

Wendy Strangeway

From: Mark Hill
Sent: 29 April 2015 16:27
To: Planning
Subject: FW: Additional Information following deferment of Planning Application by NYMNPA
Attachments: Response to NYMNPA Planning Committee deferment v4.docx

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mark

From: Sue Overhill
Sent: 29 April 2015 15:43
To: Mark Hill
Cc: Paul Foster
Subject: Additional Information following deferment of Planning Application by NYMNPA

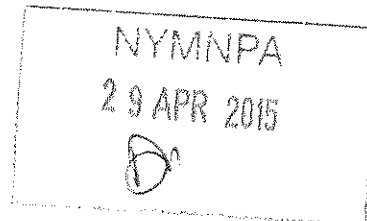
Mark

Please find attached document as requested.

Regards

Sue Overhill on behalf of PAUL FOSTER
Secretary / Receptionist

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EMS-Knapton Underground Gas Pipeline

Application No NYM/2014/0587/EIA

Additional Information following deferment of Planning Application by NYMNPA

At the NYMNPA Planning Committee meeting held on Thursday 19 March 2015, Members of the Committee deferred the above application to enable officers to obtain further technical information from the applicant to:

- ensure environmental matters, such as water contamination and seismic activity, are satisfactorily addressed;
- clarify the need for a new re-injection borehole; and for officers to;
- work through the wording of the proposed conditions; and
- enter into further discussions with the applicant concerning a Section 106 agreement.

This note seeks to address the first two bullet points above.

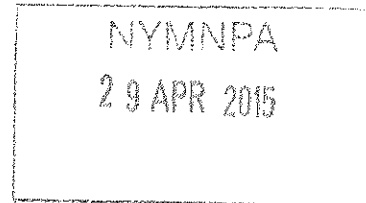
1. Additional information on Environmental matters

a. Background

i. Amec Foster Wheeler Review of the potential for Groundwater Pollution and Land Stability – February 2015

The Planning Committee meeting of 19 March was attended by Dr Shaun Salmon of Amec Foster Wheeler (AFW) to present and answer Members' questions about a Technical Note, prepared on behalf of the NYMNPA. Dr Salmon's Technical Note reviewed chapters 11 and 12 (Flood Risk, Drainage and Hydrology and Water Disposal) of the Environmental Statement which accompanied the planning application. Dr Salmon also reviewed additional technical information he had requested as part of his assessment. The purpose of the assessment was to consider the potential for the pollution of groundwater and land stability issues arising from the proposed development within the National Park boundary.

Subject to clarifications regarding the residual induced seismicity assessment and the findings of a revised cumulative impact assessment, AFW concluded that the applicants have:



- identified and assessed all known likely groundwater pollution and land stability environmental effects;
- have applied appropriate mitigation; and
- have demonstrated that the effects of a revised (556 m³/d produced water reinjection) scheme have been reduced to an acceptable level.

ii. H Fraser Consulting Technical Note – 13 March 2015

On the morning of the Planning Committee meeting, officers circulated a Technical Note prepared by H Fraser Consulting Limited (HFCL) on behalf of Frack Free Ryedale and Frack Free North Yorkshire. The report refers to a number of concerns that, in the opinion of HFCL, have a bearing upon the long term environmental performance of the proposed development. In summary these are:

- Lack of data on groundwater pressure/elevations;
- Seismicity;
- Lack of confidence in delivery of mitigation measures;
- Risks arising from cumulative effects; and
- Omissions in planning conditions.

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AFW's qualified acceptance of the scheme, namely satisfaction on seismicity and cumulative effects is picked up in the HFCL's Technical Note.

iii. Environment Agency response – 22 September 2014

The Environment Agency (EA) initially raised concerns that the short section of pipeline which leads to the EMS well site would pass through the Source Protection Zone 2 (SPZ2) of the Corallian Limestone principal aquifer which feeds Scarborough's drinking water. The EA stated that they would only permit pipelines to pass through SPZ2 if the applicant can demonstrate that their siting within these areas is unavoidable.

Third Energy and Moorland Energy (the joint applicants) responded to the EA and it is important to restate the response for the benefit of Members.

- The existing wellsite is within SPZ2 and there is an existing planning permission, dated June 2012, for a short stretch of pipeline on the same alignment as the current planning application from the well site within the SPZ2. The EA raised no objections subject to a number of conditions to protect the water environment.

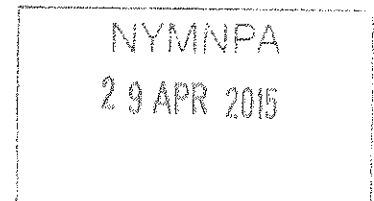
- In granting planning permission in 2012, the Secretary of State was satisfied that the development would not have an adverse impact upon the groundwater protection zone.
- Given the fact that the existing wellsite is within SPZ2, any pipeline would need to cross part of the SPZ2.
- The EA has not raised any further concerns or objections and has request the inclusion of conditions.

b. NYCC Planning and Regulatory Functions Planning Committee meeting – 31 March 2015

At the above meeting, Members resolved to grant planning permission for the underground gas pipeline and ancillary works at Knapton Generating Power Station subject to an additional condition in respect of HGV construction traffic on the A170 on Saturday mornings and a section 106 agreement in respect of limiting extant planning permissions for pipelines between the National Park and the Generating Station.

At the meeting of 31 March, Members of NYCC were informed that the AFW Technical Note, dated February 2015 had been forwarded to the EA for their comments. The response from the EA, dated 27 March, is attached. It states that the EA has no further comments to add to its original response.

c. Response to Specific Concerns



i. The Role of the Planning Authority

In considering our response to the points raised, it is important to note that planning and other regulatory regimes are complementary but separate. The planning system controls the development and use of land in the public interest. The NPPF (paragraphs 120-122) states that the effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area should be taken into account. Local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use. The control of processes or emissions themselves are subject to approval under other pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

There are several layers of regulation associated with the exploration and production of gas. In addition to local planning authorities, the Department of Energy and Climate

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Change (DECC), the Health and Safety Executive and the Environment Agency all play separate but complementary roles in assessing proposals.

The EA's Environmental Permits are issued under the Environmental Permitting (England & Wales) Regulations 2012 (EPR) and the process requires detailed technical investigations to examine the potential risks and the use of best available technology and best practice. In this instance, the proposed development borehole would require a mining waste permit for the management of extractive wastes and a permit for the management of Naturally Occurring Radioactive Materials (NORM) wastes (such as produced water, sediments and scales) will also be required. We understand that the EA have advised the two planning authorities that the development may also require a groundwater permit, an Industrial Emissions Directive (IED) permit, a groundwater investigation consent, followed by a water abstraction licence and a water discharge activity permit.

The produced water re-injection process is subject to the Environmental Permitting consenting regime. In accordance with advice in the NPPF, it is not a planning authority's role to duplicate the control of processes which the EA exercise.

ii. Reinjection of Produced Water

It is important to bear in mind the key elements of the proposed development in respect of the reinjection of produced water:

- All the produced water is highly saline and contains Naturally Occurring Radioactive Materials (NORMS) in its composition.
- The injection of the produced water into the water already present in the Sherwood Sandstone would occur more than 35km from groundwater aquifers.
- The diameter and construction of the existing borehole will physically limit the amount of water that can be injected into the Sherwood Sandstone to a maximum of 556m³ per day.
- The purpose of the second borehole is to achieve higher rates of gas production. However, the maximum level of injection will not exceed 556 m³ per day, even with both boreholes operating together. This will be limited by a planning condition which would limit the daily produced water injection to a maximum of 556 m³ per day at the Ebberston Moor well site.

- The injection pressure will always be maintained below the material strength of the Sherwood Sandstone formation and, therefore, below the pressure required to fracture or displace the rock.
- There is consequently a negligible risk of induced seismicity as a result of produced water injection.
- In terms of the risk of seismicity, the injection pressure would not exceed the fracture pressure and continuous monitoring would ensure the pressure do not rise either too high or too quickly.
- The applicant concurs with the view of officers that, having regard to the suggested planning conditions and to the detailed protection of the various dimensions to the Environmental Permitting Regime, it is not considered that there are any grounds to justify a refusal of planning permission on hydrogeological grounds in respect of pollution and ground stability.

iii. Risk Perceptions

- It is accepted that there are fears held by some members of the public owing to the nature and location of the development. The perceived risks largely relate to the proposed injection of produced water at the EMS well site into the Sherwood Sandstone.
- Some objectors have referred to worse case scenarios and emergency events such as well casing failure, groundwater affecting drinking water, seismic activity and the release of radioactive substances, toxic and explosive gases into the atmosphere. Such concerns held by the public may constitute a material planning consideration, even if the actual risk is low.
- The actual risk has been quantified and assessed by the applicant's groundwater consultant, the groundwater specialist at the EA and the independent AFW hydrogeological report commissioned by the NYMNPA.
- AFW considers that the potential 'significant' effects can be reduced to 'not significant' (including contamination of watercourses and aquifers which support public water supplies and induced seismicity, subject to the effective delivery of the mitigation measures.
- Third Energy and Moorland Energy consider that, subject to appropriate planning controls in the form of conditions and the incorporation of the proposed mitigation, to be regulated by the Environment Agency permit), the actual risk to the environment and the public is very low. Accordingly, whilst the perceived risk is a material consideration, it should be afforded very limited weight in the decision-making process.

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Having set the context in which the planning application should be determined, we turn to each of the concerns raised by AFW and HFCL.

iv. Lack of Data on Groundwater Pressures/Elevations

The details of the monitoring regime in respect of groundwater pressures and elevations will be submitted as part of the application for the permit under the Environmental Permitting (England & Wales) Regulations 2012. The NPPF makes clear that control of processes are subject to approval under other pollution control regimes. Paragraph 50 of the Planning Policy Guidance states that before granting planning permission, local planning authorities should satisfy themselves that issues associated with emissions can and will be adequately addressed by taking advice of the relevant regulatory body. In this instance, the EA has taken account of the AFW Technical Report and not raised any objections. Consequently, it is reasonable to presume that the EA is satisfied that the details of the monitoring regime can be satisfactorily dealt under the permitting regulations.

v. Seismicity

The development of fluid pressures in the Sherwood Sandstone will be monitored throughout the life of the scheme. Again, this will fall within the EA's responsibility as the regulator for issuing permits under the 2012 EPR.

vi. Lack of Confidence in Delivery of Mitigation Measures

The objectors' absence of confidence in the delivery of mitigation measures is irrelevant in the determination of the planning application. Local planning authorities should assume that permitting regimes which oversee the detailed monitoring measures will operate effectively.

vii. Risks arising from Cumulative Effects

Envireau Water to provide

viii. Omissions in Planning Conditions

The planning conditions proposed to be attached have been agreed with both NYMNP and the EA in respect of groundwater injection.

d. Issue raised by Allerston and Wilton PC

Allerston and Wilton PC has commented that Allerston Spring is not shown on maps submitted with the planning application. However, Allerston Spring is shown on Figure 11.2 (Groundwater Source Protection Zones) in the ES. In addition, the Allerston abstraction point is specifically referred to in Enclosure 1 of the Response to AFW, which was submitted to both NYCC and NYMNPA in early March. It states:

"The Allerston abstraction point is located about 750m to the east of the pipeline route and has a licence to abstract a maximum of 37 cu m of water per day for general farming and domestic usage and is located across the dip from the proposed pipeline route. The pipeline is well outside any protection zones relating to the abstraction and although the receptor may have a high sensitivity, its isolation from the pipeline means that any effect of the pipeline on the abstraction point will be negligible."

As part of satisfying a groundwater monitoring condition attached to the planning permission, we would recommend prior sampling of the water and, if thought appropriate, a monitoring borehole placed between the line of the pipeline and the spring.

We would also point out that Allerston Spring lies outside the NYMNP and that planning permission has already been granted by NYCC for the section of the pipeline that runs through Allerston and Wilton PC.

Conclusions

The Planning Application was deferred by Members of the NYMNPA to enable the applicant to respond on points of clarification about environmental matters, in particular, seismicity and groundwater matters. Third Energy consider that the additional information is of a detailed technical nature that veers into the permitting regime rather than as part of the assessment of the planning application. Correspondence from the EA in respect of the application indicates that it is satisfied that planning permission should be granted, subject to appropriate conditions. Moreover, the EA has seen the AFW and HFCL Technical Notes and has advised NYCC that they do not wish to amend their initial response. The NYMNPA should take its lead

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