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7<sup>th</sup> March 2022

Dear Ms Webber

**PL/0167/21 – To vary condition 1 (development cease date) and 3 (approved documents and drawings) of planning permission 141306 (PL/0067/20), and;**

**PL/0168/21 – To vary condition 1 (development cease date) and condition 2 (approved documents and drawings) of planning permission 141307 (PL/0068/20)**

KVA Planning Consultancy ('KVA') has been instructed by CPRE – The Countryside Charity ('CPRE') to consider the above referenced Planning Applications submitted by Egdon Resources UK Limited ('the applicant') to Lincolnshire County Council who are the Minerals Planning Authority ('MPA') at land to the east of Smithfield Road, North Kelsey Moor, Market Rasen.

Firstly, apologies for the late submission following the publication of your Officer's Report ahead of the scheduled committee meeting on Monday 14<sup>th</sup> March. It is hoped that this representation will be included in a members update report and referred to in the presentation of the proposals.

CPRE welcomes the opportunity to comment on these two S.73 applications to allow the applicant to amend the proposed bottom hole target location and to extend the timescale development associated with the North Kelsey Moor shall cease and land returned to agricultural use by an additional 12 months. Application PL/0167/21 relates to the amended drilling activities and application reference PL/0168/21 refers to the adjoining temporary compound for site security and welfare cabins. CPRE recognises that the remaining conditions attached to previous conditions are not sought to be amended, therefore, will constrain comments to the principle of the variance of time limit and updating of documents accordingly.

The applicant's planning statement sets out at the MPA issued a screening opinion in 2013 confirming that the development was not EIA development. This was clarified by the Council in relation to application PL/0167/21. However, no screening assessment appears to have been undertaken in relation to PL/0168/21. It is considered that because of the proposed piecemeal development that has been previously permitted in relation to this site, a full and updated screening opinion should be undertaken considering the cumulative impacts of the combined proposals as well as the potential impacts of horizontal drilling. The Planning Practice Guidance 'Flexible Options for Planning Permissions' clearly states **'A section 73 application is considered to be a new application for planning permission under the 2017 Environmental Impact Assessment (EIA) Regulations. Where the development is of a type**

listed under Schedule 2 to the 2017 EIA Regulations, and satisfies the criteria or thresholds set, a local planning authority **must carry out a new screening exercise and issue a screening opinion as to whether EIA is necessary**' (KVA emphasis) – CPRE believe that the full implications of the combined effects has not been screened and as such is contrary to the Regulations and PPG Paragraph 16 (ID: 17a-016-20140306). Very little information has been presented by the applicant in terms of the directional drilling and whether this will influence the type of drill rig or other infrastructure to be utilised, how the aquifer will be protected as a result of the different method of drilling to avoid leakages and pollution events etc. The MPA should require the applicant to provide additional information in this regard and consider a further screening opinion prior to any determination to ensure that this takes place in consultation with appropriate consultees and interested parties.

CPRE sets out in the remainder of this report reasons why the proposal should be refused notwithstanding the fact that we believe the application should be withdrawn and a full screening opinion sought, considering all amendments since 2014 including, but not limited to, those for noise, ground water protection, highways, impact of directional drilling on aquifers, impacts on biodiversity and the impact on the site security compound.

The applicant received temporary planning permission for the construction of a new access track, temporary well site and flare pit, with associated portable cabins for the storage of equipment and for staff office accommodation, the drilling of an exploratory bore hole for conventional hydrocarbons, undertaking of production tests and retaining the site and wellhead valve assembly gear for evaluation for the original development proposal in December 2014. Condition 1 of the Decision Notice sets out *'The development hereby permitted shall cease on or before 31 December 2017 and by the date all portable buildings, plant and machinery associated with the use hereby permitted shall have been removed, the well capped and the land returned to its previous use as agricultural land.'*

The reason for the condition provided by the Council was *'To provide for the completion of the exploratory operations in the interests of the amenity of the area.'*

Condition 3 lists all the plans, drawings and documents that the proposal must adhere to as part of the permission to enable the MPA to monitor the development.

The permission was implemented in December 2017 with the part-construction of a bellmouth forming the entrance to the access track off Smithfield Road. However, the applicant's decision noticed stated that the development should cease by 31<sup>st</sup> December 2017 as set out above. By implementing the permission in this way (without doing any works to the proposed well site itself) the applicant enabled a s.73 application to be applied for, rather than having to start the application process again due to a lapsed consent.

As such, in May 2018, planning permission (PL/0011/18) was granted by the MPA to vary condition 1 to extend the timescale by 12 months when development must cease, and the site be returned to agricultural use.

The applicant was later granted consent to vary conditions (3, 4, 6, 12, 16 and 17) in July 2019 (PL/0083/19) and at the same time was awarded permission for the temporary installation of site security and welfare cabins (PL/0084/19). The permission enabled changes to the site layout, the management of surface water run-off, the materials for the tertiary containment system, hours of deliveries and operations, increased levels of noise at certain receptors and security provision.

In September 2020 the applicant received permission to extend the time period by a further 12 months requiring the development to cease on or before 31<sup>st</sup> December 2021 and all equipment, including plant and machinery and buildings to be removed and the land restored to agriculture.

According to the applicant's Planning Statement accompanying the current proposals for further time extensions, the impact of various COVID related challenges has led to the inability to undertake and conclude all operational requirements by 2021 and therefore this extension of time is required. Further, the applicant has re-evaluated seismic data and states that the planned vertical well would effectively miss the primary target, therefore, the applicant is seeking to directional drill from the existing surface location to a bottom hole location approximately 700m in a northwest direction (shown on the applicant's location plan).

Since December 2017, the applicant has not undertaken any other works at all on the site nor finished the construction of the access track, or alterations to Smithfield Road in accordance with pre-commencement conditions attached to the original 2014 permission. The applicant has had over 7 years to commence site construction, the recent pandemic was only a delaying factor for 2 years. The applicant has seemingly waited until 2020 to reassess the seismic data, in full knowledge that this would require a further variance application to be applied for. **CPRE consider that the applicant has had plenty of time to properly implement the development and therefore, approval to allow a further 12 months should not be awarded in accordance with the original decision notice 'in the interests of the amenity of the area'.**

The applicant has stated that no other conditions require amending as there will be no further alterations to previously permitted surface operations or predicted project timescales. They are, however, proposing to widen the scope of the permitted activities by side-track drilling and have stated in their additional information sheets that they do not believe that this will impact their projected operation period or number of HGVs required although until

exploration begins, this is not certain. Applications for horizontal drilling for hydrocarbons elsewhere have included additional time and vehicle movements for this activity (Revised West Newton A proposal, East Riding of Yorkshire, 21/04625/CM).

Having considered the original planning permission, your proposed Condition 17 remains unaltered in wording from its original drafting in 2014 (having been renumbered in the 2019 permission to Condition 16) setting out clearly: *'No site preparation works involving the destruction or removal of vegetation shall be undertaken during the months March to August inclusive, unless otherwise agreed in writing by the Mineral Planning Authority.'* The stated reason being *'To protect breeding birds during the nesting season.'* **The proposal is due to go to planning committee on 14<sup>th</sup> March. In accordance with Condition 17, no activity should take place until September 2022 which places a large question mark over whether it is operationally feasible to undertake the proposed activities by 14<sup>th</sup> March 2023 – which equates to 28 weeks.**

CPRE are therefore concerned that the 49-week schedule of work set out in the applicant's original proposal documents is not achievable and will therefore warrant a further extension of time, regardless of any delays in gaining equipment (e.g., hiring in drill rigs) or land based/climatic issues which may delay the programme. **Therefore, the proposed planning permission simply cannot be fulfilled and should be refused.**

**PPG sets out clearly that when determining applications under section 73 proposals, LPAs should 'focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission.'** (Annex A to Paragraph: 016 Reference ID: 17a-016-20140306).

Since the granting of the original permission in 2014, the applicant has applied to amend various conditions including those relating to noise, surface water protection and importantly there is **now a requirement through the Environment Act 21 to ensure that all new developments deliver a 10% biodiversity net gain (BNG)**. Whilst CPRE are aware that you have proposed a condition requiring a BNG Plan utilising the Biodiversity Metric 3.0 it is considered that this should not be a pre-commencement condition but required PRIOR to the determination of the proposal. We concur with the District Authority and various individual objectors who stated that a new Habitats 1 Assessment is required as part of the current application given that the previous one is over 4 years out of date. By undertaking a new appraisal and survey the MPA would ensure that the BNG to be delivered is species appropriate and suitable for proposed locations which could provide additional benefits including noise/landscape screening – however, any proposed planting should be assessed by the MPA regarding impacts on such matters pursuant to land use. And should be done prior to determination.

Policy DM9 of the CSDMP sets out that planning permission will be supported where the merits of the development outweigh the likely impacts and adverse impacts are mitigated and result in net gain in biodiversity. This simply cannot be argued as being complied with as it is as yet unknown whether there is currently a proposed net gain or whether mitigation is suitable.

Since the original application was approved in 2014, there has been a huge shift in understanding in terms of **climate change and statutory obligations which are a material consideration which we believe will materially change the effects on amenity and the environment because of the proposed activities** and as such should be considered as detailed in the quoted PPG annex above. As such, **CPRE do not support any applications for new fossil fuel wells at either exploratory or production phases**. This is an extension of time for an exploratory well application, therefore, CPRENY strongly object to the extension of time being granted.

It is acknowledged that if oil is found through the drilling process and assessed as economically viable, the site is unlikely to be restored to agricultural use but a further application for production is likely to ensue. CPRE believe that despite the NPPF currently placing great weight on the benefits of mineral extraction, including to the economy, and the Council's Development Plan being supportive of mineral exploration sites (subject to certain criteria being met) other material planning considerations should now be considered in the determination of this application in line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that an application should be determined in accordance with the development plan '*unless material planning considerations indicate otherwise*' and in line with the PPG referenced above.

The UK parliament declared an 'Environment and Climate Emergency' in May 2019 and the UK government committed to a legally binding target of net zero greenhouse gas ('GHG') emissions by 2050 via the Climate Change (2050 Target Amendment) Order 2019. This is a much more ambitious target than the previously set target of at least an 80% reduction of emissions from 1990 levels. The UK government is also a signatory of the Paris Agreement, the principal aim of which is to strengthen the global response to the threat of climate change by keeping the global temperature rise this century well below 2°C above pre-industrial levels and to limit the temperature increase even further to 1.5°C. Following on from this, Nations adopted the Glasgow Climate Pact 2021 at COP26, collectively agreeing to work to reduce the gap between existing emission reduction plans and what is required to reduce emissions, so that the rise in the global average temperature can remain limited to 1.5°C.

The Sixth Carbon Budget – ‘the UK’s path to net zero’ (2020) was published by the Committee for Climate Change (‘CCC’) in December 2020. The pathway requires a 78% reduction in UK territorial emissions between 1990 and 2035. The economy is forecast to become more energy efficient with total energy falling around 33% between now and 2050 – **demand for oil is forecast to fall by 85% to 360,000 barrels per day. Given that the UK is currently able to produce approximately 1.6 million barrels per day at existing sites both on and offshore and the rate of decline forecast by the CCC, CPRE consider that this application should be refused as there is no longer any justifiable need for new oil extraction sites.** Indeed, the latest Government Statistical Release on Energy Trends, dated 21<sup>st</sup> December 2021 sets out how the UK has been exporting UK sourced oil and gas – thereby reducing the argument that home-grown oil is essential.

In response to the current crisis in Ukraine, the European Commission President Ursula von der Leyen stated on 5<sup>th</sup> March 2022 that Europe has *“to get rid of the dependency [on] fossil fuels from Russia. We’re just discussing in the European Union a strategic approach, a plan on how to accelerate investments into renewables, how to diversify our energy supply [...] how to invest heavily in biogas and in hydrogen that is homegrown. This is not only a strategic investment into our energy security, but it is also good for the climate.”*

The UK is fortunate, compared to other European countries that it does not rely on Russia for oil or gas imports as only 4% of gas and 6% of crude oil comes directly from Russia. In response to the crisis, the Department of Business, Energy, and Industrial Strategy set out clearly that *‘UK is in no way reliant on Russia for fossil fuels. Like other countries, the UK holds oil stocks in the unlikely event of a major oil supply disruption. The level of oil stocks prescribed by the International Energy Agency (‘IEA’) is accepted and adopted around the world as being sufficient to ensure resilience in the event of a major global supply disruption. UK oil reserves are significantly above the 90 days required by the IEA.’* Further, *‘the global price of crude oil has increased sharply over the past year, increasing petrol prices in countries across the world. This is a global trend and not just in the UK. The UK’s exposure to volatile global gas prices underscores the importance of our plan to generate more cheap, clean renewable energy and nuclear power in the UK to reduce our reliance on expensive fossil fuels.’* Thereby this has not been caused by the Russian-Ukraine conflict, although admittedly it will not have helped latterly. **Energy security therefore is not a reason to continue to permit new applications to explore for and extract hydrocarbons.**

As a response to climate change, the Council has adopted a Green Masterplan that sets out the guiding principles of how the county will contribute to the 2050 legally binding commitment. The Guiding principles of which are 1. Don't waste anything; 2. Consider wider

opportunities; and 3. Take responsibility and pride. CPRE welcomes this approach and **hope that the Council will indeed take responsibility in how energy is generated going forward.** On 22<sup>nd</sup> February 22, Councillor Davies announced that the University of Lincoln had been commissioned by the Council to devise a plan for climate change on Lincolnshire's coast. He is quoted as stating "***Energy is a good example of where we need to find solutions that are both fit for today and for a sustainable future aligning with our green master plan,***" should this proposal be approved, and oil found a production application will ensue. If approved this would allow the applicant to extract and produce oil for 25 years. This is not creating a sustainable future. The UK can produce enough oil for the predicted reduction of requirement in the transition to renewable clean energy sources. Therefore, it would **be perverse to approve this application for more time to allow a company to extract a fossil fuel which directly contributes towards carbon emissions at odds with and Council's own aims and ambitions towards addressing the Climate Emergency.**

National planning policy sets out that it is essential that there is a sufficient supply of energy minerals to meet the county's needs, however, a lot of oil extracted and sold by the operator (a private company) goes to the best bidder as they are commercially entitled to do. The oil, therefore, often ends up being used for the manufacture of plastics rather than for energy use. Given that that MPA are not required to question the need to explore for energy minerals, this is a loophole that many operators are taking advantage of. **CPRE, therefore, request that the MPA does question the intended/likely use of the end product (being 'not required to' do not equate to 'should not') as the world simply does not require the production of any more single-use plastic which we know is destroying the natural environment.**

Within your report, it is noted that you refer to the "existing planned vertical well". CPRE would like to clarify that the well is not "existing" as this has never been implemented. It is simply an extant permission.

### **Conclusion**

CPRE welcomes the opportunity to comment on this S.73 application to vary conditions allowing the further extension of time-period for drilling, appraisal and restoration to a further 12 months and the updating of various permitted documents.

CPRE consider that the MPA has a duty to issue a full screening opinion in light of the requirements in the EIA Regulations 2017 relating to s73 application as set out above, prior to determination in order to rule out significant environmental effects. As such the application should be withdrawn immediately until such time the due process has taken place.

The screening opinion should consider all relevant and updated information in relation to previous amendments of the scheme, the proposed current variations and considerations which may have changed significantly since the original permission was granted.

The applicant has not provided sufficient evidence of BNG and a pre-commencement condition in this regard is not considered suitable.

Furthermore, CPRE strongly object to this proposal on the grounds that there has been a significant shift away from the reliance on fossil fuels for energy production since the original application was approved. Political and public focus is now firmly on the requirement to reach the UK's legally binding agreement of not allowing the global climate to increase beyond 1.5°C and to reach net-zero carbon emissions by 2050 or earlier to tackle climate change. The Council has also produced a Green Masterplan and is taking strides to reduce its carbon footprint, therefore, to approve this application would be entirely at odds with such an approach.

The CCC predict demand for oil to fall by 85% by 2050. There is, therefore, no need for any new fossil fuel extraction sites given the reduced quantity that the UK will need and that which is currently exported.

CPRE reserves the right to comment further should any additional information be submitted in support of the proposal.