



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Thursday, 16 October 2014

Committee:
North Planning Committee

Date: Friday, 24 October 2014
Time: 2.30 pm
Venue: Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
Martin Bennett
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
John Cadwallader
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Roger Hughes

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 252719

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AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

3 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

4 Land North West Brooklands Farm, Dudleston, Ellesmere, Shropshire - 14/02730/MAW (Pages 1 - 62)

Temporary operation for exploratory borehole and associated infrastructure

5 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 18th November 2014, in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date
 North Planning Committee
 24 October 2014

Item
4
 Public

Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/02730/MAW	Parish:	Ellesmere Rural
Proposal: Temporary operation for exploratory borehole and associated infrastructure		
Site Address: Land North West Brooklands Farm Dudleston Ellesmere Shropshire SY12 9JG		
Applicant: Dart Energy (Europe) Ltd		
Case Officer: Kelvin Hall	email: planningdmc@shropshire.gov.uk	

Grid Ref: 335037 - 337012

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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the drilling of a temporary exploratory borehole to extract a core of coal for analysis. The proposal drilling operation would be undertaken for a maximum period of 60 days, following which the borehole would be capped and the land restored. The purpose of the proposed development is to determine the characteristics of the underlying coal bed, and assess the potential for methane gas extraction, i.e. coalbed methane (CBM).
- 1.2 The applicant, Dart Energy, has been granted UK Onshore Petroleum Exploration and Development Licence (PEDL) 185 by the Department of Energy and Climate Change in 2008. This licence area covers approximately 20,000 hectares. Under the terms of this licence the applicant is obligated to drill two exploratory boreholes within the licence area, to establish the potential for gas production.
- 1.3 Planning permission for an identical proposal for temporary exploratory drilling operations at the site was granted by Shropshire Council in 2010. This permission was not implemented within the required three year period, and as such has now lapsed. The current application seeks to regain planning permission for temporary drilling operations at the site.
- 1.4 The proposed development would involve the drilling of a borehole to approximately 830 metres. The borehole decreases in size from around 34cm diameter for the top section to around 22cm in the coal seams. The application states that steel pipe casing would be inserted and cemented into place to form an impermeable barrier. The application notes that full details of the well design and aquifer protection methods would be submitted to the Environment Agency as required by the Water Resources Act 1991. The rock cores would be removed for laboratory testing, and there would be no attempt to stimulate the borehole. The application states that, for this reason, there would be no risk of uncontrolled gas leakage.
- 1.5 The duration and operating hours of each of the phases of the proposed development would be as follows:

Phase	Duration	Operating hours
Site preparation	3 weeks	12 hours/day (Monday to Friday) and Saturday morning
Drilling operations	Not exceeding 60 days	24 hours per day
Site restoration	3 weeks	12 hours per day (Monday to Friday) and Saturday morning

- 1.6 Site preparation: Site preparation would comprise one of two alternative construction methods:
- the stripping of topsoils from the site; placement of a geotextile membrane; covering with aggregate; construction of a concrete pad to support the rig; or
 - placement of a prefabricated interlocking mat system over the current

ground surface to provide protection to the underlying ground.

The application states that the most likely scenario is that the compound would be constructed using the former method, and the temporary access track would be formed using the mat system.

- 1.7 The site compound would contain staff car parking, cabins for use as offices, tool stores, changing rooms, welfare facilities etc. as well as the hardstanding for the drilling rig. The indicative layout shows that soil from stripping operations would be formed around the northern edge of the site, however the application states that these bunds would be placed in accordance with the site specific surroundings to provide an attenuation barrier between the site and potentially sensitive receptors.
- 1.8 The drilling rig proposed to be used would be 18 metres in height when erected, and would extend to 27 metres during some operations. The application provides details of the rig, but does acknowledge that an alternative rig of equal or improved appearance, acoustic characteristics and performance may be used instead.
- 1.9 A 2 metres high security fence would be erected around the entire site, including access road. Lighting would comprise fixed lights mounted on the drilling rig and some of the ancillary equipment. In addition, flood lights would be placed on the four corners of the site, directed downwards and into the site.
- 1.10 The application states that the temporary access track between the public highway and the site compound would be formed using a “Durabase” prefabricated interlocking mat system which is laid over the ground surface. The access track would be 8-10 metres in width. The existing field access would be widened to 14 metres, and this would involve the temporary removal of the stone gate posts.
- 1.11 Drill cuttings and waste; chemicals: The application states that these are classed as inert waste and would be disposed of to a licensed landfill site. Drill fluid would be transported off site by tanker and disposed of at a licensed waste water treatment works. Chemicals on site would be stored in accordance with relevant regulations. Fuel would be stored in bunded tanks.
- 1.12 Site restoration: Following the completion of the drilling operations, the application states that the site would be vacated and decommissioned in accordance with the requirements of the appropriate regulatory bodies, including the Environment Agency and the Health and Safety Executive. The top 2 metres of the borehole would be cemented in accordance with DECC regulations. All equipment and fencing would be removed from the site; all stone and geotextile matting lifted and removed. Any soil bunds would be spread back over the site and the affected area re-seeded. The field access would be reinstated to its present single vehicle width.
- 1.13 Vehicle movements: The level of traffic that would be associated with the proposed operation would vary according to the phase of development. The application states that over the course of the development the average number of loads (this excludes crew movements) would be 43 per week. Traffic to the site would be associated with the delivery and subsequent removal of plant and equipment; stone for surfacing; rig, cabins and ancillaries. In addition there would be deliveries of fuel and water.

1.14 The maximum traffic volumes would take place during the delivery and removal of the stone surface. This would involve 160 loads during each of these periods. Assuming a five day working week over a 3 week, period, this equates to 12 loads per day. During drilling operations the application states that vehicle movements would reduce to 2 loads per day.

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The application site is located approximately 1.5km to the northeast of St Martins's and approximately 1.5km to the northwest of Dudleston Heath. The site is located at the northern corner of an agricultural field forming part of Brooklands Farm. The main compound area would be rectangular in shape and measure approximately 96 metres by 57 metres. Access to the site from the public highway would be gained via an existing field access. This would be temporarily widened. A temporary access track, approximately 280 metres in length, would be constructed between the highway and the site compound across existing fields.

2.2 The area comprises a gently undulating landscape. Land surrounding the site is primarily in agricultural use. Land to the southwest and southeast comprises an agricultural field. The northwestern and northeastern boundary of the site lies adjacent to an existing hedgerow, with a small area of woodland beyond this to the northeast. An electricity pylon line runs in a generally northwest-southeast direction, approximately 30 metres from the application site.

2.3 Other features in the local landscape include an agricultural lagoon, approximately 70 metres to the south, a watercourse known as the Bryndaniel Brook approximately 140 metres to the northeast and a pond approximately 104 metres to the north

2.4 The main buildings of the farm are situated approximately 250 metres to the southeast of the site. The nearest residential property is Brooklands Farm, approximately 340 metres to the southeast. Other residential properties in the local area include: Plas Yolyn Bungalow (410 metres to the northeast); Plas Yolyn Cottage (465 metres to the north); Bryn Daniel (500 metres to the southeast); New Hall and New Hall Barn (500 metres to the south); Plas Yolyn (515 metres to the north); Deefields Cottage (570 metres to the southeast).

2.5 The nearest Listed Buildings are Plas Yolyn (Grade II*, approximately 515 metres to the north), New Hall (Grade II, approximately 520 metres to the south), a milestone (Grade II, approximately 570 metres to the southwest), Pentre Madoc (Grade II, approximately 660 metres to the southwest), Pentre Morgan (Grade II*, approximately 720 metres to the west), and a barn at Caia Farm (Grade II, approximately 810 metres to the northwest).

2.6 A public footpath runs in a generally north-south direction approximately 200 metres to the west of the application site.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Committee Chairman in consultation with the Planning Manager has confirmed that the application should be decided by Planning Committee, due to its complex or major nature. In addition the Local Member, Councillor Steve Davenport, has requested a Committee decision. Further, the Parish Council has objected to the

application on material planning grounds, this decision is contrary to Planning Officer recommendation, and these contrary views cannot be overcome by planning conditions.

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **Consultee Comments**

4.1.1 **Ellesmere Rural Parish Council** Ellesmere Rural Parish Council strongly object to the application on the following grounds:

1. The visual impact of the drilling rig will be significant in a rural area.
2. Noise will be a significant feature working night and day at certain times (60 days of 24hrs work) and 102 day period of disruption.
3. Detrimental environmental and social impacts on an area totally unsuitable for Coal Bed Methane.
4. Access issues requiring removal of mature hedgerows, located where visibility is poor and crosses a culverted watercourse.
5. A high Voltage Pylon is close by and concerns that it compromises safety.
6. Dudleston has many listed buildings within 800 mtrs of the site.
7. There is no assessment of work knowledge in the application.
8. No jobs or employment will be created.
9. Concerns that the aquifer is properly protected from the drilling.
10. Concerns re Traffic Movements through rural lanes of Dudleston & St. Martins.

Councillors endorsed the detailed report submitted by the residents and community of Dudleston to Shropshire Council and wished this to form part of the grounds for objecting.

4.1.2 **St Martins Parish Council (adjacent Parish; 830 metres to the west)** Totally oppose any extraction in this area on the following grounds; Air, water and noise pollution. Real risk of subsidence. Multiplicity of sites with heavy volumes of traffic. Questions over how safe this extraction would be. St Martins Parish Council seek a moratorium on this until such times as more information is available. In any event Shropshire Council should limit the depth of drilling to 600m thus ensuring that the only exploration is for coal methane gas.

4.1.3 **Environment Agency** No objections but recommend conditions. We note that this application is for the exploratory borehole and associated infrastructure. It is understood that further appraisal and production phases will be subject to a separate planning application and relevant assessments.

Site context: Groundwater / water quality: Published BGS map 121- Wrexham shows the site is underlain by the Salop Formation, which is classified as 'Secondary A' aquifer. The formation is indicated to be overlain by glacial till at this location. The till is classified as unproductive strata. The Bryndaniel Brook (ordinary watercourse) is located approximately 170m northeast of the site. Based on our records, the nearest groundwater abstraction borehole is located approximately 650m west/southwest of the proposed site. There may be private water supplies within close proximity. Recommend that comments of Public Protection who hold records on these features (where notified) should be sought.

The main issues we have looked at, relevant to our remit, are associated with the drilling and decommissioning of the temporary appraisal borehole.

We consider that the Supporting Statement has satisfactorily considered the risk of contamination to land and controlled waters as a result of the proposed exploratory drilling. Section 2.6.4 to Section 2.6.6 of the supporting statement covers all relevant aspects of the exploration borehole operation capable of causing pollution of controlled waters receptors. The report proposes reasonable measures to prevent pollution. This mitigation includes the borehole construction, drilling fluids, fuel/ chemicals storage (i.e. bunding of chemicals, fuel, oil and lubricant storage facilities) and decommissioning and site restoration. The well design and aquifer protection measures will be secured in the Section 199 consent (see informative below).

Environmental Permitting Regulations (EPR) 2010 prohibits the input of hazardous substances to groundwater and that the input of non-hazardous must not cause pollution. The applicant has provided confirmation that inert drilling fluids will be used to prevent contamination of any aquifers or water bearing units/beds encountered during the drilling works. The fluid will not include oil based mud and be subject to an engineering assessment prior to and during drilling.

The borehole will be drilled to an approximate depth of 830m and it is anticipated that core samples will be retrieved to the surface from a depth of 690m (i.e. vertical section). The applicant proposes to isolate the surrounding aquifers or water bearing formations (i.e. Secondary A aquifer) using steel pipe casing cemented in place to form an impermeable barrier. This will ensure that the Secondary aquifer is protected from pollution and also prevents groundwater from being pumped to waste.

We note that the temporary exploratory borehole will be drilled and abandoned, once the core has been retrieved, according to DECC, Coal Authority and HSE requirements; and will be in accordance with good industry practice. The supporting statement submitted provides sufficient details in relation to the drilling methodology, installation design and measures to be incorporated to ensure the prevention of pollution to controlled waters. The report concludes that “there will be no detrimental effects on hydrology, hydro-geology or geology as a result of the development”.

A condition should be imposed regarding the siting and design of facilities for the storage of oils, fuels and chemicals (see Appendix 1).

Flood Risk: The site is located within Flood Zone 1 (low probability of fluvial risk) based on our indicative Flood Map. We would advise that you/the applicant refers to our West Area Flood Risk Standing Advice – ‘surface water management advice’, in consultation with your Flood and Water management team. They should also consider the un-modelled ordinary watercourse.

Further comments made 10 July 2014:

1. Former coal mining: The Coal Authority is the relevant organisation to comment on the presence of former coal mining in the area. However, it is highly likely that any past coal mining activity in the area will be at substantial depth and therefore any potential impact on shallow groundwater during the exploratory drilling is likely to be low. Should there be past mining, the proposed casing and cementing of the aquifer, as proposed, will ensure that any potential linkage with any mine water is eliminated. Discharges from abandoned/old coal mines are the responsibility of the Coal Authority.

2. Private water supplies: We understand that some local objections have referred to the possible presence of sub-surface drainage pipes and channels that cross the application site, conveying spring water to the farm, and have raised concern over the possibility that the proposed development may result in contamination of the water in these conduits. We are not aware of any spring fed water supplies in the area. Your Council's Environmental Health Department are responsible for and will be able to provide further information on recorded private domestic supply boreholes, springs, or wells in the area. We note that you have approached the applicant to further consider the above. We feel that the impacts are likely to be negligible given that the proposal is not dissimilar to drilling for groundwater. The applicant will, prior to drilling, be required to submit full details of the well design and aquifer protection methods under Section 199 of the Water Resources Act 1991. These groundwater protection methods will be required to meet current best practice and best available technology (BAT).

The exploratory drilling will utilise only water based drilling mud and therefore should not result in contamination of groundwater. In addition, the proposal does not involve abstraction of groundwater and therefore there should not be disruption/interruption of groundwater flow to any spring supplies in the area. In terms of potential contamination from the surface we have requested a planning condition be imposed to ensure bunding of tanks for storage of fuel, oils and chemicals to avoid leakages and spillages during the drilling works. This will help protect controlled water receptors.

We also confirmed that a mining waste permit will be required from us. This will ensure that any waste produced during the drilling works is disposed off appropriately to protect the water environment. The applicant will need a permit from the Environment Agency where it is intended to abstract water. In these cases, where domestic water supplies including wells springs and boreholes are within 250m radius from the site then a monitoring plan and mitigation scheme will need to be put in place to ensure that these features are not affected during works. However, it should be noted that at present there is no proposal to abstract water and therefore no abstraction licence will be required from us.

4.1.4 **Natural England** The application is not likely to result in significant impacts on statutory designated sites, landscapes. The lack of specific comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. It is for the local authority to determine whether or not this application is consistent with national or local policies on biodiversity and landscape

and other bodies and individuals may be able to help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process. The following issues should be assessed and considered:

Protected species: We have not assessed this application and associated documents for impacts on protected species. Natural England's Standing Advice should be applied to this application. This includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

Impact Risk Zones for Sites of Special Scientific Interest (IRZs): These can be used by lpa's and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England.

- 4.1.5 **Coal Authority** The application site does not fall with the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted. In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

Further comments from the Coal Authority (10 July 2014): We have received your email of 30 June 2014 which highlights local concerns that have been expressed regarding this proposal in relation to the impact on past coal mine workings. In view of the local concerns to which you refer, I have reviewed our coal mining information in relation to the application site and can confirm that the site is not located within the zone of likely physical influence from any past underground coal mine workings.

Our mining records do not identify any coal mining hazards or risks to this proposal; accordingly The Coal Authority does not consider that submission of a Coal Mining Risk Assessment or other mining-related information is necessary in support of this planning application.

General Information to the MPA: To drill a borehole, in addition to planning permission, the applicant will need to have both of the following consents:

- (i) an interest in the associated Petroleum Licence for the area – *the applicant is the current holder of PEDL 185 Petroleum Licence issued by the Department of Energy and Climate Change*; and

(ii) a Coal Bed Methane Access Agreement from The Coal Authority – *the applicant has previously applied for the Agreement with The Coal Authority for this site.*

- 4.1.6 **Health and Safety Executive** No comments to make. HSE is a statutory consultee for certain developments within the consultation distance of major hazard sites and major accident hazard pipelines, and has provided planning authorities with access to an online software decision support tool for them to use to consult HSE and obtain our advice. However, the proposed development does not lie within the consultation distance of a major hazard site or pipeline, so there is no need to consult HSE on this application.
- 4.1.7 **National Grid** No objections to the proposal which is in close proximity to a High Voltage Transmission Overhead Line.
- 4.1.8 **SC Public Protection** The proposed development scheme is very similar to a scheme proposed for the same location in 2010, planning application 10/00909/MAW. As a result it is recommended that conditions 10-15 from the decision notice of application 10/00909/MAW in respect of contaminated land precautions are placed on this application should the application be granted approval. In relation to noise there is likely to be significant noise created on site throughout construction and during reinstatement of the area after exploration works have been completed. As a result a condition is recommended specifying hours of operation (see Appendix 1).

Drilling operations are proposed to occur 24/7. As a result there is the possibility for noise to impact upon residential dwellings in the locality, particularly at night. As a result a condition is recommended specifying that noise shall not exceed 45dB LAeq or 60 dB LAm_{ax} between the hours of 23:00-07:00 (see Appendix 1).

The noise assessment carried out uses noise data specific to a drilling rig Drillmee HH102. In order to ensure that this assessment is appropriate a condition is recommended requiring that a new noise assessment is submitted for approval if the drilling rig to be used is not HH102 (see Appendix 1).

Due to a significant amount of earth works proposed in this application a condition is recommended in relation to dust management, and an informative regarding seeding or covering of earth bunding, and wheel washing and damping of transport routes (see Appendix 1).

With regard to lighting a condition should be added requiring a lighting scheme to be submitted for approval (see Appendix 1).

Further comments:

In regard to noise at the receptors mentioned the energy and therefore the volume of noise decreases in line with the inverse square law over distance. Therefore if the sound is likely to be in the region of 42dB at receptors around 450m away from the noise source it is likely to be less than 39dB at properties in the region of 1km away.

The noise report submitted so far has been independently assessed by Public Protection and no anomalies have been found that suggest it is not predicting noise

levels with a reasonable level of accuracy. However, if there are any unknowns or very specific local circumstances that result in noise being greater than expected the conditions posed provide protection to nearby properties.

We have made a commitment to taking noise measurements during drilling to check actual noise levels at nearby residential properties. It is likely that this will take place at a representative sample of nearest properties. We will not be carrying out noise assessment at each property within the locality due to the fact that should no issues be noted at closest properties it stands that properties further away will be likely to have further reduction in noise levels for the reasons outlines above.

With regard to the questions in relation to how soon will drilling be stopped should noise levels be breached this is a planning enforcement matter. If breaches are noted during monitoring we will notify the Local Planning Authority the next working day in order to ensure that action can be taken promptly.

In relation to the proximity of private water supplies, the closest private supply is abstracted approx. 500m to the north of the proposed site. The abstraction point is the other side of a water course and therefore I would not expect this to be impacted. With regards to any private water supplies to the south west I have nothing on our maps. This does not mean they do not exist but coupled with the fact that there are not many in the area as a whole meaning that there is the provision for mains water it is unlikely that there are any supplies that are likely to be affected. We should be made aware of any supplies that are to greater than one domestic dwelling as these require sampling by the Local Authority. No supplies of this type have shown up on our maps of the area.

- 4.1.9 **SC Highways** No objections subject to the conditions recommended in respect of application reference 10/00909/MAW being imposed upon the current resubmission.

[These comprised conditions requiring a Traffic Management Plan, and the construction of the access in accordance a design and specification that has received the prior written approval of the planning authority – see Appendix 1.]

- 4.1.10 **SC Drainage** The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2. If main foul sewer is not available for connection, full details and sizing of the proposed septic tank/ package sewage treatment plant including percolation tests for the drainage field soakaways should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form).

British Water Flows and Loads: 3 should be used to determine the number of persons for the proposed development and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

Reason: To ensure that the proposed foul water drainage complies with the Building Regulations 2000(as amended) and Sewers for Adoption 6th Edition

- 4.1.11 **SC Trees** No objections, subject to a Tree Protection Plan and Arboricultural Method Statement being submitted and agreed in writing by the local planning authority prior to the commencement of the development. All tree protection measures within the agreed TPP and AMS to be full installed on site prior to the commencement of the operation.
- 4.1.12 **SC Archaeology** No comments to make on this application with respect to archaeological matters.
- 4.1.13 **SC Ecologist** Conditions and informatives should be attached to the decision notice.

This development could result in a breach of Article 12 (1) of the Habitats Directive with respect to Great Crested Newts, however, with the mitigation and methods of working proposed, the Favourable Conservation Status of the population of the species concerned should be maintained. A 3 tests form is included with this consultation response. Providing the other two tests can be assessed by the planning case officer, and the tests are passed, I consider it likely that Natural England would issue a European Protected Species Mitigation Licence for this development.

The above application and the following documents have been read: Supporting Statement including Appendix 6 Ecology Report (Arcus Consultancy Services Ltd, June 2014), the letter from the Shropshire Badger Group dated 17th August 2014 and the applicants planning rebuttal document dated September 14.

There appears to be some confusion as to the nature of the development as evidenced by responses published on the planning website. These comments are relevant to the current planning application only i.e. for the temporary operation of an exploratory borehole.

Protected Sites: There are no statutory designated sites within 1 km of the development site. The River Dee SAC lies c.3.4km to the north and the development site lies within Natural England's Impact Risk Zone for the River. However, this type of development is not indicated as one which would present a risk to the SAC and Natural England state in their consultee response that 'the application is not likely to result in significant impacts on statutory designated sites, landscapes'. The Environment Agency (EA) have provided a condition to ensure the protection of controlled waters and appear to be satisfied that sufficient measures to protect against pollution have been provided in the application. They also state that the applicant will, 'prior to drilling, be required to submit full details of the well design and aquifer protection methods under Section 199 of the Water Resources Act 1991. These groundwater protection methods will be required to meet current best practice and best available technology (BAT)'. The EA also confirmed that 'a mining waste permit will be required from us. This will ensure that any waste produced during the drilling works is disposed of appropriately to protect the water environment.' In view of this, on the current available information, I conclude that there will be no likely significant effect on the River Dee SAC or other watercourses. Should any such effects be identified at a later date we would expect them to be addressed during the EA permitting processes.

Habitats:

Grassland - The majority of the site consists of species-poor pasture, of low ecological value, grazed by cattle. It will be disturbed for 3 months and then reinstated to its former use.

Trees - Trees are present on the north western and north eastern boundaries. It appears that it is proposed that only a 1 to 2metres buffer is to be left between the topsoil stripping in the compound and any hedge/tree. This could cause permanent damage and having taken advice from arboricultural colleagues, the Root Protection Area for any trees should be in accordance with BS5837 (the buffer should be at least 12 times the diameter of the largest tree). The council's Tree Team should be contacted for an appropriate wording for a condition to this effect.

Hedges - The development will use existing hedgerow gaps and gateways. A small section of species-poor hedge will be removed to widen the existing access point. Replacement of the hedge during reinstatement should be with mixed native species of local provenance. There should be a root protection zone of at least 2 metres to any hedgerow, however, due to concerns over badgers, bats and GCNs using the site, all of which will use hedges of preference, the buffer to the security fence should be at least 5m – 10m. The security fence would need to be as badger-proof as possible if top-soil is to be stored in bunds, which may well require digging deeper than 30cm. A condition restricting development other than the access road within 5 metres of any hedgerow is recommended (see Appendix 1).

Ponds and streams - Two ponds lie within 250m of the site and the nearest water course lies around 150m to the north. Although neither pond will be destroyed, the access track lies within 10m of one pond. See comments about Great Crested Newts (GCNs) below. It is essential that pollution protection measures are in place to protect these water bodies and these should be conditioned.

Bats: It is very likely that bats are present due to suitable foraging habitat along hedgerows and woodland edge. The Ecology report states that no suitable bat roosting features are to be disturbed by construction on site. However, the site compound lies very close to hedges and trees and it is proposed to place a floodlight at each corner. Night-time lighting should be kept to an absolute minimum and in view of this I would recommend a condition requiring the submission and approval of a lighting plan prior to the erection of any external lighting (see Appendix 1).

Great Crested Newts: There are two ponds on the site, pond 1 (a field pond) and pond 2 (a slurry lagoon) for which surveys in 2010 showed both to have medium populations of Great Crested Newts according to the *Ecology Report* by Arcus. In 2014 access was denied to Pond 1 but GCNs estimated to represent a small population were still found in Pond 2. Numbers of newts caught in ponds naturally fluctuate from year to year. Based on the findings, Arcus Consultancy Services state that construction works must be carried out under a European Protected Species Mitigation Licence. Neither pond will be destroyed or damaged by the works but the construction of the access track and site compound could risk killing or injury to GCNs and there would be a temporary loss of sub-optimal habitat. An Outline Great Crested Newt Mitigation Strategy (Appendix C to Chapter 6 Ecology Report) has been provided and this should form the basis of the licenced method

statement.

The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative' of the European Protected Species 3 tests. The EPS 3 tests matrix must be included in the planning officer's report for the site and discussed/minuted at any committee at which the application is considered.

A condition should be attached to the permission requiring that work should be undertaken under a EPS Mitigation Licence (unless deemed unnecessary) (see Appendix 1).

Birds: There is potential for ground clearance and the small amount of hedge removal to disturb nesting birds. The recommendations of the Ecology Report (Arcus 2014) should be followed and an informative added to any decision notice (see Appendix 1).

Badgers: There are no badger setts within 30m of the development boundary according to the Ecological Report 2014, but there is concern badgers may cross the area due to be used for the compound and trackway. The latter is due to be fenced only while GCN mitigation work is underway and then badgers would be able to cross it at will. Provision will need to be made to allow badgers to cross the GCN fencing and monitoring will be needed to quickly pick up any damage to the GCN fence should this occur. The compound will have security fencing around it for the full 3 months with lighting. Measures will be needed to ensure badgers are kept out of the site compound, particularly as they could compromise the GCN fencing and topsoil bunds could encourage sett construction. Loss of badger foraging is not considered a problem as any badgers passing by would have free access outside the compound and the area enclosed is similar to a much larger area of the same habitat outside.

The 24 hour drilling operation could cause vibration. Guidance suggests that operations such as pile driving, rock boring or use of explosives could, in some cases, cause disturbance at distances greater than 100m. Currently, the distance to the nearest known badger's sett is such that the continuous vibration for this development is unlikely to cause disturbance. I have expanded my reasoning on this in an email which I wish to remain 'sensitive' to protect any badgers in the area. As a precautionary measure, as this is a very mobile species, a condition should be imposed to require an update badger survey within a month prior to the start of construction to detect any changes in the situation and allow a reassessment of the badger mitigation required (see Appendix 1). It would be the responsibility of the developer to take expert ecological advice on the need or otherwise for a Badger Licence from Natural England.

In view of the potential clash between mitigation for GCNs and badgers, a condition should also be applied to require the submission and approval of a wildlife protection (mitigation) plan (see Appendix 1).

- 4.1.14 **Shropshire Badger Group** Objects to the application. Members of Shropshire Badger Group have been able to survey both the application site and the surrounding area and I can confirm that two active badgers setts have been identified [within the vicinity of, but outside of the application site – locational

information has been removed for confidentiality reasons]. The field signs suggest that the setts are occupied by the same social group; hence the application site is now and, if approved, will most certainly be visited regularly by badgers.

We understand that where badgers are resident within reasonably close proximity to deep drilling operations, the situation would usually be considered and managed in the same way as 'blasting' operations which require special mitigation measures and monitoring, usually detailed in a 'mission statement' which the applicant has been unable to provide at this stage.

Without such information, it is not possible to properly consider the welfare of the local badger population nor to ensure that the presence of badgers is managed in such a way that persons working on the site are protected from the possibility of committing criminal offences. The only comment by the applicant regarding badgers is that the site will be made safe whenever possible and that approach is completely unacceptable.

4.1.15 Shrewsbury Friends of the Earth (SFE) objects on the following grounds:

CS6 of the Shropshire Core Strategy states that development should protect and enhance Shropshire and should not adversely affect the visual, ecological or historical heritage. CS5 of the Shropshire Core strategy states the need to maintain and enhance the quality of Shropshire's environment as an attractive, safe and sustainable place in which to live and work. The proposed development contravenes CS5 and CS6

The increase in HGV movements will unacceptably damage the surrounding roads and will create a hazard for other vehicles, pedestrians and cyclists. A full traffic management plan is not provided

There will be noise and light pollution for 24 hours a day. This will have an unacceptable impact on local people's health and well being.

There will be an unacceptable detrimental impact on local wildlife such as the protected Great Crested Newt. The applicant needs to acquire a European Protected Species Licence.

Local aquifers, ponds and streams are at risk of contamination by leaking methane, drilling fluids and onsite fuel. Capping is not a full proof method of preventing methane leaks.

There needs to be an Emergency Action Plan. It is not clear how good practice will be ensured and how dangerous incidents will be avoided.

Subsidence may result from old coalmines and / or geological faults being disturbed

This application is the first step to a possible full gas industrial development which is not a solution for a sustainable future of Shropshire and will destroy the local community.

The precautionary planning principle should be applied.

4.1.16 Friends of the Earth (West Midlands) objects on the following grounds:

Climate Change

The NPPF states the need to support the transition to a low carbon future and to secure radical reductions in greenhouse gas emissions. The

proposed development does not accord with this.

Precautionary Principle

There is growing evidence of the serious environmental impacts of hydraulic fracturing and coal bed methane extraction. A precautionary approach should be undertaken when dealing with an application of this nature, as outlined by EU law.

Discordance with the Shropshire Core Strategy

Relevant opinions similar to those of SFE. In addition, the proposal does not accord with CS17 or 'saved' policy M4.

Risks and Impacts

Concerns regarding traffic, noise and light pollution, the contamination of water sources, good practice, the avoidance of dangerous incidents and subsidence are similar to those of SFE.

In particular, it is noted that the development will leave behind a permanent concrete substructure encased in steel that is clearly not temporary.

Furthermore, concrete decays slowly overtime. This increases the chances of a methane leak.

The development will discourage tourism in the local area, therefore damaging the local economy.

The development will result in an unacceptable change of use of land. The land is currently used for grazing Jersey Cows.

The historical character of the local area may be damaged. In particular, there are a number of listed buildings within the vicinity that may suffer damage.

- 4.1.17 **Frack Free Dudleston** objects to the application. Frack Free Dudleston is a group of local residents who wish to oppose the coalbed methane application.

Traffic Safety

The proposed access is not safe. It is not wide enough, there is poor visibility, there is a farm slurry lagoon in close proximity and it will displace a mature hedgerow. A more convenient access route could be chosen to minimise disturbance to the local environment and residents.

The application fails to consider the need to form a bridge across the nearby culverted stream.

There is no proposal to clean vehicular wheels on exit from the site. This will create a hazard on the local roads.

The local road network is unsuitable for the projected number of HGVs associated with the site. This will place other motorists, pedestrians, cyclists and horse riders at considerable risk.

Damage to the Landscape and Environment

At 27 metres high and elevated within the local topography, the drilling rig will have a significant negative visual impact on the area. The report significantly overestimates the amount of 'screening' that will be afforded by nearby farm buildings, trees and hedgerows.

Significant noise pollution will be generated by the drilling. Dart have failed to adequately address and have underestimated the impact of this on local residents. For example, they have assessed the proposed noise levels at

just 9 dwellings when there are 31 dwellings within one kilometre of the site and they have not taken baseline readings of ambient noise levels. The drilling may well breach the 45dBA limit as set by the World Health Organisation.

There will be significant light pollution generated by the floodlights. It will be exacerbated by the fact that the local area has no street lighting and is very dark, and because the development site is on a hill. Applicant has underestimated the impact this will have on the local area.

Historically the area around St. Martins was mined for coal and there may well be mines near the development site. Drilling within 1.5 kilometres of mine workings is both prohibited and dangerous. Dart have failed to demonstrate that there are no mines within this distance of the development site.

A mature hedgerow, traditional stone gateposts and a spring fed water trough will all be removed to create access.

The removal of hedgerows and non-adherence to planning recommendations to maintain stand-off distances will have an impact on biodiversity.

Drilling will, contrary to the claims of Dart, take place below the water table.

If the slurry lagoon does leak as a result of Dart's activities, this could have an enormously detrimental effect on the local water systems and on the local fauna and flora.

More generally, the development has a high risk of causing pollution to groundwater and surface water. The nearest watercourse is just 40 metres away, not 150 metres away as stated by Dart.

Onsite works will take place too close to hedges and trees. This both contravenes Council requirements and places wildlife in jeopardy.

There are protected species in the area such as Water Voles. No proper ecological assessment has been undertaken to ensure the protection of local wildlife.

There are waste management issues. For example, a Radioactive Substances Authorisation may be required.

It needs to be shown that drilling in the area is safe, with regards to the former local coal mines and with regards to compliance with The Coal board.

Air quality will suffer from emissions related to the drill site.

This drilling and unconventional gas extraction in general is unsustainable and as a result contravenes the NPPF. Society needs to start making sustainable choices now for the wellbeing of future generations.

Damage to Heritage and the Community

There are many listed buildings in the area and on haulage routes that could be damaged. Insufficient searches have been done on historical features.

No jobs will be created by the proposal.

The local economy would suffer greatly. Businesses may relocate and tourism would suffer. This would lead not only to monetary loss but to job losses also.

Dart have estimated that £250,000 will be spent within 50km of the site. However this is a very small figure compared to the impact that drilling will

have on the local area. Furthermore, 50km takes in lots of sites outside of Shropshire and outside of the local community (e.g. Chester). In addition, a cost benefit analysis has not been done.

The drilling will be detrimental to the rural character of the area. This is true regardless of whether the operation is temporary or not.

The community have a lack of trust in Dart that is a direct consequence of the drop-in meetings that Dart held. For example, Dart have claimed that if the community do not want them in the area, then they would not drill there. This was clearly a lie.

Personal Concerns

Individuals may suffer health problems as a result of the noise and air pollution.

Process of Application

The planning application, supporting statement and drawings submitted by Dart are of poor quality with many inconsistencies, errors and omissions. These include but are not limited to an unclassified country lane being incorrectly referred to as the B5068 and claims that increased traffic movement will last just 60 days.

No independent assessment has been made of environmental matters and Dart have failed to adequately address many of the environmental factors. In the absence of adequate scrutiny of environmental matters, Dart have wrongly concluded that the proposal must be compliant with planning policy.

By repositioning the access the entire site could be redesigned to place the sound retarding bund and other equipment on the sides that have sound sensitive receptors. This would also move the site away from the copse which is a haven for wildlife.

The supporting statement provides no evidence to suggest that this proposal will comply with all relevant planning policy. In fact the proposal contravenes planning policy in several areas.

There are not enough mitigation measures to help combat the damage that the drilling will do.

No detailed assessment has been made of mining in the area, the local aquifers and the local geology. This highlights just a few of the areas that require further investigation.

The council must require evidence and justification as to why the drilling depth of 690-830 metres has been selected.

The mandatory Agricultural Holdings Certificate is not completed.

Permission should not be granted simply because it was in 2010.

The Government's Promote UK 2011 concludes quite firmly that Shropshire is not good for CBM.

Restoration after the drilling must be dealt with properly.

Any exploitation of fossil fuels is dramatically more carbon intensive than the level the Climate Act 2008 requires.

There is a precautionary principle in planning that requires caution where scientific evidence is unclear or inconclusive. Activities should not be undertaken unless proven safe. Dart's numerous omissions, errors and

inconsistencies, together with their lack of proper assessment and rigour should clearly imply that this cautionary principle should be enacted and that the benefit of the doubt should lie with the objectors.

It is acknowledged that this is not an application for CBM extraction. However if that is not the ultimate goal then what is the point in proceeding with this stage of the process? It is considered that the possible consequences of successful test drilling should be considered at this stage.

4.2 **Public Comments**

4.2.1 The application has been advertised by site notice and in the local press, as required by statutory procedures. In addition, direct notification of the application has been sent to residential properties within a distance of around 800 metres of the site (approximately 15). There have been 535 letters of objection from the public and one letter of support. There have also been 4 general comments; however the content of these has been included in the summary below. Furthermore, there is a petition entitled 'We Say No To Coal Bed Methane Drilling Or Fracking In Shropshire' that has been signed by 239 individuals.

4.2.2 The reasons for objection are summarised below.

Traffic Safety

Dart Energy has estimated there to be 500 lorry deliveries over the 8-12 week period. Given the nature of the local rural roads and villages, this is of concern to nearby residents. In particular many of the local roads are far too narrow for large trucks to use safely, the B5068 junction is not safe and there is a blind bend on one of the roads that will be used for access. The local roads already have a reputation for being dangerous and both pedestrians and motorists using them will be put in further jeopardy.

The small bridges out of St Martins may not cope with the increased weight and number of vehicles.

The vehicular movements will be through small local villages and past a school, placing children in danger

There is a national cycleway running close by and the increase in HGVs using the local roads would pose a significant danger to cyclists.

There has been no traffic plan.

If CBM is to be extracted in the area, then the test drilling sites should be located closer to trunk roads or railways.

Climate change and energy policy

has the purpose of expediting fracking in Shropshire; fracking produces carbon rich gases that add to our carbon inventory and contradict Shropshire Council's policy to deliver reductions in greenhouse gases (GHG) in line with the binding requirements of the Climate Change Act; contrary to national and local policy

will add a significant amount of extra GHG to our county wide inventory, contrary to policy to reduce greenhouse gases

Damage to the Environment and Landscape

Drilling should not be carried out near any old mining activity because this

can lead to environmental problems such as water contamination and subsidence. The Ifton Colliery which operated at St Martins is believed to have excavated towards the Dudleston and Ellesmere area. In particular the coal seams in the area are narrow, sloping and contain many faults. This could make drilling difficult, prone to leakage and uneconomical. Dart possibly didn't even know about the existence of these mines.

The local geology, including the local geological faults, is unsuitable for both CBM and fracking. Indeed this is what caused the mines in the area to close (*before* the mass closures of the 1980s).

All evidence currently available for the extraction phase indicates that it will be impossible to safely dewater the coal strata.

The use and release of chemicals, some radioactive, may lead to the contamination of water sources, including drinking water and acid rain. The River Dee is of particular concern and it is possible that Dart did not even realise that the river provides a water source for many large settlements such as Chester. Also of concern is the Shropshire Aquifer, which supplies a large number of boreholes, wells and, during periods of low rainfall, the piped water supply for Shropshire and beyond.

The use and release of chemicals, some radioactive, may also lead to a contamination of the soil in the surrounding fields. This will affect agriculture.

The friction of the drill rubbing against the coal bed may create a spark that could ignite the methane and in turn the coal that is located underground. As such there is the risk of an underground fire and there are no contingency plans to deal with such an event.

HGVs using the unsuitable roads could create a build up of mud which could lead to drainage blocks and flooding.

It may damage the water table. The drilling, contrary to the claims of Dart, will go beneath the water table. Their claim that concrete casing will prevent contamination is feeble.

There will be problems processing and storing the waste water produced.

Local wildlife, such as hares, water voles and endangered great crested newts, will be endangered and there has not been a satisfactory ecological report.

Local domestic animals, such as cattle and horses, could suffer injuries as a result of stress and health issues as a result of pollution.

The drill, situated on high ground and at over 18 metres high, will be an eyesore. There will be damage to the visual character of the landscape that affects both visitors to the area and local residents.

There will be structural damage to the landscape, which will affect the land stability, creating issues such as sink holes, subsidence and landslips.

Drilling could also create tremors and local earthquakes.

The air quality will suffer as a result of an increase in dust and other airborne pollutants, some of which are carcinogenic and / or radioactive. Methane may vent in an uncontrolled manner and there is neither a proposal to monitor this nor an emergency action plan. These issues may be exacerbated by prevailing winds. As a result of the reduction in air quality, certain individuals may experience health problems. Those with existing respiratory conditions, such as asthma, and the elderly will be particularly badly affected.

The carbon footprint of the entire operation should be carefully considered.

There are no contingency plans for safeguarding the local population in the event of the release of noxious gas.

There will be an increase in noise pollution, for some periods there will be 24 hours a day of operation.

Low frequency noise is of particular concern.

There will be light pollution, sometimes for 24 hours a day. As well as affecting residents, this will also affect local nocturnal wildlife.

Coal Bed Methane extraction is not a green, sustainable or renewable energy source, as such alternative sources of energy should be sought.

There is evidence to suggest that test sites and extraction sites can 'leak' after being 'capped'.

Has an environmental impact study been conducted? This should take particular consideration of the fact that the exploratory bore hole will reach a depth of several hundred metres.

The meres of Ellesmere, formed during the ice age, may drain. This would be a disaster for tourism and local heritage.

There is a nearby bore gas main running north-south that may be of concern.

Even if the land is returned to its original condition, it will take several years.

A thick and mature hedge will have to be removed for access.

Proximity to a large pylon, creating a significant public safety concern.

an industrial activity bolted onto a very fine, tranquil, rural landscape and if passed it would undermine over 5 decades of established practice in protecting the countryside from inappropriate industrial development.

Damage to the Community

The local resident who runs the Shropshire Link bus service will be forced to leave the area and therefore the bus service will be forced to shut down. He relies on water from a nearby well for his good health and the proposed project will contaminate said water.

Impact on membership / attendance of other services, such as the tennis club; may force closure.

The proposal will create no economic benefit for the local community because Dart is not a local company and does not and will not employ local people.

Local businesses may relocate, which would be economically detrimental for the local community.

People will be put off buying locally produced foods, fearing that they have suffered a loss in quality and / or have been contaminated.

A grade II* listed building, which is being considered to hold wedding receptions, is endangered, as is a business operating in an adjacent field that employs 90 people.

The exploration and possible subsequent extraction will damage tourism, farming in the local area and generally the entire local economy.

The land in this area is for agricultural use and there is no room for the activities proposed.

The operation will affect the rural nature of the area.

Dudleston has a beautiful Norman era church close to the site, which may be at risk.

If permission is granted and drilling is successful it could pave the way for the full scale industrialisation of North Shropshire.

If CBM is to be extracted in the area, then the test drilling sites should be located on brown field sites.

Damage to Personal Property and Personal Concerns

House prices will fall.

It may be tricky to obtain house insurance.

It may affect the structural integrity of nearby properties, such as those built on clay.

Aforementioned flooding may cause damage to individuals' personal property.

Many individuals choose to live in the area for its tranquillity and to enjoy a rural way of life. The proposed drilling will put these choices in jeopardy.

The landowner does not want the work to be carried out.

Local farmers will not be able to apply for, or may lose, organic status with the proposed drilling nearby.

Individuals keen to move to the local area are being put off.

It has been proven that residents who live near existing CBM extraction sites are experiencing strange rashes, headaches and stomach problems. Furthermore, they have been left wondering whether their water supplies are safe to drink.

Local farmers will probably be blacklisted because their products may be deemed unsafe.

Process of Application, Legality and Policy

It is asked why an Environmental Planning Survey is not required.

If Dart wish to extend their drilling in the local area they should be required to apply for each rig separately and no consideration should be given to their plan as a whole.

There are more houses that are affected, both visually and aurally, than are listed as being so in the application.

The £250,000 that Dart are offering to the local community is minute compared to the total amount of money that residents would lose through a whole range of factors, including a decline in house prices and an increase in insurance premiums.

Whilst Dart claim that noise levels are within The World Health Organisation's acceptable limits, they have not taken into account existing background noise. Noise from the drilling and background noise together may be over the acceptable limit.

The independence of the application's supporting reports has been called into question.

Dart have displayed a general ignorance and unawareness of the local landscape, geology and community, both in their application and at subsequent meetings. Their report omits key information and contains

inaccuracies. Furthermore, they have been unable to answer certain questions regarding the issues highlighted by the public.

There are no details of decommissioning of the borehole in Dart's application.

Previous approval was granted in 2010 which is being used as a precedent for this application. However this is not safe because of inaccurate, subjective and unquantified statements in the previous application. Furthermore, not all of the neighbours that should have been notified of the previous application were notified.

Tests have already been carried out in the area so why are more required?

If the test drill were to go ahead it would not yield any additional evidence for whether extraction would be safe and viable.

Applications should be rejected until at least there is legislation regarding this form of testing.

Acceptance of this application could lead to many more similar applications. Shropshire County Council should reject to send out a strong message that Shropshire is not willing to cooperate with this kind of energy extraction.

The proposal contravenes with policies in the Core Strategy, specifically CS5, CS6, CS17 and CS18.

The area of concern is in a protected water catchment area from the 1991 Water Act.

To store chemicals and fuel above ground at this location requires a permit.

Shropshire Council should heed warning about the damage fracking can do by looking at cases in other parts of the UK and, in particular, the USA and Spain.

Fracking is expensive and short sited. It can provide the UK with energy for no more than just 20 years.

In the USA exploiting shale gas is already uneconomical, after just a few years of profit. The UK reserves are smaller and more difficult to work than the USA's reserves and will yield profit for an even smaller time frame.

The Government's attitude to fracking seems to contradict the ever increasing regulations that are placed on agricultural workers to protect the countryside.

Australian authorities placed a ban on CBM activity within 2 kilometres of residential areas. There are residents within just 500 metres of the proposed drill site.

Solar panels, wind turbines and harnessing wave power are suggested as alternative methods of energy extraction.

The Council could be subject to a serious financial penalty.

Government and Council planning support of such projects may be criminal acts and individual officials may be held personally responsible.

Dart claim that the Environment Agency and Health and Safety Executive will monitor the drilling however it is questioned whether the resources are available to do so.

The aforementioned noise from the drilling may be a breach of Human Rights for nearby residents.

Given Britain's commitment (via The Climate Change Act (2008)) to meet targets relating to the reduction of greenhouse gases, there is no justification

for exploring new sources of fossil fuels.

If drilling demonstrates that CBM extraction and / or fracking would be profitable, there is a chance that a decision on further activity would be removed from local democracy. Therefore it is justified to consider the full effects that CBM extraction and / or fracking would have on the area.

4.2.3

Policy M24 of the 1996 to 2006 Shropshire Minerals Local Plan provides a very clear and sensible requirement that oil and gas developments should submit a provisional plan for the whole work programme at the earliest stage possible. It is not clear whether this policy has been saved, but the principle that it establishes is sound and should be retained.

The grounds for support are as follows:

The UK desperately needs the cheap energy that projects similar to this one provide.

5.0

THE MAIN ISSUES

5.1

- Scope and objectives of the proposed development
- Regulatory framework and relationship to planning
- Planning policy and principle of development
- Environmental Impact Assessment regulations
- Issues relating to the potential use of the site for other phases of hydrocarbon extraction
- Planning history considerations
- Siting, scale and design and impact on landscape character
- Residential and local amenity considerations
- Pollution control considerations
- Traffic and access considerations
- Ecological considerations
- Historic environment considerations
- Economic considerations; impact upon rural economy

6.0

OFFICER APPRAISAL

6.1

Scope and objectives of the proposed development

6.1.1

It is recognised that this planning application has resulted in a significant number of objections from residents and some interest groups. Given the nature of the proposal, and to provide clarity to Members, the scope of the proposal and its objectives are summarised below.

6.1.2

The proposal seeks planning permission for a temporary drilling operation to remove a core of coal from the underlying coal seam. Once the core of coal has been extracted, the borehole would be closed up and the site restored. The application does not seek approval for any further operations at the site. The purpose of the obtaining the coal sample is to analyse its properties and gas content. Exploratory operations such as the one proposed are undertaken as part of the process of determining whether the coal resource would be suitable for coalbed methane (CBM) extraction. CBM is a form of natural gas found within coal seams, and its extraction is known as unconventional hydrocarbon extraction. Unconventional hydrocarbons are an emerging form of energy supply.

- 6.1.3 There are three phases of onshore hydrocarbon extraction: exploration; testing (appraisal) and production. The current application seeks permission for the first of these only. This exploratory phase seeks to acquire geological data. Planning permission is required for each of the phases of hydrocarbon extraction. The current planning application does not seek permission for the appraisal or production phases of the process.
- 6.1.4 The proposed exploratory operation would not involve hydraulic fracturing, otherwise known as 'fracking'.
- 6.1.5 Further background information relating to hydrocarbon gas exploration was included in a report to Full Council at its meeting on 17th July 2014. This is available to view on the Council's website at: <http://shropshire.gov.uk/committee-services/ieListMeetings.aspx?Committeed=125>
- 6.2 **Regulatory framework and relationship to planning**
- 6.2.1 It should be noted that, in addition to obtaining planning permission, there are a number of steps that the applicant would need to take in seeking consent for the temporary exploratory drilling operation. A number of different consents would need to be obtained from the Environment Agency. Details of these are included in the 'informatives' section in Appendix 1 below. The Government advises that all wells must be designed and constructed in accordance with government regulations. Inspectors from the Health and Safety Executive and an independent well examiner check that the regulations are being followed. The application states that the abandonment of the well following the completion of the drilling operations would be undertaken in accordance with best practice and an independent well examiner, DECC, Coal Authority, Environment Agency and Health and Safety Executive requirements. Paragraph 110 of the Planning Practice Guidance on minerals (detailed in section 10 below) sets out the key regulators for hydrocarbon extraction.
- 6.2.2 Paragraph 12 of the PPG on Minerals sets out the relationship between planning and other regulatory regimes. It states that the planning system controls the development and use of land in the public interest, including ensuring that new development is appropriate for its location – taking account of the 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. It states 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. Mineral planning authorities should assume that these non-planning regimes will operate effectively". Similar statements are contained in paragraph 122 of the NPPF (see section 10 below).
- 6.2.3 In relation to hydrocarbon extraction, paragraph 112 of this Planning Practice Guidance explains that "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”.

6.2.4 Paragraph 112 sets out the responsibilities of other regulatory bodies (see section 10 below).

6.3 **Planning policy and principle of development**

6.3.1 Planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area includes the Shropshire Core Strategy, the saved policies of the former North Shropshire District and the former County Council, and supplementary planning documents. Central government planning guidance is contained in the National Planning Policy Framework (NPPF) and supported by Planning Practice Guidance. These constitute material planning considerations which should be taken into account in the decision-making process. Details of relevant Development Plan policies, the NPPF, Planning Practice Guidance and other relevant policies are included in Section 10 below.

6.3.2 The current proposal is for mineral exploration operations, and would involve the removal of a single core of coal for analysis. As such the proposal does constitute mineral extraction, albeit that the proposal does not comprise full scale mineral extraction such as quarrying. Nevertheless para. 144 of the NPPF states that great weight should be given to the benefits of mineral extraction.

6.3.3 Paragraph 91 of the Government’s Planning Practice Guidance on minerals states that “as an emerging form of energy supply, there is a pressing need to establish – through exploratory drilling – whether or not there are sufficient recoverable quantities of unconventional hydrocarbons such as shale gas or coalbed methane present to facilitate economically viable full scale production”.

6.3.4 Paragraph 124 of the Planning Practice Guidance on minerals states that mineral planning authorities should take account of Government energy policy, which makes it clear that energy supplies should come from a variety of sources. This includes onshore oil and gas, as set out in the Government’s Annual Energy Statement published in October 2013.

6.3.5 The NPPF states that planning plays a key role in meeting the challenges of climate change, including supporting the delivery of renewable and low carbon energy infrastructure. As part of this, the Annual Energy Statement states that “in managing the transition to a low carbon energy mix, gas (as the cleanest fossil fuel) is expected to continue to play a major role. So continuing to ensure diversity of gas supplies remains important. Growth of unconventional oil and gas, for example, may help to ensure this”.

6.3.6 There are no saved policies of the Shropshire Minerals Local Plan which relate to coalbed methane or hydrocarbon exploration. Core Strategy Policy CS20 states that “environmentally acceptable proposals for the exploration, appraisal and production of hydrocarbon resources, including coalbed methane, will be supported as a contribution to meeting the requirements of national energy policy”.

6.3.7 On the basis of the above it is considered that exploratory drilling operations for hydrocarbons, such as the one proposed, is supported in principle by Development Plan policy and Government planning policy and guidance.

6.4 **Environmental Impact Assessment regulations**

6.4.1 In March 2014 the applicant request confirmation from the Council as to whether a planning application for temporary exploratory drilling operations at this site would need to be accompanied by an Environmental Impact Assessment (EIA). The Council considered this request for a 'Screening Opinion' in relation to the criteria set out in Schedule 3 of the 2011 EIA Regulations and also to advice contained in Planning Practice Guidance on Environmental Impact Assessment ID 4 (updated 6 March 2014). In addition, further advice was obtained from the Environment Agency, Natural England and the Council's Public Protection team. Based upon the assessment made, the Council confirmed that it is not considered that the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Accordingly the Council adopted a Screening Opinion in April 2014 that EIA would not be required for the proposed development.

6.4.2 It should be noted that the Government's Planning Practice Guidance on minerals states that "Whilst all applications must be assessed on a case-by-case basis, it is unlikely that an Environmental Impact Assessment will be required for exploratory drilling operations which do not involve hydraulic fracturing".

6.5 **Issues relating to the potential use of the site for other phases of hydrocarbon extraction**

6.5.1 The current proposal is for a temporary drilling operation only. Paragraph. 120 of the Planning Practice Guidance on minerals confirms that "Individual applications for the exploratory phase should be considered on their own merits. They should not take account of hypothetical future activities for which consent has not yet been sought, since the further appraisal and production phases will be the subject of separate planning applications and assessments. When determining applications for subsequent phases, the fact that exploratory drilling has taken place on a particular site is likely to be material in determining the suitability of continuing to use that site only insofar as it establishes the presence of hydrocarbon resources".

6.5.2 Consideration of the current application should therefore be limited to assessing whether or not the proposed site is an acceptable location for temporary exploratory drilling operations only. There should be no presumption that, if permission is granted, the applicant will subsequently come forward with a planning application at this site (or any other site) for a permanent production facility. Similarly it should be recognised that, if the application site is considered to be acceptable for temporary operations, this does not imply that the site would also be acceptable for a permanent facility. A permanent production facility is a different type of development and would raise significantly different land-use considerations.

6.6 **Planning history considerations**

6.6.1 Planning permission was granted in 2010 for a largely similar development at this site. Details of this, ref. 10/00909/MAW, are summarised in section 10 below. That

permission was not implemented within the required three year timescale, and it has therefore lapsed. Nevertheless the fact that planning permission was previously granted for temporary drilling operations at this site is a relevant consideration in the determination of the current application. In particular, it is relevant to consider what changes have occurred to planning policy and site conditions since planning permission was granted for that development in 2010 when deciding whether to take a different decision on the current application.

6.6.2 Planning policy: The planning policy framework which existed in 2010 is as set out in the Officer report regarding application 10/00909/MAW. In brief, relevant policies of the Development Plan included those of the Structure Plan, the North Shropshire District Local Plan and the Minerals Local Plan. Relevant Government planning guidance included Mineral Planning Statements (MPS) and Minerals Planning Guidance (MPG). A number of those Development Plan policies have now been replaced by the Core Strategy, although some have been saved. The MPS's and MPG's have been cancelled. Government planning policy and guidance is now provided principally by the NPPF and by Planning Practice Guidance.

6.6.3 Since the 2010 planning application was considered there have been significant changes to the Development Plan and other relevant planning policy and guidance. Nevertheless it is considered that these changes have introduced a policy framework which is no less supportive of the current proposal than that which existed in 2010. In terms of Government guidance as set out within Planning Practice Guidance and as supported by the Government's energy strategy, it is considered that there is greater support for exploratory operations than existed in 2010

6.6.4 Site conditions: It is not considered that the application site and surrounding area has altered significantly since the 2010 application was considered. The existing conditions of the site and surrounding area, and the natural and man-made features described in section 2 above, are generally similar to those that existed in 2010.

6.6.5 Given the development of planning policy since 2010, and the lack of significant changes to site conditions since that time, it is considered that the planning history of the site comprising the granting of a planning permission for a similar development should be given significant weight in the decision making process.

6.6.6 It is recognised however that the current application has raised a significant level of concern from local residents, and the objections have raised a number of material planning issues. These are discussed further below.

6.7 **Siting, scale and design and impact on landscape character**

6.7.1 As outlined in section 1 above, the licence for the exploration which has been granted to the applicant by the Department of Energy and Climate Change covers a square block of land which is 20,000 hectares in area. The applicant has indicated that this area covers many landforms including urban areas, settlements, environmental designations, inappropriate topography and other features not suitable for the location of an exploratory operation. It is noted that the application site does not fall within an area designated for its landscape value.

6.7.2 Use of agricultural land

The application site comprises part of an agricultural field and it is considered that in principle there is no objection to the siting of an exploratory drilling rig on such land. The proposed development would take the site out of agricultural use for a temporary period. However following the completion of the operation the land would be restored back to its former condition which would allow the return of the land to agricultural use.

6.7.3 Proximity of overhead power lines

The proposed site compound is situated in proximity of an overhead power line. National Grid originally raised an objection to the proposal and sought further information regarding the location and height of the drilling rig. The applicant has stated that the nearest power line lies, at its closest point, approximately 31 metres to the west of the application site. The applicant states that the drilling rig itself would be sited in the region of 50 metres from the overhead power line. At a maximum height of 27 metres, the distance between the drilling rig and the overhead power line would be greater than the maximum height of the drilling rig. Following on from this additional clarification National Grid has now removed its objection and as such it is not considered that the proposed development raises safety issues in respect of the proximity of the overhead power line. Notwithstanding this, given that the submitted drawings state that the proposed layout is only indicative at this stage, it is considered that it would be appropriate to impose a condition requiring that the rig is sited a sufficiently safe distance from the overhead power line. A similar condition was imposed on the 2010 permission.

6.7.4 Indicative site layout

The application includes an indicative layout of the design of the compound, and it is considered that the layout is largely determined by the requirements of the operation. The indicative site layout plan shows that the drilling rig would occupy a position towards the southeast of the site, with ancillary structures located around the perimeter of the site, and a soil bund along the northwestern edge of the site. Given the nature of the proposed operation and its temporary duration, it is not considered that it is necessary for any planning permission granted to be prescriptive in terms of the detailed layout of the proposed compound, other than in relation to the siting of the rig as discussed above. In principle it is considered that the indicative layout is acceptable.

6.7.5 Impact on landscape character and visual amenity

The potential impacts of the proposed development on the landscape character of the area would relate to those associated with the temporary use of the site for drilling operations, and impacts resulting from site preparation works. These are discussed below.

6.7.6 Temporary drilling operations: The application documents state that the length and height of the soil bunds would be dependent upon the amount of soil stripped from the site during preparatory works. Nevertheless it is considered that the height of these should be restricted to no more than 3 metres, in order to minimise damage to soil structure. This requirement is consistent with the conditions of the 2010 planning permission.

6.7.7 The application site is located adjacent to hedgerow field boundaries and near to a

copse. This, together with the gently undulating topography and existing trees and hedgerows within the local landscape would restrict views of the lower parts of the development from surrounding areas. Nevertheless the drilling rig itself would be 18 metres high rising to 27 metres when extended. This would be visible in the local landscape from both public viewpoints such as the nearby public rights of way and public highways, and also from private viewpoints such as surrounding residential properties. It is noted that the area is relatively rural and, as noted in section 2 above, there are few residential properties within the vicinity of the site. It is accepted that parts of the compound may be visible from some of the nearest properties, and the rig would be visible in the local landscape. However it is also recognised that there are no properties in the immediate vicinity of the application site, and the nearest property is 340 metres away. Visual impact arising from the presence of the rig would be short-term, given that drilling operations would last for a maximum of 60 days. Following the completion of the drilling operation, the rig and ancillary structures would be removed from the site. They would therefore have no long-term impact on the landscape character of the area. Whilst the proposal would undoubtedly have an adverse impact on the visual character of the area during the drilling operation, it is considered that due to the temporary nature of the development this impact can be accommodated.

- 6.7.8 Visual impacts resulting from site preparation works: Site preparation work would include the widening of the existing field access from the public highway, and the construction of the site compound and the access track to it.
- 6.7.9 It is likely that the construction of the site compound would involve the stripping of soils from the site. These would be spread back over the site following the completion of the drilling operation, and the area reseeded as part of restoration operations. Planning conditions can be imposed to ensure that this part of the operation is completed within a reasonable period.
- 6.7.10 The creation of the access track is likely to involve the laying of an interlocking mat system, and this would be removed from the site following the completion of the drilling operation. As such the longer-term impact of the temporary track would be unlikely to be significant. In relation to the site access, this would be widened to 14 metres in order to facilitate the access and egress of vehicles and plant associated with the proposed operation. Given the width of the existing access, this is likely to result in the need to remove hedgerow either side of the access of a total length of 10 metres. It is proposed that the hedgerow would be replanted following the completion of drilling operations, and planning conditions can be imposed to require that this is undertaken using mixed native species. In the longer term therefore, once the replanted hedgerow has established, the impact on local landscape character would reduce to nil. In the short term however the removal of this length of roadside hedgerow would have some adverse visual impact on the character of the local area. The principal impact would be on users of the public highway, and therefore these views would be transitory. It is noted however that the hedgerow along this part of the highway is not intact in places, and there are existing gaps in the hedgerow at places a few metres to the north. In this context, it is considered that the visual impact of the hedgerow removal would be lessened.
- 6.7.11 Whilst the loss of hedgerow would have an impact on the local area, given the relatively short length involved and the intention to replant it, it is not considered

that the impact would be so significant as to warrant a refusal of the planning application.

6.7.12 On the basis of the above assessment it is therefore considered that the proposal can be accepted in relation to Core Strategy Policies CS5 and CS6 and saved Minerals Local Plan Policy M4 relating to site design, countryside character and visual effects.

6.8 Residential and local amenity considerations

6.8.1 The main potential impacts of the proposed development on residential and local amenity from the drilling operations would be from noise and dust emissions, and the use of lighting at the site. It is however recognised that there are few sensitive receptors in the vicinity of the site, and the nearest residential property is 340 metres from the site compound, and this distance would provide significant attenuation of impacts from on-site operations.

6.8.2 Dust and air quality: The application acknowledges that during the soil stripping and site restoration activities, it is possible that dust will be created in dry windy conditions. The application states that this would be mitigated by spraying with water. It is considered that this corresponds with good site management practice for construction sites. Whilst it is not anticipated that the proposed development would result in adverse levels of dust, the Public Protection Officer has recommended that a Site Management Plan is submitted for approval to include measures proposed to prevent dust arising. An appropriate condition can be imposed to secure this Plan.

6.8.3 Some objections have raised concerns that the proposal would adversely affect air quality due to the emission of airborne pollutants. The operation of the drilling rig and other plant at the site and also the vehicles accessing the site would result in air emissions. The Public Protection Officer has not raised any specific issues in respect of the impact of the proposal on air quality. Given the distance to the nearest residential property it is not considered that the proposed development would adversely affect residential amenity due to the release of air pollutants.

6.8.4 Lighting: The application confirms that flood lights would be directed downwards and inwards towards the site, in order to have minimal upward light output to avoid spillage from the site and reduce sky glare. Given the topography of the area, existing trees and hedgerows, and the siting of cabins around the perimeter of the site it is not anticipated that the proposal would give rise to impacts on residential properties in the area from direct light. However the application also states that there would be lighting mounted on the drilling rig. Given that the proposal would involve 24 hours operations it is anticipated that there would be some impact on the local area due to the need for lighting to be provided. Indicative details of lighting to be used at the site have been provided as part of the application. However, in order to provide protection to the amenity of the local area the Public Protection Officer has recommended that a lighting scheme is submitted for approval, to include positioning and type of lighting proposed. A suitable condition is included in Appendix 1 below.

6.8.5 Noise: The proposed drilling operation would take place 24 hours per day. The application has been accompanied by a noise assessment report prepared by

consultants. This report identifies that the main noise source would be the drilling rig engine, which is proposed to operate 24 hours a day. Other noise sources would include mud pumps, generators, and various low-level ancillary operations. The report states that, as there would be no variation in noise from drilling works between daytime and night-time periods, the proposed development has been assessed against the more stringent (night-time) limit of 45 dB LAeq recommended in both the applicable British Standard and the World Health Organisation guidelines. The report states that the noise emissions from the drilling rig would mask any impulsive noise event from other ancillary works.

- 6.8.6 Based upon an assessment of noise levels from proposed plant, the noise report concludes that worst-case noise levels are predicted to be below noise limits set out in the above guidance at all of the nearest receptors. It states that these predictions have been made assuming no on-site barriers. These would include the structures proposed to be sited around the perimeter of the compound, such as the cabins.
- 6.8.7 The noise report acknowledges that noise levels at nearby receptors would be likely to increase temporarily during site preparation operations. It states that, as these works would be undertaken during daytime hours only, it is not considered necessary to undertake a detailed assessment of noise levels during this stage of work. It states that this approach is supported by the applicable British Standard which suggests that noise levels due to such works may be potentially significant if they last for more than one month. Site preparation works are estimated to last for 3 weeks.
- 6.8.8 The submitted noise report has been independently assessed by the Council's Public Protection team who have confirmed that no anomalies have been found that suggest it is not predicting noise levels with a reasonable level of accuracy. Nevertheless, the Public Protection Officer acknowledges that, given that the drilling operation is proposed to be undertaken 24 hours a day during the temporary period, there is the possibility for noise to impact upon residential dwellings. For this reason, a planning condition is recommended that specifies that noise does not exceed 45dB LAeq or 60 dB LAm_{ax} between the hours of 23:00-07:00, and this can be imposed on any planning permission.
- 6.8.9 Based upon the findings of the noise assessment report, and the comments of the Council's Public Protection Officer, it is not anticipated that noise generated by the proposed drilling operation would have an adverse impact on residential or local amenity. The Public Protection Officer does state that, if there are any unknowns or very specific local circumstances that result in noise being greater than expected then the recommended planning conditions would provide protection to nearby properties. In addition, the Officer has confirmed that the Public Protection service have committed to undertaking noise measurements should the application be granted approval. Nevertheless the local concerns that have been raised regarding potential noise impact are acknowledged. Given this it is considered that a condition should be imposed to require that specific details of noise mitigation are submitted for approval prior to operations commencing, to include contingency measures to be employed in the unlikely event that noise levels exceed those specified in the planning condition.

6.8.10 Overall it is considered that the imposition of the proposed conditions, as specified in Appendix 1 below, would provide a satisfactory level of protection to ensure that the proposed development does not result in an unacceptable level of adverse local and residential amenity. On this basis the proposed would be in line with Core Strategy Policy CS6 and saved Minerals Local Plan Policy M4 regarding amenity and operational matters.

6.9 **Pollution control considerations**

6.9.1 Groundwater and surface waters

The application includes details of measures proposed to protect groundwater and surface waters from risk of pollution. As stated in section 6.2 above there are a number of issues relating to hydrocarbon extraction which are covered by other regulatory regimes. Planning Practice Guidance is clear that whilst local planning authorities need to be satisfied that these issues can or will be adequately addressed, they can rely on the assessment of these other regulatory bodies (para. 112). The NPPF and related guidance is also clear 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. Mineral planning authorities should assume that these non-planning regimes will operate effectively”.

6.9.2 In relation to the current application, there have been no objections raised by the Environment Agency, the Coal Authority, the Council’s Drainage team or the Council’s Public Protection team. The Health and Safety Executive has confirmed that the application is not one which falls within their consultation criteria.

6.9.3 Potential impacts upon groundwater and surface waters: Some objections have raised concerns that the proposal would result in pollution to ground and surface waters. The Environment Agency has advised that the Supporting Statement which accompanies the application has satisfactorily considered the risk of contamination to land and controlled waters as a result of the proposed exploratory drilling. It states that all relevant aspects of the exploration borehole operation capable of causing pollution of controlled waters receptors have been covered in the application, and the application proposes reasonable measures to prevent pollution. This mitigation includes the borehole construction, drilling fluids, fuel/chemicals storage (i.e. bunding of chemicals, fuel, oil and lubricant storage facilities) and decommissioning and site restoration. The Agency confirms that the design of the well, and aquifer protection measures, will be secured under the consenting regime of the Water Resources Act 1991.

6.9.4 Potential issues arising in relation to the underlying coal seam: Objections to the proposal have advised that coal mining has previously taken place in the area and that the local geology, including geological faults, is not suited to the proposal which may result in ground instability, subsidence and contamination.

6.9.5 Whilst it should be noted that the proposal would involve the removal of a sample of coal only, Planning Practice Guidance states that “unlike underground coal mining, extraction of coalbed methane does not cause subsidence of the land surface”. The Coal Authority has confirmed that the site is located with a defined Development Low Risk Area. It has further stated that its mining records do not

identify any coal mining hazards or risks to this proposal. On this basis it has confirmed that the submission of a Coal Mining Risk Assessment or other mining-related information is not necessary in support of the planning application. The Environment Agency has advised that any potential impact on shallow groundwater due to past coal mining activity is likely to be low. In addition it considers that the proposed casing and cementing of the aquifer, as proposed, will ensure that any potential linkage with any mine water is eliminated.

- 6.9.6 Potential impact upon private water supplies: The Public Protection Officer has advised that there are no records of any private water supplies closer than 500 metres away from the application site. On this basis it is not anticipated that the proposal would affect such supplies. In relation to potential pollution to water supplies, the Environment Agency has advised that the impacts are likely to be negligible given that the proposal is not dissimilar to drilling for groundwater.
- 6.9.7 Risk of pollution due to failure of slurry lagoon or collapse of culverts: The route of the proposed track would enter the field in which the compound site is to be located via a field access gate which is situated close to a slurry lagoon. Some objections to the proposal have raised concern that the large numbers of HGVs that would pass this lagoon have the potential to cause vibration to the embankment which could lead to failure of the structure and consequent pollution to downstream watercourses from the spillage of slurry. In addition some objections have referred to a culverted watercourse that crosses the route of the proposed access track. They have raised concerns that this watercourse may be damaged by the vehicles passing over it, and that the failure of the culvert could cause localised flooding and sediment pollution.
- 6.9.8 Information supplied by the applicant confirms that the access track would be constructed using “Durabase” mats, meaning that there would not be any intrusive ground works required to form the track. The mats serve to spread any loads across the ground beneath, reducing the pressure applied by heavy vehicles. No concerns have been raised by this element of the proposal by any of the pollution control authorities. Nevertheless it is considered that, as a precaution, it would be appropriate to impose a condition which requires that protective measures are agreed if the access track is constructed other than by the matting system.
- 6.9.9 Potential for contamination of site during drilling operation
The Public Protection Officer considers that there is a need to address the risk of contaminants being left within the land after site operations have ceased. As a precaution, the Officer recommends that site investigation works including soil sampling are undertaken both prior to the commencement of, and following the completion of, drilling operations and that remedial works are undertaken if necessary. The Officer has recommended the imposition of conditions (see Appendix 1) which seek to ensure that the existing baseline levels of ground contaminants are established for comparison with the situation following the completion of drilling operations, and require the implementation of remedial works if necessary to remove unacceptable risks. It is considered that these conditions are appropriate for the site.
- 6.9.10 Potential issues regarding gas leakage, and decay of concrete casing
Concerns have been raised regarding risks posed by the leakage of gas from the

site, both during the drilling operation and once the borehole has been capped. It should be noted that the proposed application does not propose to stimulate the borehole i.e. to release gas within the coal seam. Nevertheless the application states that gas monitoring would be undertaken to check that gas is not released through the borehole. Following the completion of the coring operation the top 2 metres of the borehole would be cemented. This process of decommissioning, known as 'abandonment', is regulated by other regulatory authorities, and there have been no concerns raised in relation to this process by any of the statutory consultees to this application.

6.9.11

Foul water sewage disposal: Details of foul water drainage produced, such as from mess facilities on site, have not been provided. The Council's Drainage Officer has requested that these details should be submitted for approval, and an appropriate condition can be imposed on any planning permission granted to ensure that this element of the operation is satisfactorily controlled (see Appendix 1).

6.9.12

The degree of concern raised by local residents and other interest groups regarding the potential for the proposed temporary drilling operation to result in pollution are fully recognised. However, detailed advice on the pollution potential of the proposal has been received from a number of technical bodies, including the Environment Agency, the Coal Authority and the Council's Public Protection team. No specific issues have been raised by any of these bodies which cannot be addressed through the imposition of the planning conditions that they have recommended.

6.9.13

Given the clear statements within the NPPF and Planning Practice Guidance regarding the respective responsibilities of planning authorities and other regulatory authorities in relation to hydrocarbon proposals, as outlined at the beginning of this section, it is considered that the planning authority can rely on the comments of the technical consultees in relation to the pollution potential of the proposal. It is considered that the absence of any objections to the proposal made by these bodies provides an acceptable level of reassurance that the potential pollution risks of the proposal can be satisfactorily controlled. On this basis it is considered that the proposal would avoid any adverse impact on water resources, and is therefore in line with Core Strategy Policy CS18 and saved Minerals Local Plan Policy M4 regarding the protection of surface and groundwaters.

6.10 **Traffic and access considerations**

6.10.1

Vehicle access to the site would be gained via an existing field access point which connects to an unclassified road. Vehicles would approach the site from the south via the B5068 public highway. The field access point would be widened from its current width of approximately 4 metres, to 14 metres.

6.10.2

Details of the likely level of heavy vehicle movements associated with the proposed development are as summarised in section 1 above. Traffic movements would be highest when stone is being delivered and taken away as part of the construction and the subsequent removal of the temporary access track. The applicant estimates that these phases of the development would each take three weeks, and during these periods there would be approximately 53 loads per week. The applicant's traffic assessment also indicates that there would be 50 heavy vehicle loads during those two weeks when the rig, cabins and ancillary structures are

delivered and removed. During drilling operations, the number of deliveries to the site by heavy vehicles would be expected to fall to 2 per day.

6.10.3 The Council's Highways Officer has raised no objections to the proposed development on the grounds of highway safety but has recommended that a Traffic Management Plan should be submitted for approval. The purpose of this would be to agree specific measures to minimise local disturbance during the temporary period of the development. It would also provide for the routing of traffic from the south only, for road sweeping, and would require a before and after highway condition survey to be undertaken such that any necessary repairs to the highway can be agreed. An additional condition is recommended by the Officer to require that the design of the access track is to an agreed specification.

6.10.4 The additional traffic on the local highway network that that would arise as part of the proposed development, particularly in relation to HGVs, is likely to have some impact on the local area. This is particularly the case for residential properties which are situated along the stretch of the unclassified road between the B5068 and the site entrance. Such disturbance would be minimised through a Traffic Management Plan, and also by conditions restricting the hours of deliveries to/from the site. The NPPF states that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. Given this, the Traffic Management Plan which would be put in place, and the temporary duration of the development, it is not considered that the traffic impacts of the proposal would warrant a refusal of the application. On this basis it is considered that the additional traffic on the local network for the temporary period proposed can be accommodated without causing unacceptable disturbance or conditions detrimental to highway safety. It is considered that the proposal can be accepted in relation to Core Strategy Policy CS6 and saved Minerals Local Plan Policy M4 regarding access design and traffic movements.

6.11 **Ecological considerations**

6.11.1 Core Strategy Policy CS17 states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets. Chapter 11 of the NPPF states that the planning system should contribute to and enhance the natural and local environment. The application is accompanied by an Ecology Report prepared by consultants. This is based upon a habitat survey conducted in 2010 and updated in 2014. The report concludes that if the recommended mitigation measures are implemented, it is extremely unlikely that significant ecological impacts will arise.

6.11.2 Protected sites

The submitted ecology report notes that there are no designated sites within 1km of the site, and Natural England has confirmed that the application is not likely to result in significant impacts on any statutorily designated sites. The Council's Ecologist has assessed the proposal in relation to the River Dee Special Area of Conservation (SAC) approximately 3.4km to the north, and concludes that there will be no likely significant effect on this or on other watercourses.

6.11.3 Habitats

The principal impact on habitats would be as a result of the loss of a section of hedgerow totalling 10 metres in length. This hedgerow is proposed to be replanted

following the completion of the operation. Therefore any ecological impact would be temporary. A condition can be imposed to require that the hedgerow to be planted comprises mixed native species, in order to maximise the local biodiversity benefits.

6.11.4 The Council's Ecologist has recommended that a buffer zone of at least 5 metres should be retained between the site compound and any hedgerow, and a condition can be imposed to require this.

6.11.5 Protected species

Bats: The Ecologist advises that it is very likely that bats are present in the area due to the proximity of suitable foraging habitat along hedgerows and woodland. In order to minimise disturbance to bats, it is considered that the condition recommended by the Ecologist that any lighting is approved should be imposed on any planning permission.

6.11.6 Great Crested Newts: The surveys undertaken in 2009 and 2014 identify that there are two ponds in the vicinity of the site which contain Great Crested Newts. One of these lies approximately 105 metres to the north of the site, and one is the slurry lagoon which lies approximately 70 metres to the south of the proposed compound area but within a few metres of the proposed access track. The Council's Ecologist notes that neither pond would be destroyed or damaged by the proposed development, but site preparation works including track formation could risk killing or injuring Great Crested Newts. In addition there would be a temporary loss of sub-optimal habitat.

6.11.7 The Ecologist is satisfied that, whilst the development could result in a breach of the Habitats Directive in respect of Great Crested Newts, the proposed Newt Mitigation Strategy should ensure that the Favourable Conservation Status of the population is maintained. It is acknowledged in the submitted ecology report that mitigation works would need to be carried out under licence from Natural England. The Ecologist has advised that a condition should be attached to the permission requiring that work should be undertaken under a European Protected Species (EPS) Mitigation Licence (unless deemed unnecessary) (see Appendix 1). Given the responsibilities of local planning authorities in respect of EPS, as set out in regulations, it is considered that this condition would be appropriate.

6.11.8 Nevertheless given the risks to the species as identified above it is necessary for the local planning authority to consider the likelihood of a licence being granted, before making a decision on the application. In doing this, the planning authority needs to consider 3 tests. The relevant 3 tests form has been completed and is appended to this Committee Report. Planning Officers consider that the 3 tests are met. On this basis the Ecologist considers that it would be likely that Natural England would issue a European Protected Species Mitigation Licence for this development.

6.11.9 Badgers: The Ecology report has confirmed that there are no badger setts within 30 metres of the development boundary. The Shropshire Badger Group has objected to the proposals on the basis that there is insufficient information to properly consider the welfare of the local badger population nor to ensure that the presence of badgers is managed in an acceptable way. The Group considers that

special mitigation measures are required given that the proposal would involve deep drilling operations.

- 6.11.10 In relation to vibration caused by the proposed drilling operation, the Council's Ecologist is of the opinion that the distance to the nearest known badger sett is such that the continuous vibration is unlikely to be caused disturbance. In addition the Ecologist has confirmed that the loss of badger foraging area resulting from the fencing of the compound area for the temporary period is not considered to be an issue given that similar habitat is available outside the site. The recommended condition requiring that a pre-commencement badger survey is undertaken is appropriate and can be imposed on any planning permission granted.
- 6.11.11 The Ecologist has highlighted that there is a potential clash between mitigation for Great Crested Newts and mitigation for badgers. This can be addressed through the imposition of a planning condition requiring the submission and approval of a wildlife protection/mitigation plan, as recommended.
- 6.11.12 Overall, on the basis of the information available, subject to the adherence to the conditions recommended by the Ecologist it is not considered that there are any over-riding objections to the proposed temporary development in relation to protected species or other ecological issues. The proposal can therefore be accepted in relation to Core Strategy Policy CS17.
- 6.12 **Historic environment considerations**
- 6.12.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.12.2 Listed Buildings in the area are as set out in section 2 above, the nearest being approximately 515 metres from the site. Direct views of the proposed development from Listed Buildings in the area would be restricted due to topography and existing vegetation in the area. Whilst the upper parts of the rig may be visible from Listed Buildings in the area, this would be seen from some distance and any impact upon the setting of these Listed Buildings would only occur for the temporary duration of the operations. It is also noted that the landscape context includes the nearby pylons. This temporary impact should be weighed against the public benefits of the proposal, and on balance it is not considered that the impacts of the proposal on the setting of any Listed Buildings in the area would be sufficient to justify the refusal of the application. The Historic Environment Officer has confirmed that there are no comments to make in respect of archaeological matters.
- 6.13 **Economic considerations; impact upon rural economy**
- 6.13.1 Core Strategy Policy CS5 provides support for development proposals which maintain and enhance countryside vitality and character whether they bring local economic and community benefits. This includes mineral related development. Core Strategy Policy CS13 seeks to deliver sustainable economic growth. Core Strategy Policy CS16 concerns the role that tourism play for local economies.

- 6.13.2 The application states that there would be economic benefit to the community as some benefits may arise through the provision of goods and services to the Development. Stone utilised in the compound would be sourced as locally as possible to minimise transport costs, and the site operators may also benefit the local economy through purchases made and accommodation provision for the duration of the Development. The applicant estimates that a total of around £250,000 is spent on various services within 50km of each of exploration well of this type. Contrary to this, objections have been raised on the grounds that the local economy would suffer as a result of the proposed development, due to businesses relocating and fewer tourists visiting the area.
- 6.13.3 It is difficult to quantify the impacts that the proposal may have on the local economy, through impacts on tourism and businesses in the area. The proposal would result in some disturbance in the local area, as acknowledged in sections above. However it should be noted that this would be temporary in duration, and following the completion of the development and the reinstatement and replanting works, the site would return to its former condition. On this basis, and considering the likely economic contribution that the development would make to services in the area, it is not considered that the proposal would have a significant negative impact upon the rural economy, and can therefore be supported in relation to relevant parts of Policies CS5 and CS13.

7.0 **CONCLUSION**

- 7.1 The proposed development to drill an exploratory borehole at Dudleston Heath would comprise a temporary operation, up to 60 days in duration. The proposal would enable a core of coal to be removed to determine the characteristics of the underlying coal bed, and assess the potential for coalbed methane gas extraction. The proposal is largely similar to a proposal for which planning permission was granted in 2010 which has now lapsed.
- 7.2 Whilst it is apparent from the number of objections made by local residents that there is significant concern over the proposals, no specific issues have been raised by any statutory consultees which cannot be addressed through the imposition of planning conditions to control and regulate the operation. The proposal for exploratory operations is supported in principle by Government planning guidance. The proposal comprises the initial phase of unconventional hydrocarbon extraction which is in line with the Government's energy strategy.
- 7.3 Whilst there would be some local impact for the short-term duration of the works, this impact can be minimised through the imposition of specific condition. These would include the implementation of a site management plan, a traffic management plan and a wildlife protection plan. In addition, planning conditions can be imposed to ensure that the site is restored to a satisfactory standard following the completion of the operation. There are a number of separate regulatory regimes which would provide further controls over potential pollution and safety aspects of the proposal.
- 7.4 On the basis of the above assessment, it is not considered that proposed temporary operations would have an unacceptable impact on the local area, or raise other land-use issues which cannot be addressed through planning conditions. On this basis, the application is in line with Development Plan and

national planning policy and the grant of planning permission can be recommended subject to the conditions set out in Appendix 1.

8. Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9. Financial Implications

There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any

decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

10.1 Relevant Planning Policies

10.1.1 Shropshire Core Strategy

This promotes a low carbon Shropshire by promoting the generation of energy from renewable sources (Strategic Objective 1)

Policy CS5 (Countryside and Green Belt) – new development will be strictly controlled in accordance with national planning policies protecting the countryside; development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified developments including mineral related developments

Policy CS6 (Sustainable Design and Development Principles) – requiring designs of a high quality to respect and enhance local distinctiveness, mitigating and adapting to climate change; improving renewable energy generation where possible; ensuring that all development: protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character; contributes to the health and wellbeing of communities, including safeguarding residential and local amenity; makes the most effective use of land and safeguards natural resources;

Policy CS7 (Communications and Transport)

Policy CS8 (Facilities, Services and Infrastructure Provision)

Policy CS13 (Economic Development, Enterprise and Employment)

Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire’s environmental assets

Policy CS18 (Sustainable Water Management) - to reduce flood risk, avoid an adverse impact on water quality and quantity within Shropshire, including groundwater resources, and provide opportunities to enhance biodiversity, health and recreation

Policy CS20 (Strategic Planning for Minerals) – states that there will be a sustainable approach to mineral working which balances environmental considerations against the need to maintain an adequate and steady supply of minerals to meet the justifiable needs of the economy and society. It states that “environmentally acceptable proposals for the exploration, appraisal and production of hydrocarbon resources, including coalbed methane, will be supported as a contribution to meeting the requirements of national energy policy”.

10.1.2 Saved policies of the Shropshire, Telford & Wrekin Minerals Local Plan. Relevant policies include:

Policy M2 (The Need for Minerals) – requiring an applicant to demonstrate a need for the mineral where proposals give rise to material planning objections which are not outweighed by other planning benefits

Policy M4 (Operational Considerations) – regard to be paid to the measures to protect people and the environment from any unacceptably adverse effects, including visual, noise, dust, or traffic impacts; effects on surface waters or groundwaters and from the risk of flooding; the method, phasing and management of the working proposals; ancillary development; site access and traffic movements; and, the method, phasing and management of the reclamation and afteruse proposals

Policy M6 (Protecting Archaeological Remains)

Policy M10 (Ancillary Development)

Policy M27 (Reclamation and Afteruse).

10.1.3 Saved policies of the North Shropshire District Local Plan – no relevant policies.

10.2 Central Government Guidance:)

10.2.1 The National Planning Policy Framework (NPPF) Chapter 13 (Facilitating the sustainable use of minerals) states that minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material 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 make best use of them to secure their long-term conservation.

In relation to minerals development in general, para. 144 states that local planning authorities should “give great weight to the benefits of the mineral extraction, including to the economy”. It states that in granting planning permission, lpa’s should 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; ensure that any 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; provide for restoration and aftercare at the earliest opportunity

Para 147 states that, when planning for on-shore oil and gas development (including unconventional hydrocarbons), minerals planning authorities should clearly distinguish between the three phases of development (exploration, appraisal and production) and address constraints on production and processing within areas that are licensed for oil and gas exploration or production.

Chapter 11 (Conserving and enhancing the natural environment) states that the planning system should contribute to and enhance the natural and local environment.

Para. 120 states that policies and decisions should prevent unacceptable risks from pollution and land instability. Para. 122 states that local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where

these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Para. 123 states that decisions should aim to avoid noise from giving rise to significant adverse impacts on health.

10.2.2 Planning Practice Guidance: On 6th March 2014 the Government published Planning Practice Guidance (PPG) to support the NPPF. This guidance is a material consideration in assessing this planning application.

Paragraph 12 of the PPG on Minerals sets out the relationship between planning and other regulatory regimes.. It states that the planning system controls the development and use of land in the public interest, including ensuring that new development is appropriate for its location – taking account of the 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.

It states 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. Mineral planning authorities should assume that these non-planning regimes will operate effectively”.

Paragraph 13 sets out the principal issues that mineral planning authorities should address in relation to proposals for mineral working. These include: 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; blast vibration; flood risk; land stability/subsidence; internationally, nationally or locally designated wildlife sites, protected habitats and species, and ecological networks; impacts on nationally protected landscapes (National Parks, the Broads and Areas of Outstanding Natural Beauty); nationally protected geological and geo-morphological sites and features; site restoration and aftercare; surface and, in some cases, ground water issues; water abstraction.

Paragraph 14 sets out the issues that are for other regulatory regimes to address (in relation to mineral extraction).

Paragraph 91 states that “as an emerging form of energy supply, there is a pressing need to establish – through exploratory drilling – whether or not there are sufficient recoverable quantities of unconventional hydrocarbons such as shale gas or coalbed methane present to facilitate economically viable full scale production”. Paragraph 92 differentiates between the three phases of onshore hydrocarbon extraction: exploration, testing (appraisal) and production. Paragraph 95 states that the exploratory phase seeks to acquire geological data to establish whether hydrocarbons are present.

Paragraph 110 states that the key regulators for hydrocarbon extraction are:

- a. Department of Energy and Climate Change – issues Petroleum Licences, gives consent to drill under the Licence once other permissions and approvals are in place,

- and have responsibility for assessing risk of and monitoring seismic activity, as well as granting consent to flaring or venting;
- b. Mineral Planning Authorities – grant permission for the location of any wells and wellpads, and impose conditions to ensure that the impact on the use of the land is acceptable;
 - c. Environment Agency – protect water resources (including groundwater aquifers), ensure appropriate treatment and disposal of mining waste, emissions to air, and suitable treatment and manage any naturally occurring radioactive materials; and
 - d. Health and Safety Executive – regulates the safety aspects of all phases of extraction, in particular responsibility for ensuring the appropriate design and construction of a well casing for any borehole.

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

Paragraph 112 explains that “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”. It states that:

- the Health and Safety Executive is responsible for enforcement of legislation concerning well design and construction
- 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
- whilst planning conditions may be imposed to prevent run-off of any liquid from the pad, and to control 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
- the Environment Agency is responsible for ensuring that extractive wastes do not harm human health and the environment; a environmental permit will be required
- whilst storage on-site and the traffic impact of any movement of water is of clear interest to local authorities, it is the responsibility of the Environment Agency to ensure that the final treatment/disposal at suitable water treatment facilities is acceptable
- whilst mineral planning authorities are responsible for ensuring that the wells are abandoned and the site is restored, health and safety legislation requires that so far as reasonably practicable there is no unplanned escape of fluids from it.

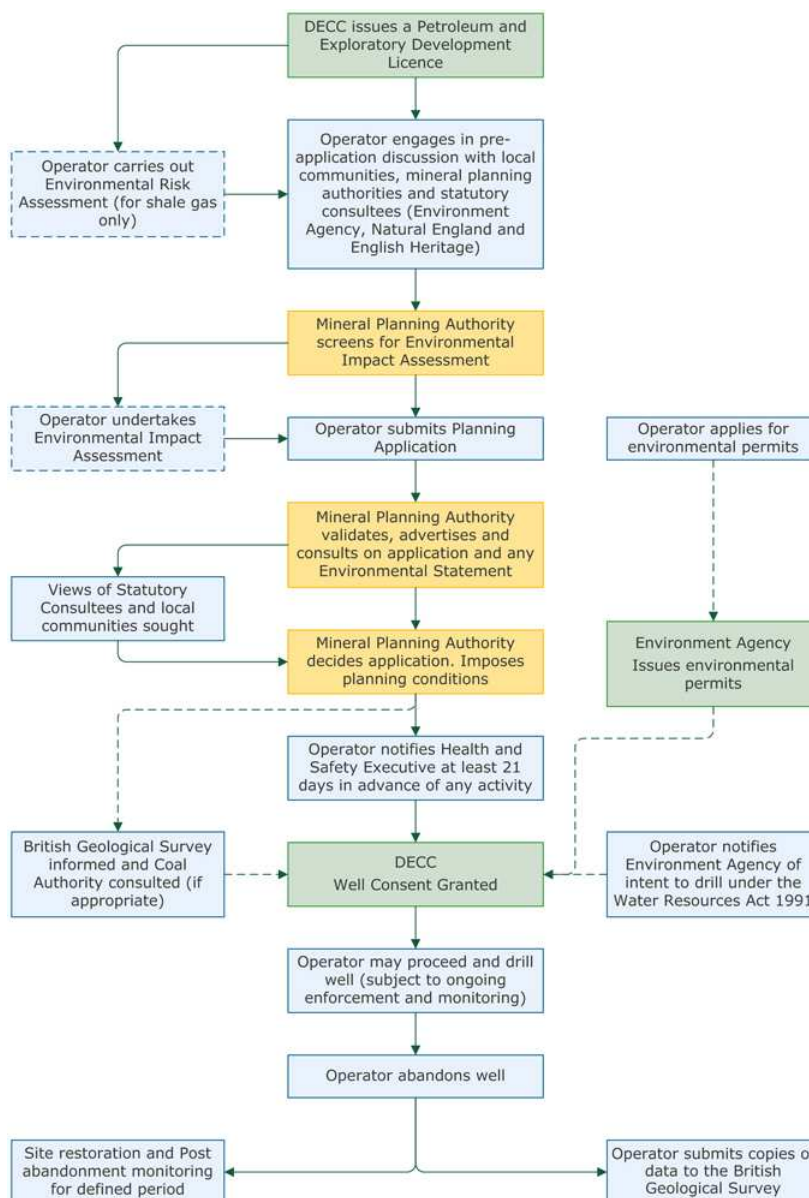
In terms of the need for an Environmental Impact Assessment, paragraph 119 states that “Whilst all applications must be assessed on a case-by-case basis, it is unlikely that an Environmental Impact Assessment will be required for exploratory drilling operations which do not involve hydraulic fracturing”.

Paragraph 120 states that “Individual applications for the exploratory phase should be considered on their own merits. They should not take account of hypothetical future activities for which consent has not yet been sought, since the further appraisal and production phases will be the subject of separate planning applications and assessments. When determining applications for subsequent phases, the fact that exploratory drilling has taken place on a particular site is likely to be material in determining the suitability of continuing to use that site only insofar as it establishes the presence of hydrocarbon resources”.

In relation to restoration, paragraph 127 states that “For hydrocarbon extraction sites where expected extraction is likely to last for a short period of time, it is appropriate for the mineral planning authority to impose a detailed set of planning conditions as part of the planning application”.

In relation to subsidence, paragraph 137 states that “unlike underground coal mining, extraction of coalbed methane does not cause subsidence of the land surface”.

Annex B outlines the process for drilling an exploratory well:



Annex C sets out model planning conditions for hydrocarbon extraction. These cover the following areas: ground and surface water; visual intrusion and landscaping; noise control and monitoring; dust and air quality; lighting; soils; protected species and wildlife habitats; restoration and after care.

10.2.3 Government energy policy

Paragraph 124 of the Planning Practice Guidance states that Mineral planning authorities should take account of Government energy policy, which makes it clear that energy supplies should come from a variety of sources. This includes onshore oil and gas, as set out in the Government's Annual Energy Statement published in October 2013.

The 2013 Annual Energy Statement states that "the energy sector is a critical part of the UK economy and is an important driver of growth. As well as contributing to growth, energy policy is underpinned by the need to reduce carbon emissions in order to mitigate climate change and ensure UK energy security ...".

It goes on to say: "...over the coming decades the levels of oil and gas production from the UK Continental Shelf (UKCS) are expected to continue to decline; and the UK will become increasingly reliant on imported energy, which increases UK exposure to potential fossil fuel price spikes in the international energy market. To insulate UK business and consumers from the vulnerability to increasing exposure to volatile fossil fuel prices and to replace electricity infrastructure in time, energy policy is focused on securing huge investment into new low carbon energy generation, from offshore wind to nuclear. A key strategic advantage of low carbon electricity is the boost it provides to energy security. However, in managing the transition to a low carbon energy mix, gas (as the cleanest fossil fuel) is expected to continue to play a major role. So continuing to ensure diversity of gas supplies remains important. Growth of unconventional oil and gas, for example, may help to ensure this."

10.2.4 Technical Guidance to the National Planning Policy Framework – includes planning guidance in relation to minerals developments.

10.3 Emerging policy:

10.3.1 Site Allocations and Development Management (SAMDev) document: Following consultation on the draft SAMDev Plan, this document has now been submitted to the Secretary of State for examination. The SAMDev will allocate sites for various types of development and will set out detailed policies to guide future development in the county. At this stage, the site and surrounding area are not subject to any specific allocations in the SAMDev. Although this Plan is not adopted, given the status of the Plan some weight can be given to its proposed policies in the decision-making process.

10.3.2 Draft Development Management policies: Relevant SAMDev Plan policies include:

MD2 (Sustainable Design)

MD7b (General Management of Development in the Countryside)

MD12 (Natural Environment)

MD13 (Historic Environment)

MD17 (Managing the Development and Operation of Mineral Sites) – giving support to applications for mineral development where applicants can demonstrate that potential adverse impacts on the local community and Shropshire's natural and historic environment can be satisfactorily controlled; requiring that mineral working proposals include details of the proposed method, phasing, long term management and maintenance of the site restoration. It states that "proposals for the working of unconventional hydrocarbons should clearly distinguish between exploration, appraisal and production phases and must demonstrate that they can satisfactorily address constraints on production and processing within areas that are licensed for oil and gas exploration or production. Particular consideration will be given to the need for comprehensive information and controls relevant to the protection of water resources"; proposals for ancillary development should include satisfactory measures to minimize effects.

10.4 Relevant Planning History:

In relation to the application site, the following previous planning decision is relevant:

10/00909/MAW Drilling of a temporary appraisal borehole to retrieve a core of coal to surface for analysis of coal structure, permeability and gas content, and potential for Coal Bed Methane (CBM) gas production, followed by restoration of the site back to

agriculture, planning permission granted 8 November 2010. Permission not implemented within the required three year timeframe and has now lapsed.

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
The application ref. 14/02730/MAW and supporting information and consultation responses.

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Steve Davenport

Appendices
APPENDIX 1 – Conditions
APPENDIX 2 – European Protected Species - Consideration of the three tests

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. No development hereby permitted shall commence until a Traffic Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The submitted Traffic Management Plan shall include details of:
 - (i) arrangements proposed to control and manage the movement of large vehicles to and from the Site,
 - (ii) routing all site vehicles between the Site and the B5068,
 - (iii) measures to undertake a highway condition survey along the route between the Site and the B5068 in conjunction with the Highways Authority, to be undertaken prior to the commencement of the development and following the completion of the development and to identify any remedial works necessary as a result of damage caused by traffic associated with the development hereby permitted,
 - (iv) a timetable and specification for undertaking any highway repair works identified within the post completion highway condition survey along the route between the Site and the B5068 upon completion of the site operations, that are directly attributable to the development hereby permitted.
 - (v) a commitment to carry out any emergency highway repairs directly attributable to the development hereby permitted and / or road sweeping of the route between the Site and the B5068 during the site operations as required by the Highway Authority.

Reason: To ensure that highway safety is maintained and local disturbance is minimised for the duration of the development hereby permitted.

4. The construction and modifications of the Site access and construction of access road between the public highway and drilling site shall not take place other than in accordance with a design and specification that has been submitted to and received the written approval of the Local Planning Authority.

Reason: To ensure that the access to the Site is constructed to an appropriate specification in the interests of highway safety; to minimise any adverse effects on the visual quality of the area.

5. No development shall take place until a detailed Site management plan has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall

include measures proposed to prevent dust arising during the operation hereby permitted which may lead to wind entrainment and/or the deposition of dust beyond the Site boundary, and also noise mitigation and contingency arrangements in the event that noise levels exceed the limits specified by planning condition. The approved Site management plan shall be implemented at all times.

Reason: In the interest of the amenities in the local area.

6. No development other than that required to be carried out as part of the site investigation and preparation shall commence until the pre-commencement phase site investigation and risk assessment detailed in condition 7 has been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the Site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 10 has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the Site and to establish a baseline for potential contaminants before site operations begin. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. A further site investigation and risk assessment in accordance with a scheme approved in writing by the Local Planning Authority shall be undertaken on completion of the drilling project, after removal of the geomembrane and before site restoration to assess the nature and extent of any contamination on the Site compared to the original baseline established before site operations began. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8. If contamination is identified following the completion of drilling on Site a detailed remediation scheme to bring the Site to a condition suitable for the intended use by removing unacceptable risks to human health, controlled waters, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. Any approved remediation scheme must only be carried out in accordance with its terms as approved in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

12. The access track between the public highway and the site compound shall be constructed using non-intrusive methods, such as matting unless details of measures proposed to ensure the protection of the slurry lagoon and any culverts from damage by vehicles accessing the site have been submitted to and approved in writing by the local planning authority.

Reason: To minimise the risk of pollution of ground and surface water from the use of the access track by heavy vehicles.

13. No development shall commence until details of the proposed method of foul water sewage disposal have been submitted and approved in writing by the local planning authority.

Reason: To ensure the protection of ground and surface waters.

14. Drilling operations shall cease no later than 60 days from the commencement of drilling.

Reason: To ensure that the maximum duration of temporary drilling operations accords with that proposed in the planning application to minimise adverse impacts in the local area.

15. Operations associated with Site preparation, dismantling and reinstatement of the land, including the transport of materials to and from the Site for these purposes, shall not take place other than between 0730 hours and 1800 hours Mondays to Fridays, and between 0800 hours and 1300 hours on Saturdays. No such operations shall take place on Public/Bank Holidays or on Sundays.

Reason: To protect local amenity and minimise disturbance in the local area.

16. Noise 1m from the facade of any residential dwellings in the locality shall not exceed a noise level of 45db LAeq or 60dB LMax between the hours of 23:00-07:00 from any operations being carried out on the proposed site.

Reason: to protect the health and wellbeing of local residents.

17. If any equipment other than that specified in the noise assessment provided with this application is to be used on site, in particular any drilling rig which is not a HH102 model, a new noise assessment shall be completed and submitted to the local planning authority for approval in writing prior to the equipment in question being used on site.

Reason: to protect the amenity of the area and the health and wellbeing of local residents.

18. Other than the construction of the temporary access road, no development hereby permitted, including ground disturbance, siting of plant, equipment, buildings or bunds, shall take place within 5 metres of any hedgerow.

Reason: To protect existing vegetation from damage including habitat used by badgers, bats and Great Crested Newts (protected species).

19. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting plan will identify those areas or features which are particularly sensitive for bats and how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications). Measures to prevent light spillage from cabins towards hedges, woodland and sensitive receptors should also be included. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats (European Protected Species) and other wildlife, and to protect the amenity of the area.

20. Ground clearance and site or track construction shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) A licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 in relation to Great Crested Newts authorizing the specified activity/development to go ahead; or
- b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To protect Great Crested Newts, a European Protected Species, known to be present on this site.

21. A pre-commencement check of the status of badgers in the vicinity of the site and trackway is required within one month prior to any construction work beginning in order to assess the current situation and whether any additional precautionary methods of working are necessary. The assessment visit must be carried out by an experienced badger surveyor and the findings, and any necessary revisions to the Mitigation/Construction Plan, must be reported to the Local Planning Authority.

Reason: To protect badgers which are legally protected under the Protection of Badgers Act (1992).

22. No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction, particularly for badger and Great Crested Newt;
- c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed, where such harm has been identified;
- d. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
- v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
- vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

Reason: To protect Great Crested Newts, Badgers and other features of recognised nature conservation importance.

23. Within two months of the completion of drilling operations, all above-ground buildings, plant, equipment, structures or waste materials associated with the development hereby

permitted shall have been removed from the site, and the site access shall have been reinstated to its former width through provision of single vehicle width gate.

Reason: To ensure that temporary structures are removed from the site within a reasonable time period in the interests of visual amenity.

24. Site reinstatement operations, including the replacement of stripped soils and the restoration of the site to its former condition, shall be completed within one year of the completion of drilling operations.

Reason: To ensure that the site is returned to an appropriate condition within a reasonable period in the interests of local amenity.

25. Notwithstanding the indicative layout as shown on submitted Figure 1a, the site shall be laid out such that the distance between any overhead power line and the drilling rig is not less than 30 metres.

Reason: In order to maintain safety.

26. Perimeter soil bunds shall not exceed 3 metres in height.

Reason: To minimise damage to soil structure during storage, and to protect visual amenity.

27. Topsoil and subsoil shall only be stripped, formed into bunds, spread or otherwise handled when in a dry and friable condition.

Reason: To prevent damage to soils by avoiding movement whilst soils are wet or excessively moist.

28. Any hedgerow removed as part of the widening of the access to the Site shall be replaced with a hedgerow of mixed native species during the first planting season following the completion of the drilling operations. The species, density of planting and protection and maintenance regime shall be in accordance with a specification that has received the prior written approval of the Local Planning Authority.

Reason: To protect the landscape and visual character of the area.

29. No development shall commence until a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) has been submitted to and agreed in writing by the local planning authority. No development shall take place until all tree protection measures detailed within the agreed TPP and AMS have been fully installed.

Reason: To protect trees in the area.

Informatives

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

2. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

Reason: To protect the interests of European Protected Species if they should be present on the site

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and structures for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

3. The applicant should consider employing measures such as the following:
Water Butts; Rainwater harvesting system; Permeable surfacing on any new driveway, parking area/ paved area; Greywater recycling system
Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

The foul water drainage system should comply with the Building Regulations H2. If main foul sewer is not available for connection, full details and sizing of the proposed septic tank/ package sewage treatment plant including percolation tests for the drainage field soakaways should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form).

British Water Flows and Loads: 3 should be used to determine the number of persons for the proposed development and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

Reason: To ensure that the proposed foul water drainage complies with the Building Regulations 2000(as amended) and Sewers for Adoption 6th Edition.

4. Any earth bunding constructed should be seeded or covered in order to reduce wind blown dust.

Wheel washing of construction vehicles and the damping down and sweeping of transport routes should be undertaken and when necessary.

5. The applicant may require an Environmental Permit in relation to any mining waste generated. Matters relating to the decommissioning of the well will be controlled through the Section 199 application which is required under the Water Resources Act 1991 (as amended by the Water Act 2003).

The applicant will, prior to drilling, also be required to submit to the Environment Agency full details of the well design and aquifer protection methods under Section 199 of the Water Resources Act 1991(as amended by the Water Act 2003). The applicant should contact our Groundwater and Contaminated Land team on telephone 01743 283523 with regard to the above consent. Note - Under Section 198 of the Water Resources Act 1991, British Geological Survey (MacLean Building, Crowmarsh Gifford, Wallingford, OX10 9BB) shall be informed of the intention to sink a well or borehole; and be sent a copy of all details of drilling logs.

The various activities involved in exploration for oil and gas at onshore sites in England fall under different pieces of legislation. This means we could potentially require nine applications from you, though we plan to combine some of these into a single process. Five of the applications fall under EPR 2010 and are therefore handled using this single regulatory framework, while the others fall under different regulatory regimes. Therefore we could require from you:

- a notice to be served on us under section 199 of the Water Resources Act 1991 to 'construct a boring for the purposes of searching for or extracting minerals'
- environmental permits for:
 - a groundwater activity - unless we're satisfied there's no risk of inputs to groundwater
 - a mining waste activity - likely to apply in all circumstances
 - an installation under the Industrial Emissions Directive - when you intend to flare more than 10 tonnes of waste gas per day
 - a radioactive substances activity - likely to apply in all circumstances where oil or gas is produced
 - a water discharge activity - if surface water run-off becomes polluted, for example, due to a spill of diesel or flowback fluid
 - a groundwater investigation consent - to cover drilling and test pumping where there's the potential to abstract more than 20 cubic metres per day (m³/day)
 - a water abstraction licence - if you plan to abstract more than 20 m³/day for your own use rather than purchasing water from a public water supply utility company
 - a flood defence consent - if the proposed site is near a main river or a flood defence.

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EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application name and reference number:

14/02730/MAW

Land North West of Brooklands Farm, Dudleston, Ellesmere, Shropshire

Drilling of a temporary appraisal borehole to retrieve a core of coal to surface for analysis of coal structure, permeability and gas content, and potential for Coal Bed Methane (CBM) gas production, followed by restoration of the site back to agriculture

Date of consideration of three tests:

30 September 2014

Consideration of three tests carried out by:

Dr Sue Swales

County Ecologist (01743 252567)

Sue.swales@Shropshire.gov.uk

Kelvin Hall

Technical Specialist Planning Officer

kelvin.hall@Shropshire.gov.uk

1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

Paragraph 91 of the Planning Practice Guidance relating to minerals states that “as an emerging form of energy supply, there is a pressing need to establish – through exploratory drilling – whether or not there are sufficient recoverable quantities of unconventional hydrocarbons such as shale gas or coalbed methane present to facilitate economically viable full scale production”. The proposed development would enable information to be acquired to establish the potential for coalbed methane extraction. The Government’s 2013 Annual Energy Statement states that

“continuing to ensure diversity of gas supplies remains important”, and the growth of unconventional oil and gas may help to ensure this. The proposed development is compliant with national and local planning policies, and would contribute to meeting Government aims with respect to energy supply. There are therefore imperative reasons of overriding public interest for the proposal.

2 Is there ‘no satisfactory alternative’?

The planning application states that the UK Onshore Petroleum Exploration and Development Licence 185 granted to the applicant covers a variety of landforms, including urban areas, settlements, environmental designations, inappropriate topography and other features not suitable for the location of CBM exploration. In addition a geological review has been undertaken by the applicant to determine the area in which the coals are present that will provide the best technical results which further refines the available area for locating an exploratory borehole. The site has previously been granted planning permission for similar exploratory operations, in 2010 indicating that the local planning authority has previously deemed that the site is an acceptable location for temporary exploratory operations. It is considered that a sufficient level of consideration of alternative locations has been undertaken to justify the application site being put forward for CBM exploration.

3 Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?

No breeding ponds are to be destroyed and sub-optimal foraging habitat is to be lost for a maximum of 3 months only. An outline Great Crested Newt Mitigation Strategy has been submitted. The proposed activity will not be detrimental to the populations of Great Crested Newts at a favourable conservation status in their natural range provided that the following conditions detailed in the memorandum from Sue Swales to Kelvin Hall dated 30 September 2014 are on the decision notice and are appropriately enforced:

The following conditions should be attached to the permission, should it be granted:

Condition:

Work on the site to which this consent applies must be undertaken under a European Protected Species (EPS) Mitigation Licence with respect to Great Crested Newts unless a licence is deemed unnecessary by Natural England Wildlife Licensing Section and in line with the principles of the *Outline Great Crested Newt Mitigation Strategy* by Arcus (2014). A copy of the granted EPS licence and the accompanying agreed mitigation plan and method statement should be submitted to the Local Planning Authority prior to the commencement

of works on the site.

Reason: To protect Great Crested Newts, a European Protected Species, known to be present on this site

Informative

Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

Reason: To protect the interests of European Protected Species if they should be present on the site

Condition: Mitigation/construction plan

No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction, particularly for badger and Great Crested Newt;
- c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed, where such harm has been identified;
- d. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

Reason: To protect Great Crested Newts, Badgers and other features of recognised nature

conservation importance.

Guidance for filling in the EPS form

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests.

Test 1 ‘overriding public interest’ and test 2 ‘no satisfactory alternative’ should be addressed by Shropshire Council planning team. Test 3 ‘favourable conservation status’ should be addressed by Shropshire Council Ecologists with guidance from Natural England.

1 Is the purpose of the development/damaging activity for ‘*Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?*’

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure (e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992); projects that are entirely in the interest of companies or individuals would generally not be considered covered.

2 Is there no satisfactory alternative?

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.

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