, I am not sure where that comes from, my notes from January say 17 August 2021, a date I am very familiar with as it's my birthday. Having corrected that it would seem from recent media reports that Knapton is not currently operating and in fact hasn't since last November as no gas production from any site has been reported to the OGA since then. That leads to the question why hasn't the condition of the previous and proposed consent to terminate such consent within 6 months of the cessation of significant gas production or electricity generation at Knapton been implemented ?

In January I told the committee that the Malton sites had not produced any gas in the recent past, this was disputed by Shaun Zoblocki of Third Energy who claimed some flow tests had taken place on these sites. I have provided a composite screen shot from the OGA data website to clarify this apparent discrepancy. The document provided shows

gas production at the Malton sites over different time scales, 2010 to date, 2013 to date and 2018 to date, with a change in the scale of each graph as shown on the left hand side by a factor of 300.

This demonstrates the last meaningful production was in 2012 with only a brief test volume in 2016 followed by a minuscule amount in 2018 which as you will note does not even show up on the longer time scale graph. It remains clear however that no gas has been produced since July 2018 and so I, along with many Ryedale residents, am left wondering why NYCC would be minded to approve a 17 year extension for sites that have not produced commercial quantities of gas for many years and the previous planning permission was conditioned to the effect that consent would terminate if there was no production for 6 months.

Lastly I would like to bring to the attention of the committee a case against the Oil and Gas Authority by a Ryedale resident regarding the alleged failure of the OGA to properly discharge its duties at the time of the change in control of Third Energy when York/Alpha Energy acquired a 100% controlling interest.

While of no direct bearing on the extension being sought by the applicant it is likely that among the disclosures to be made may be some previously sensitive commercial documents that could have a material impact on the fitness of Third Energy or their new owners to be granted the extension sought. It might therefore be prudent for NYCC to wait until the case comes before the High Court next week on the 14<sup>th</sup> July before issuing the extension notices.

A statement had been submitted by Third Energy Onshore Limited (and its affiliates), and was read out by the Clerk, outlining the following:-

In relation to the matters being considered by the Committee, Third Energy would like to clarify that gas production from the Company's wells has been temporarily ceased due to the Covid-19 crisis and a long-stated plan for the Company to consider replacing the ageing generating equipment at our Knapton site with new, cleaner generating equipment. The gas reserves remain and the well-sites, pipelines and Knapton power station have been kept in a sufficient state to enable future gas extraction and power generation to continue once the current crisis is over and we have a clearer understanding of the appropriate generating equipment for the site. In the event that new equipment is deemed a near-term necessity for Knapton, the Company acknowledges that this will require a separate planning application.

The Company would also like to reference a high court case against the OGA in reference to the acquisition of the Company in July 2019 by York Energy (UK) Holdings Limited. This case has been made against the OGA in challenge of the diligence procedures they followed when approving this acquisition. Regardless of the eventual result of this case, the business of Third Energy will continue as before and it has no bearing on this planning application and process.

The Head of Planning Services presented the report to Members highlighting the following issues:-

- Further to the decision of the Planning and Regulatory Functions Committee held on 21 January 2020 the Secretary of State had now issued his formal Screening Directions in respect of all eight applications; thereby allowing the issue of the formal Decision Notices by the County Planning Authority.
- The formal Screening Directions of the Secretary of State concurred with the

adopted Screening Opinions of the County Planning Authority and all the documentation had been made available on the County Council's Online Planning Register.

- Particular attention was drawn to a specific condition, condition no. 15, relating to each of the wellsites, in which there had been inserted an [x] within the text of the condition. This related to the time taken to cease operations resulting from a contravention of permitted noise levels during operations. It had been agreed with the applicant that the figure would be four hours, so that the condition read as follows:-

“15. In the event that noise monitoring indicates that noise levels have exceeded the maximum permitted noise level, operations shall cease within four hours and until such time that further noise mitigation measures which shall be firstly approved in writing by the County Planning Authority have been installed and employed within the site. Further noise monitoring shall be undertaken; the results of which shall be submitted to the County Planning Authority in writing in order to evidence the effectiveness of the mitigation measures”.

- The minor technical alterations for all the conditions were outlined in paragraph 3.4 of the report, and specific minor alterations, peculiar to that condition were detailed in paragraph 3.5.
- Paragraph 4 of the report detailed representations received from the agent for the applicant contesting the alteration to Condition 15, as detailed above, and submitting an alternative proposal. The representations were not considered to provide a sufficiently persuasive argument in favour of an alteration to the wording, as outlined in paragraph 4.3.

Members undertook a discussion of the report and the following issues and points were raised:-

- ◆ A Member asked whether the rewording of Condition 15 to stipulate four hours was legally acceptable and this was confirmed to be the case.
- ◆ Clarification was provided that the proposals within the report under consideration related only to conventional gas extraction and had no connection with hydraulic fracturing extraction.
- ◆ A Member noted the issue raised in the public statement relating to the High Court jurisdiction expected on the 14<sup>th</sup> July, and asked whether this had any bearing on the recommendation within the report. It was stated, in response, that the High Court ruling had no bearing on the matters being considered by Members at this meeting.

**Resolved -**

That authority be given to the Head of Planning Services to issue the Decision Notices as detailed in Appendices A to H, inclusive), of the report.

The meeting concluded at 10.30 pm.

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