



## Appeal Decision

Inquiry Held on 24 to 27 April and 1 to 3 May 2018

Site visit made on 26 April 2018

**by Stephen Roscoe BEng MSc CEng MICE**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 7<sup>th</sup> June 2018**

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**Appeal Ref: APP/P4415/W/17/3190843**

**Land Adjacent to Common Road, Harthill, Rotherham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by UNEOS Upstream Limited against Rotherham Metropolitan Borough Council.
  - The application, Ref RB2017/0805, is dated 30 May 2017.
  - The development proposed is the construction of a well site and the creation of a new access track, mobilisation of drilling, ancillary equipment and contractor welfare facilities to drill and pressure transient test a vertical hydrocarbon exploratory core well and mobilisation of a workover rig, listening well operations, and retention of the site and wellhead assembly gear for a temporary period of 5 years.
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### Procedural Matters

1. Had the Council been in a position to determine the application prior to the opening of the Inquiry, it would have refused it for the following reasons:
  - i) *The Council considers that vehicular access to/egress from the site is intended to be via country lanes which are considered to be unsuitable to cater for the significant increase in commercial vehicular traffic to be generated by the proposal in terms of their limited width, restricted visibility, adverse alignment and lack of separate pedestrian facilities. The development, if implemented, would therefore increase the risk of vehicular conflict with vulnerable road users and other vehicles to the detriment of road safety, contrary to the National Planning Policy Framework (NPPF) which expects developments to include safe and suitable access for all people.*
  - ii) *The Council also considers that the supporting ecological information is deficient with no breeding bird survey details submitted, insufficient bat survey details, and a substandard Phase 1 Habitat Survey carried out in January. Accordingly the applicant has not sufficiently demonstrated that the development can satisfactorily mitigate the potential for harm to the ecology of the surrounding rural environment, contrary to paragraph 118 of the NPPF which indicates that, if significant harm resulting from a development cannot be avoided, then planning permission should be refused.*

2. Following the presentation of the Council's case at the Inquiry, the Council withdrew its objection to the proposal on ecological grounds and the corresponding putative reason for refusal.
3. Shortly before the deadline for the submission of proofs of evidence, the appellant provided a report, to the Council, myself and objectors identified at the Pre-Inquiry Meeting, titled 'AECOM review of Traffic and Transport Matters' [Document IUL1]. It included an Enhanced Traffic Management Plan (ETMP) and had been prepared by Mr Martin, the appellant's traffic witness. The report amounts to some 140 pages and is of a technical nature.
4. The report primarily put forward revisions to the traffic management arrangements proposed and submitted with the planning application and the ETMP. As agreed in the Statement of Common Ground, the ETMP could be subject to Council approval under a condition prior to any development taking place. The revisions included the relocation of the site access route further from the village of Harthill and, to remove the need for a one-way system on local roads, an increase in the number of highway passing places to be provided from 6 to 23. The revisions also included the introduction of two temporary traffic stop and go board controlled sections along the route. These revisions followed discussions between the appellant and Council officers and Mr Martin's proof of evidence is based on the AECOM report.
5. The Council initially objected to the late submission of this report [Document G4]. This was on the basis that the revisions were significant and the Council and interested parties should have sufficient time to consider them and that they represented a revision to the proposal itself as well as to the mitigation measures. In view of the size and technical basis of the report and the nature of the Council's objection, I did not decide whether or not to accept the report, but advised that I would consider the matter after opening the Inquiry, when I could hear evidence as to the extent of, and background to, the revisions as well as giving parties the opportunity to request adjournments and make other applications to me. The Council's proofs were submitted on the basis of the appellant's position prior to the submission of the AECOM report.
6. Prior to the opening of the Inquiry, the Council's relevant officers did in fact consider the AECOM report and recommended to the Council's Planning Board that the Council's putative reason for refusal relating to traffic matters should be withdrawn [Document RC1]. The Council's Planning Board did not however accept this recommendation [Document RC2].
7. The Council's position at the Inquiry on traffic matters was as follows. Whilst it accepts the advice of its officers on the suitability of the traffic measures proposed in themselves, the AECOM report does not satisfy the Council's concerns in relation to highway safety as a whole. Furthermore, the Council stated during the Inquiry that it does not consider that the AECOM report amends the scheme as proposed or that the principles of Wheatcroft would be 'in play' by my accepting the report, although it does have concerns in respect of public consultation.
8. Interested party concerns were put to me, both before and following the opening of the Inquiry, that individuals would be disadvantaged and prejudiced if the report was accepted. An interested party request for an adjournment of four weeks was also made, although the Council did not support this.

Notwithstanding the changed position of the Council in respect of the AECOM report, I agreed to hear representations from interested parties and submissions from the Council and the appellant, prior to giving a ruling on whether the AECOM report should be accepted at the start of the Inquiry. I then gave my ruling as follows.

- i) I am conscious that interested parties are concerned about the lack of consultation in respect of the AECOM report. I can understand the concerns of interested parties when confronted with a document of the size and nature as has been described. Indeed, this was also the Council's initial position. The Council's final position however is that there is no change to the scheme, that the report does not represent scheme evolution, as has been claimed, and that there is no prejudice under the Wheatcroft principles as a result. I give great weight to the Council's position, as it is based on professional advice from within its own organisation, which has a responsibility to represent its locality in terms of its function as Highway Authority.*
  - ii) A purpose of the AECOM report is to show a potential Enhanced Traffic Management Plan (ETMP) which could be subject to approval by the Council under an appropriate condition. There are significant differences between the Traffic Management Plan (TMP) put forward with the application and the ETMP within the AECOM report. These do not however change the proposal or materially alter the nature of the application, they offer an amended option to potentially satisfy a condition, the content of which has been agreed between the two main parties. Moreover, the operative text in the AECOM report amounts to some 9 pages out of the 140 in total.*
  - iii) I am however conscious, as is the Council, of the position of interested parties having not had the benefit of technical expertise to interpret some of the aspects of the report. It would therefore be useful, as suggested, for the appellant to explain the latest draft ETMP and answer factual questions on it, and for representations from interested parties to then be given next week, when interested parties have had the opportunity to consider the explanation that they have been given. I therefore rule that the AECOM report should be accepted in evidence without any adjournment.*
9. I also consider that the appellant chose a poor mechanism by which to put forward the ETMP, notwithstanding that it was said to be done for the sake of completeness and to be helpful. Indeed, the limited number of operative pages within the report could, in my view, have been easily included in an appendix to a proof of evidence, which would have been exchanged and made available for public inspection.
10. It is also of note that my accompanied site visit included walking the entire proposed site access route within the Council's area, with representatives of the Council and the appellant together with those interested parties who wished to attend. Moreover, this took place in advance of statements being made to the Inquiry by interested parties and the opportunity for interested parties to question the appellant's witnesses. I am therefore satisfied that, in addition to the matters raised in my ruling, interested parties had a

sufficient, and indeed good, opportunity to understand the ETMP prior to presenting their statements to the Inquiry.

11. The Secretary of State for Business, Energy and Industrial Strategy made a Written Statement to Parliament on Energy Policy, which refers to the exploration and development of our onshore shale gas resources, on 17 May 2018. In view of its relevance to this appeal, the main parties were invited to make comments on the Statement, and the Statement and these comments have been taken into account in this decision.
12. Following the closure of the Inquiry, I was made aware that, due to an apparent error on the Council's part, Bondhay Golf Club and Monition Ltd had not been notified in respect of the appeal. They were therefore invited to make a written statement in relation to the appeal, and the main parties were invited to comment on this statement. Both the statement and the comments received have been taken into account in this decision.

### **Decision**

13. The appeal is allowed and planning permission granted for the construction of a well site and the creation of a new access track, mobilisation of drilling, ancillary equipment and contractor welfare facilities to drill and pressure transient test a vertical hydrocarbon exploratory core well and mobilisation of a workover rig, listening well operations, and retention of the site and wellhead assembly gear for a temporary period of 5 years at Land Adjacent to Common Road, Harthill, Rotherham in accordance with the terms of the application Ref RB2017/0805, dated 30 May 2017, and subject to the conditions listed at the end of this decision.

### **Reasons**

14. I consider the main issues in this case to be:
  - i) whether the proposal would represent inappropriate development in the Green Belt having regard to the NPPF; and
  - ii) the effect of the proposal on the existing uses of the highways in the surrounding area.

#### **Green Belt**

15. The appeal site lies within the South Yorkshire Green Belt. The proposed development would be associated with mineral extraction, which in itself is not inappropriate development in the Green Belt. The development would include plant, site buildings and minor topsoil storage and environmental bunding which would be in place for up to five years. The site would be returned to its existing condition following this period. In view of the extent and temporary nature of the development, which would not be unusually longer than other construction or mineral extraction operations, the development would preserve the openness and the purposes of including land in the Green Belt. It would therefore not represent inappropriate development and would not be harmful to the Green Belt under paragraph 90 of the NPPF. It would also satisfy national guidance in accordance with the element of the Council's emerging Sites and Policies Document<sup>1</sup> (DPD) Policy SP2 in relation to mineral workings

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<sup>1</sup> Rotherham Local Plan: Proposed Main Modifications to the Publication Sites and Policies Document: January 2018

to which I give great weight. This is due to the generic nature of this element of the policy and its progress towards adoption. In this regard, the emerging DPD has been found sound following an examination in public, subject to a number of modifications, and is anticipated to be adopted in July 2018.

## Highways

16. The proposed public highway access route for the development includes the A619, which gives a good standard of access to the M1 motorway. From the A619 to the site, the route follows just over 2km of Bondhay Lane. The lane is single track in places and gives access to residential properties at its junction with the A619 and to the south of Packman Lane. The lane also gives access to the Bondhay Golf Club Complex and Monition Ltd and to a farmstead. The southern section of the lane is relatively straight in terms of its horizontal and vertical alignments. The northern section is however quite tortuous in its alignments and narrow in width.
17. The access route then proceeds onto some 1.5km of the single track Packman Lane. The southern section of the lane has a poor alignment and limited width, including the section between residential properties and farm complexes at Loscar and Honeysykes Farms. Its northern section has straighter alignments, although some crests in the lane have restricted forward visibility. The route then turns onto the single track Common Road, which has relatively straight alignments along the length to be used of some 0.5km. It does not serve any residential properties but does serve an animal rescue centre.
18. The appellant has prepared forecasts for traffic associated with the development. The forecasts were prepared by a consultant employed by the appellant and then reviewed by a further consultant, also employed by the appellant. There is a difference in opinion between the consultants on whether maximum or average traffic flows should be used in assessing impact, and I have therefore considered both in this decision. Traffic generation figures for the proposal were uncontested, and I can see no reason to doubt that they represent the best estimate at the present time.
19. Traffic flows in connection with the development are split into HGV and non HGV categories. The non-HGV flows are low, even in comparison with the background flows, and I do not consider that they would have any material impact on the local highway network.
20. The stages of the development prior to the maintenance period are forecast to last 46 weeks. The most intensive periods of HGV site access traffic would be during the construction period, of 12 weeks, and during the drilling period, of 20 weeks.
21. During construction, using figures from the appellant's evidence, there would be less than 10 movements/day in either direction, or less than an average of one HGV every 60 minutes over a 10 hour working day. This would be the case for much of the time. On up to 40 days of this construction period, there would be more than 10 movements/day, and for three weeks there would be between 52 and 60 movements/day, which is between 5 and 6 movements/hour, or one HGV every 10 to 12 minutes. Over these three weeks however, I consider that it would be likely that HGV convoys would be used, which I will consider shortly.

22. During drilling, there would also be less than 10 movements/day in either direction for the majority of the time, except for periods at the beginning and the end of drilling. During these periods, there would be between 20 and 42 movements/day, which is between 2 and 5 movements/hour, or one HGV in 12 to 30 minutes. Over these periods however, I again consider that it would be likely that HGV convoys would be used. Each of these HGV movements between the A619 and the site and vice versa is forecast to take some 8 minutes plus time added for stops or delays.
23. The above figures relate to an HGV travelling alone, but the appellant considers that the vast majority of HGVs would travel in convoys of between 2 and 8 vehicles. The above figures, and particularly the maximum intensity, would therefore be very much a worst case in terms of the frequency of movements. This is because, if 60 movements were to take place in a single day, then convoys would be likely to be used with a far lesser frequency than set out above.
24. It also is of note that the purpose of these figures is not to define the number of HGVs that would be on the route at a particular time. It is however to indicate potential scenarios, in order that impact can be assessed in a reasoned manner. The total number of forecast HGV movements would not change over the duration of the development, as there is generally only a set level of work to be carried out on the site. This means that a day carried out at this maximum intensity could result in a day without any HGV movements at another time.
25. I now turn to consider convoys. The ETMP limits these to 8 HGVs and the appellant suggests that the average number of HGVs in a convoy would be five. Over the intensive traffic period of three weeks during construction, the maximum number of forecast 8-HGV convoy movements, in either direction, is between 7 and 8 movements/day. Over a 10 hour working day, these represent one convoy movement every 75 to 85 minutes. The maximum number of forecast 5-HGV convoy movements, in either direction, is between 11 and 12 movements/day. Over a 10 hour working day, these represent one movement in 50 to 65 minutes.
26. Over the intensive traffic periods during drilling, the maximum number of forecast 8-HGV convoy movements, in either direction, is between 3 and 6 movements/day. Over a 10 hour working day, these represent one movement every 100 to 200 minutes. The maximum number of forecast 5-HGV convoy movements, in either direction, is between 4 and 9 movements/day. Over a 10 hour working day, these represent one movement every 70 to 150 minutes.
27. The development would also require the use of the access route by abnormal loads. These would primarily access the site over the construction, drilling and decommissioning phases. Over the construction phase of 12 weeks, there is forecast to be 42 abnormal load movements in either direction. These would be spread over a period of 10 days within this phase, with a maximum of 8 movements in a single day. This maximum would represent one movement every 75 minutes.
28. Over the drilling phase of 20 weeks, there is forecast to be 44 abnormal load movements in either direction. These would be spread over a period of 18 days within this phase, with a maximum of 6 movements in a single day. This maximum would represent one movement every 100 minutes. During the

decommissioning phase of 6 weeks, abnormal load movements would be slightly less than the forecast for the construction phase. Each of these movements between the A619 and the site and vice versa is forecast to take 33 minutes plus time added for stops or delays.

29. In summary therefore, when single HGVs would be likely to be used, their average frequency would be likely to be one movement every 60 minutes. With 5-HGV convoys, movements would be likely to take place every 50 to 150 minutes over a period of some 3 weeks during construction, at the beginning and end of drilling and probably at some stage during decommissioning. If 8-HGV convoys were used, movements would be likely to take place every 75 to 200 minutes over these periods. In terms of abnormal load movements, these are forecast to take place over a period of 28 days plus decommissioning at a maximum of one every 75 to 100 minutes. I would however repeat that these are averages and forecast maximums and, in practice, some days would be more and some less.
30. The Council's position on highway matters has been made notwithstanding its officers' final positive recommendation in respect of the application. The recommendation concluded that the additional passing places would significantly reduce the risk of conflict with vehicles and other road users. It also concluded that the two temporary traffic stop and go board sections on Packman Lane and Bondhay Lane would be acceptable in principle.
31. The Council's position is however that the latest information from the appellant does not overcome its concerns in relation to highway safety. Specific concerns include: hedgerow damage; traffic enforcement; forward visibility; cyclists and horse riders; traffic backing up between passing places; and vehicle breakdown.
32. Considering firstly other vehicles, the appellant has undertaken existing traffic surveys. These indicate 40 vehicle movements/day on Common Road, which equates on average to one every 15 minutes in either direction, or one every 30 minutes in one direction. In terms of conflict with site access traffic, an HGV or convoy would take approximately one minute to travel along Common Road. This would take place at some 100 to 400 minute (1.7 to 6.7 hr) intervals in one direction, assuming that convoys are used during the more intensive traffic periods. An abnormal load would take approximately 4 minutes to travel along Common Road. I therefore consider that paths would cross infrequently. This would also be the case, even if single HGVs were used to access the site throughout the development.
33. On Packman Lane, the indicated 221 vehicle movements/day would be on average one every five minutes in one direction. In terms of conflict with site access traffic an HGV or convoy would take approximately three minutes to travel along the lane, and this would take place at some 100 to 400 minute intervals in one direction. An abnormal load would take some 12 minutes to travel along the lane. I therefore consider that paths would cross frequently, but only up to 5% of existing vehicles would be likely to meet single HGVs or convoys. This would be potentially once in each HGV or convoy trip or twice with an abnormal load.
34. On Bondhay Lane, the indicated 512 vehicle movements/day would be on average one every two minutes in one direction. In terms of conflict with site access traffic, an HGV or convoy would take approximately four minutes to

travel along the lane, and this would take place at some 100 to 400 minute intervals in one direction. An abnormal load would take some 17 minutes to travel along the lane. I therefore consider that paths would cross frequently, but only up to 4% of existing vehicles would be likely to meet single HGVs or convoys. This would be potentially twice in each HGV or convoy trip or nine times with an abnormal load. In view of the low level of paths crossing on the route as a whole, I do not consider that traffic regulation would be problematic.

35. The ETMP includes two sections where temporary traffic stop and go boards would be used. Banksmen in a front escort vehicle would hold approaching traffic in these sections of Packman Lane and Bondhay Lane until the HGV, convoy or abnormal load had passed through the section. These two sections are where alignments are tortuous and land widths narrow, thus preventing forward visibility. The travel time of HGVs, convoys and indeed abnormal loads through these sections would however be limited, as can be seen from the times to travel the sections along each lane. This, and the low frequency of movements, would result in the numbers of vehicles held being limited, and I thus do not consider that traffic regulation would be problematic. Moreover, the section of Bondhay Lane which would be subject to this control would lie beyond the length of the lane which is used by traffic accessing the Bondhay Golf Club Complex and Monition Ltd from the A619. It would therefore be subject to a lower level of traffic flow than the lane as a whole.
36. There is some criticism of the timing of the traffic counts, which were undertaken when some of the schools in the locality were within a holiday period. Traffic levels on Common Road and Packman Lane are however low, and I have taken into account that they could be subject to some variation in coming to my decision. In considering both average and maximum traffic flows, I have also taken into account views expressed in the Inquiry on the period over which averages should be undertaken.
37. HGVs, convoys and abnormal loads would travel at lower speeds than is usual for the access route. In view of the level of existing traffic flows on the lanes however, the numbers of vehicles delayed behind those accessing the site would be minimal.
38. It is not unusual to have to reverse back to an existing passing place when currently driving along the lanes, and indeed I had to reverse a number of times when on my unaccompanied site visits. The provision of passing places, which would be inter-visible apart from those areas covered by the traffic stop and go boards at some times, would improve this situation a great deal, including during any breakdown of existing or proposed traffic. Whilst this improvement would not outweigh the adverse impact that would result from the additional use of the lanes, it would materially offset this impact. Moreover, if the Council decided to retain the passing places after the completion of the development, then this would represent a benefit into the future.
39. In view of the level of existing and proposed traffic flows on the lanes, I am satisfied that the circumstances encountered by general agricultural vehicles would be similar to those for other traffic. There are however situations where the agricultural use of the lanes for specific operations would be more intensive and urgent than the general case. Such operations could require changes to

the traffic management regime in terms of the priority given to certain types of vehicles over certain sections of the lanes.

40. These matters have been raised during the Inquiry and on the detailed route inspection with interested parties, and I am of the opinion that the Council is more aware of these matters than it may have been previously. It would be for the Council to ensure that these matters are addressed in any final approved TMP. I have previously identified the Council's position in terms of representing local people and protecting their interests. There has been criticism of the Council's previous performance in this regard during the Inquiry. It is now for the Council to ensure that detailed matters, such as agricultural access, are fully taken into account when the final TMP is approved.
41. Bondhay Lane has previously been used as a site access for a windfarm development adjacent to Packman Lane. Packman Lane was considered to be unsuitable as an access for the windfarm development, which used an off-highway access instead. It has been suggested that this adds weight in support of dismissing the appeal. There is no evidence before me however to suggest that a traffic management plan or additional laybys were proposed as a part of the windfarm scheme. I therefore consider that the windfarm access does not add any weight in support of dismissing the appeal.
42. Concerns have been expressed about the enforceability of the TMP. This has to be the role of the Council as Local Planning Authority and Highway Authority. In this regard, various planning enforcement and highway regulation procedures may be available to the Council, including for example the serving of a planning enforcement stop notice.
43. A number of the proposed passing bays could be sited at field entrances, although they would remain within the highway. The work to construct any layby would be carried out under the regulation of the Highway Authority, who I am satisfied would be accustomed to accommodating the reasonable requirements of private accesses. I therefore do not consider that any such passing places would be likely to restrict or unreasonably change the suitability of any field access.
44. Bondhay Lane, just to the north of its junction with the A619, includes an informal layby which is used by nearby residents for parking. Indeed, I used it at one of my unaccompanied site visits. The location of the current layby is the location for one of the proposed passing places. The location appears to be within the boundary of the public highway, and the use and future use of this area should thus be under the control of the Highway Authority. Should the authority decide that the informal layby should be retained for the residents, I am satisfied that an alternative location for a passing place associated with the proposed development could be provided a little further along Bondhay Lane.
45. In coming to my opinion, I have taken into account that the traffic management proposals are a potential mechanism for site access. With this in mind, and in view of all of the above points, I do not consider that the proposal would be likely to have an unacceptable adverse effect on the use of these lanes by other vehicles.

46. I now turn to consider pedestrians. From my site visits, the presence of verge side seats, a leaflet on Harthill with Woodall Parish Walks and the proximity of the village of Harthill, it appears to me that pedestrian use of Common Road and the nearest parts of Packman Lane is greater than that along Packman Lane generally. The western section of Common Road which is nearest the village does not form part of the site access route. The eastern section of Common Road, which is part of the site access route, has better forward visibility and more open verges than the western section, as does the nearest section of Packman Lane. Other sections of Packman Lane, further to the south of the Common Road junction, are more enclosed and have crests where forward visibility is restricted.
47. It is therefore the case that the areas of Common Road and Packman Lane to the east of the site and on the site access route are better suited to the presence of pedestrians and site related vehicles than other lanes nearby. It would also be the case that the front escort vehicle of a single HGV, convoy or abnormal load would not have the same purpose as existing vehicles travelling on the lane. The primary duty of the escort vehicle would be to look out for, and advise, pedestrians and others of oncoming vehicles.
48. For pedestrians walking the length of Common Road and then Packman Lane to its junction with Bondhay Lane, as I did with various parties at the accompanied site visit, I would anticipate that a pedestrian, on average, could encounter one or two single HGVs or one convoy during the site access hours of use of these lanes. I anticipate that a pedestrian would be unlikely to encounter an abnormal load. Pedestrians would however encounter a far greater number of vehicles not associated with the proposed development. Furthermore, I am of the opinion that the use of these lanes by pedestrians would show some bias towards weekends and evenings, part of which would be outside of the permitted hours of use by site access traffic.
49. Many representations referred to the loss of hedgerows, and consequential ecological and amenity harm, along the site access route. The acceptability of passing places to the Council's officers was not based on a general approach or on judgement, but on the agreement at each location of on-site measurements relevant to the size of that particular passing place. I therefore take confidence from this that they could be accommodated within the highway and without unacceptable impact on hedgerows. I accept however that there would be some impact on the visual amenity of the route with the imposition of surfaced passing places.
50. In view of all of the above points, I consider that there would be some inconveniences to pedestrian users together with some loss of amenity. This would not however be unacceptable in terms of highway safety and amenity.
51. The lanes are also used by horse riders. Riders have the benefit of higher sight lines and would be able to make use of the additional passing places. These passing places would be 2.4m wide and inter-visible, and I would anticipate that site related vehicles would pass riders at a slower speed than is the case with vehicles currently. Again, the impact on horse riders should be seen in the context of the forecast level of use of the lanes, against the level of existing use and the times of the use of these lanes. I recognise that the

proportion of HGVs would significantly increase, but I do not consider that the impact on horse riders would be unacceptable.

52. My attention has been drawn to the use of the lanes by sport cyclists as well as leisure cycle uses. The lanes are near to, but not part of, the National Cycle Network. The proposed use of the lanes could well make them less attractive to sports cyclists and much inconvenience could result. I am not however satisfied that this is the only location that such an activity could take place, and I doubt that the majority of the sports cyclists are from the immediate area around the lanes. I therefore give less weight to the inconvenience caused than that given to other more locally based users of the lanes. I do however consider that leisure cyclists would benefit from the provision of additional passing places. I thus do not consider that the impact on cyclists would be unacceptable.
53. The appellant has prepared vehicle swept path analyses for articulated HGVs and abnormal load vehicles. The analyses indicate that these vehicles can negotiate the junctions between the A619 and Bondhay Lane and between Packman Lane and Common Road together with the narrower sections of Packman Lane between Loscar Farm and Harthill Field Road and between Loscar and Honeysykes Farms.
54. The use of the junction between Packman Lane and Common Road would require vehicles to track over the grass verges around the junction. The appellant would be required to repair any, and indeed the likely, damage caused on the basis of a dilapidation survey, and the regulation of this could be secured by the use of an appropriate condition. Some manoeuvres would also require the temporary removal of highway signage, but this would need to be carried out with the consent of the Highway Authority.
55. The Council's technical officers have not raised any objection to the analyses and have had the opportunity to assess the situation by means of video modelling techniques. The Council's remaining objections to the proposal however include the accuracy of the modelling, but no reasoned evidence has been put forward in support of this position. In view of the lack of any technical objection, I give this element of the Council's objection limited weight.
56. The use of the junction from the A619 into Bondhay Lane would require some vehicles to cross onto the opposing carriageway of the A619 for some manoeuvres. Whilst this is not unusual for some large load vehicles, the junction is close to a bend on the A619, and I have some concern as to the acceptability of such a manoeuvre. The appellant has considered the use of this junction with the relevant Highway Authority, and it would be for the authority to introduce, in consultation with the Council, any matters into the final TMP if they need to do so. I am however satisfied that, if the junction is found to be unsuitable for any manoeuvres into Bondhay Lane from the west, then there is a roundabout to the east on the A619. This would allow associated vehicles to approach the junction from the east along the A619, and this matter thus does not weigh against the appeal.
57. HGV traffic using Bondhay Lane at this junction would increase as a result of the development. The maximum daily increase would be from 30 to 90 HGV movements, over a three week period, and on average, HGV movements would generally double. This would result in some loss of amenity to nearby

residents, although there are already some 500 daily vehicle movements along Bondhay Lane at this point. I therefore consider that the additional movements, for the periods proposed, would not be unacceptable in terms of amenity or safety of nearby residents or the structural integrity of their properties.

58. The nature of the accompanied site visit necessitated the use of high visibility clothing and special attention to the approach of vehicles from either direction along Common Road and Packman Lane. This matter has been put to me as evidence in support of dismissing the appeal. It is right that special attention was paid to safety on the site visit, and I recognise that currently care has to be exercised when walking along these roads. I would however return to the point that an escort vehicle would be used in advance of any HGV using the route, with a specific responsibility to advise other road users of the approaching vehicles and managing an appropriate means of their passing. This would be very different to the current situation, where I feel that some drivers may not necessarily expect the road to be occupied by pedestrians, horse riders or cyclists. The circumstances of the site visit do not therefore weigh against the appeal.
59. My attention has been drawn to other investigation proposals relating to future shale gas extraction in the surrounding area. I am satisfied that their access arrangements would not use the lanes between the appeal site and the A619. I am also satisfied that the A619 is of a sufficient standard to be likely to be able to adequately accommodate any cumulative traffic impact.
60. Concerns have been raised about the impact of the development on traffic in South Anston. The proposed site access route is some distance from South Anston and traffic between the motorway network and South Anston would have to use a different motorway junction to that proposed. I therefore do not consider that the development would increase traffic levels in South Anston.
61. The proposal includes the formation of a community liaison group, to be approved by the Council, and I anticipate that this would include lines of communication between local residents and the appellant and the Council. There has been sufficient publicity around this proposal and the details of access to lead me to the view that any breaches of the conditions would be quickly brought to the attention of the appellant and the Council. The ETMP also requires that all vehicles accessing the site would need permission before they do so for safety and security reasons. All of this indicates to me that any abuse of the proposed traffic routes could be quickly investigated and corrected, and that traffic impacts through Harthill would be satisfactorily regulated.
62. There may however be short periods of time where non-site related traffic would prefer alternative routes to that used for site access. This would be difficult to regulate. Such traffic displacement would however be likely to occur during the periods of maximum usage of the route, the times of which would be limited. I therefore do not consider that traffic displacement, through Harthill or other areas, should weigh against the appeal.
63. I recognise that there is a problem of fly-tipping along the lanes proposed for the site access route, and that the suggested laybys would provide further opportunities for such tipping. The laybys would however be covered under a

section 278 agreement, under the 1980 Highways Act, with the relevant Highway Authority and I can see no reason why the clearance of any tipped debris on the laybys and around them could not be included in any such agreement. Moreover, the laybys would need to be clear of debris for them to be used in any event.

64. From all of the above points, I am satisfied that there would be no residual, cumulative and severe impacts from the proposal that would make it unacceptable on transport grounds.
65. I therefore conclude that the proposal would not necessarily have an unacceptable impact on the existing uses of the highways in the surrounding area. I further conclude that it thus would not conflict with the NPPF.

#### Other Matters

##### *Hydraulic Fracturing*

66. Various concerns have been raised that the proposed development would include hydraulic fracturing, or fracking. Within the appellant's evidence and during the Inquiry, it was clearly explained that the development would not include the hydraulic fracturing of underground strata as part of the investigation. The pressure applied during the transient testing proposed would be less than that required to hydraulically fracture the strata, and there would be no injection of sand or gas extraction. The other investigation processes within the development would involve the taking of samples and non-intrusive testing.
67. The development requires an Environmental Permit from the Environment Agency (EA). Such a permit has been granted for the management of extractive waste at the appeal site. The permit specifically does not cover well stimulation of any type, including hydraulic fracturing and/or hydrocarbon extraction and/or production (including appraisal and extended well testing).
68. The development would take place under a Petroleum Exploration and Development Licence from the Department for Business, Energy and Industrial Strategy. There is thus a presumption that investigations, if they are acceptable in planning and other consent terms, should be progressed in licensed areas, including this one. This is in order that proper judgements can be made on the most suitable locations for any future extraction processes.
69. I recognise that well stimulation would be likely to be a crucial part of further exploration under the licence. It is however not integral to the pressure transient testing proposed at this site under this application and well stimulation is not a matter for consideration in this appeal. The proposal before me is thus as described in the application and would not include hydraulic fracturing. It would be further constrained by the exclusions in the associated permit, which would be appropriately regulated under the permit regime. I am therefore satisfied that the development would not include hydraulic fracturing.
70. It has been suggested that the development could result in seismic effects or structural damage to properties in the surrounding area and that this could have an effect on householders' insurance policies. From the evidence provided, there is no apparent linkage between the development proposed and

such effects, and I therefore give these matters limited weight in my decision. Moreover, I can see no evidence that the appellant should be required to insure against such an eventuality. Furthermore, the matter of property values is not a matter that I can take into account in this planning appeal in any event. This is on the basis that planning is concerned with land use in the public interest, and thus the protection of purely private interests such as the impact of a development on the value of properties cannot be a material consideration.

71. From the investigation process described, I am satisfied that there would be no materially adverse geological effect. Shale gas is not generally mobile, and the well would be capped in any event so that there would be minimal risk of long term gas leakage. Moreover, I have not seen any evidence to suggest that there would be any risk from the escape of radon contaminated groundwater.
72. The design and operation of the proposed well would be regulated by the Health and Safety Executive, in addition to matters covered under the Environmental Permit. I am satisfied that the presence of these independent regulators at various stages during the proposed development would secure an appropriate level of safety, together with comprehensive emergency procedures, at the site.
73. The area around the appeal site includes many underground mine workings. The investigation proposed however would have a limited horizontal extent, and would not include any horizontal drilling. The Coal Authority has also confirmed that the site does not fall within any defined Development High Risk Area in relation to coal mining. It has also confirmed that all ground movement relating to past mining activities should have stopped. Whilst mine abandonment data has been examined, in order that voids and loose material could be avoided, they have been routinely penetrated safely by coal, oil and gas drilling in nearby locations for many years. In view of all of this and all of the above points, I do not agree with the public safety concerns raised in respect of this appeal.
74. The Government's 16 September 2015 Written Statement to Parliament on Shale and Oil Gas Policy advised that the supply of natural gas is a key requirement for years to come if the UK is to successfully transition to a low-carbon economy. Since 2004, the UK has been a net importer of gas due to the rapid decline of production from the UK Continental Shelf. The Government's 17 May 2018 Written Statement to Parliament on Energy Policy advised that the proportion of imports was continuing to increase. Developing home-grown shale resources could reduce our dependency on such imports. The Government therefore considers that shale gas development is of national importance and that there is a clear need to explore and test our shale potential.
75. The Government expects Mineral Planning Authorities to give great weight to the benefits of mineral extraction, and this includes shale gas exploration. The national importance of the development proposed is therefore a matter to which I attach great weight and it represents a benefit against which any harm from the development should be balanced.
76. It has been suggested that there are better sources of energy, and that the development would represent poor value for money. Given the Government's position on this type of development and the granting of the exploration

licence, these generic concerns in respect of the appropriateness of this type of investigation are not matters to be addressed at this Inquiry. The Inquiry is to determine, in land use planning terms, the acceptability of this particular operation on this particular site. In a similar manner, it has been suggested that better locations may exist for this operation. This may or may not be the case but again the assessment of other locations is outside the scope of this Inquiry. It has also been suggested that 'mission creep' may result if the appeal is allowed. This however needs to be controlled by the conditions imposed and not by refusing permission in the first place.

77. I therefore consider that, whilst the development would not include hydraulic fracturing, the benefits from the investigation proposed in terms of future energy supplies should be given great weight in accordance with Government policy.

### *Ecology*

78. The appeal site lies within the Loscar Common Local Wildlife Site (LWS). Natural England (NE) has raised no objection to the development. The nearest protected sites are Sites of Special Scientific Interest (SSSIs), at Ginny Spring, Whitewell Wood and Crabtree Wood, which are some 1.8 and 2.2km from the appeal site. In view of the evidence given to the Inquiry and these separation distances, I am satisfied that the development would not be likely to have an adverse effect on any SSSI or other protected sites.
79. Prior to the planning application being made, the appellant requested a screening opinion from the Council. This concluded that the development was not likely to have a significant effect on the environment in terms of the Environmental Impact Assessment (EIA) Regulations and that the development did not require an EIA. The Secretary of State's corresponding direction confirmed that the development was not EIA development.
80. Loscar Common qualifies for LWS status due to its woodland habitat and corn bunting breeding bird populations. Loscar Wood Plantation, part of which is adjacent to the field in which the appeal site is located, is potentially re-planted ancient woodland, with the planting of broad-leaved species dominated by sycamore. The appeal site is located to leave a 30m buffer zone to the woodland, against an NE advised minimum of 15m. I agree with the main parties that the development would have no direct impact on the woodland itself.
81. Corn bunting is on the Birds of Conservation Concern - 4: Red List. This is the highest level of conservation concern and priority. The appellant undertook an extended Phase 1 Habitat Survey following a data search. This identified records of ground nesting birds in the area of the site, but not corn bunting.
82. The field in which the site is located is currently in arable winter wheat production. The site, which has an area of some 1.4ha, is focused towards the centre of the field which has a grassy margin. Whilst the margin is of limited quality, a very limited area of the margin would be lost as a result of the development. As a result of all of these factors, I agree with the appellant's findings that there would be limited temporary disturbance and displacement of breeding birds and that this would not be significant. There has been no pre-application breeding bird survey. During the Inquiry, the Council withdrew its ecological objection to the appeal. I thus consider the

Council to be satisfied with this approach, subject to the imposition of a pre-commencement protected species survey condition.

83. The development would include floodlighting within 50m of the nearby woodland. The extended Phase 1 Habitat Survey identified features that bats tend to use in the woodland, and a bat survey was undertaken in August and September in accordance with NE guidelines. The arable nature of the field in which the appeal site is situated is of negligible value for bat commuting or foraging and is likely to only provide access to the nearby woodland. I therefore consider that the survey level was proportionate and appropriate.
84. The bat survey recorded at least five species, two of which are light sensitive although they were recorded in low numbers and thought to use the site occasionally. Furthermore, the lighting on the site would be kept below the Bat Conservation Trust Guidelines and would be subject to Council approval. Moreover, any impact would be along a single edge of the woodland. I am therefore satisfied that the development would not be reasonably expected to have an adverse effect on the conservation status of bats and that there would be no conflict with Core Strategy<sup>2</sup> (CS) Policy CS20.
85. I am satisfied that the limited duration of construction and decommissioning noise, together with the more constant nature of noise associated with drilling would not have a significant effect on protected species. A 16m length of hedgerow on Common Road would be removed to provide a highway visibility splay for the site access. The hedgerow, following an assessment in accordance with the Hedgerow Regulations 1997, is species rich, has less than 10% gaps, is more than 30 years old and forms part of a field system that pre-dates the enclosure Act. As a number of the relevant criteria are met, the hedgerow qualifies as being important under the regulations. There is however no evidence of nesting birds and the hedgerow itself is very thin at the location to be removed. I therefore consider that its removal and replacement would not be unacceptable, as this would give an opportunity for it to be replaced in a denser form with a maintenance period regulated under a condition.
86. The site access route is bounded by hedgerows. These would not be physically impacted by the construction of the proposed passing places. There would however be a limited increase in the frequency of traffic noise events on Packman and Bondhay Lanes. On Common Road, where there would be a material increase in this frequency, the hedgerows are generally set further back from the carriageway. I am therefore satisfied that additional traffic noise would not have a significant effect on hedgerow ecology.
87. The field in which the appeal site is situated is bounded by Public Rights of Way (PRoWs) and Common Road on three sides. The PRoWs form part of an identified parish walk and Common Road is used by local residents and other walkers. The development would affect interaction between walkers and nature on these routes.
88. The lengths affected would however represent a small part of the parish walk and not the majority of Common Road, both of which are almost entirely within the LWS. Furthermore, the appeal site forms a very small proportion of the area of the LWS. I am therefore satisfied that the development would not

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<sup>2</sup> Rotherham Local Plan: Core Strategy: September 2014

significantly undermine the intrinsic interest of the LWS or the opportunity it provides for contact with and the enjoyment of nature.

89. I accept that the development could have a negative, but not significant, impact on features of biodiversity value for the period of the development. I am however satisfied that impact has been, and would be, minimised through the design, layout, construction and operation of the development and by the incorporation of suitable mitigation measures. These would avoid a residual adverse impact on biodiversity and maintain 'no net loss'. I am also satisfied that the development would not be likely to, directly or indirectly, result in the loss or deterioration of sites, habitat or features that are considered to be irreplaceable due to their age, status, connectivity, rarity or continued presence. I therefore consider that the development would accord with emerging DPD Policy SP36 and paragraph 118 of the NPPF. I give this emerging policy substantial weight on the basis that it reflects national policy and guidance.

#### *Character and Appearance*

90. The appeal site lies within an area which the Council has designated as being of High Landscape Value under CS Policy CS21, although the Council has suggested that this designation is to be removed. The planning application included a Landscape and Visual Impact Assessment (LVIA). The development itself would be screened by 2-3m high bunds around the perimeter of the site.
91. The LVIA predicts that substantial landscape effects would occur immediately around the site and to the south west during the construction, drilling, workover and decommissioning stages of the development. These substantial landscape effects would be present for some 46 weeks, with a rig of 60m high being present for 20 weeks and potentially a rig of 32m high for five weeks. Substantial visual effects are predicted to occur along the eastern edge of Harthill village and along Common Road and Harthill Field Road to the south and west of the site, and these effects would be present for a similar period.
92. From the zone of theoretical visibility provided with the LVIA, the areas of woodland around the site would greatly restrict the visibility of the development at lower levels. These restrictions would reduce the numbers of affected residential properties on the eastern edge of Harthill, and indeed it would only be the properties on the edge of the village which would be affected in any event. It is of note that development within the eastern part of the village is quite dense, with boundary properties that would protect those further into the village, where the topography also generally slopes away from the site.
93. Some limited restriction to visibility immediately adjacent to the site would also be provided by the perimeter bunds. PRowS pass alongside the field in which the site is situated to the north and to the east between the field and the adjacent Loscar Woodland Plantation. Common Road runs in close proximity to the south of the site.
94. The development would be very visible in views from these PRowS and when travelling eastwards along Common Road towards the site, which is a walking route used by local residents. I agree that it would industrialise these views and could be overbearing in close proximity affecting the amenity of those with views to the site. The views however would only be present over a short

length of the parish walk identified on a parish leaflet, and in one direction when travelling along the majority of Common Road to the west of the site. Furthermore, the proposed defined period for the development and the Council control of restoration arrangements, including those for any passing places, would minimise the adverse landscape impacts from the development.

95. Views of the upper sections of rigs used on the site would be available over the woodlands and therefore present over a wider area. They would however comprise a single structure, in place for a period of some 25 weeks, and be seen in many views alongside the nearby wind turbines. Whilst the turbines are relevant in terms of cumulative effect, their rotors gain a greater height than would be the case at the top of the drilling rig. I am therefore of the opinion that this, and their movement, would tend to draw the eye away from the rig, thus reducing its impact. In terms of assessment, the presence of the turbines and their known height has also negated much of the need for photomontages of the proposed development.
96. The development would be lit at night although such lighting would be kept to a minimum, primarily for ecological reasons, and would be subject to Council approval. Lighting at and just above ground level would be somewhat screened from properties in Harthill and elsewhere by the woodland around the site. I visited the area after dark, and the level of ambient light was low. Site lighting could therefore be visible through some of the woodland, particularly during winter although there are of course fewer outdoor activities over this period. I am satisfied however that site lighting would not be at a level sufficient to cause unacceptable nuisance. I anticipate that a rig would need to have navigational lights at its highest point, in a similar manner to the wind turbines. This light however would neither be unusual for the area nor intrusive.
97. Notwithstanding the above points, which would reduce any impact, I consider that the development would detract from, and be harmful to, the landscape and visual character of the surrounding area in conflict with CS Policy CS21 and emerging DPD Policy SP35. I only give this emerging policy moderate weight in this decision due to the doubt over its future applicability to the area around the appeal site. This harm or conflict would not however be sufficient reason to dismiss the appeal when balanced against the benefits of the development in terms of potential future energy supplies.

#### *Living Conditions*

98. I will firstly consider noise and vibration. During the day within the construction period of 12 weeks, the forecast noise level at the nearest noise sensitive receptor would be 54dB LA<sub>eq 1hr</sub>. Whilst this would be audible, it would be less than the guideline limit of 55dB LA<sub>eq 1hr</sub> in Planning Practice Guidance (PPG).
99. The forecast is however based on a worst case scenario, with all site plant operating at the same time. I consider that this would be infrequent, if not unlikely, and that this worst case forecast would off-set other factors such as noise reflecting meteorology. Furthermore, the agreed condition set at 55dB LA<sub>eq 1hr</sub> would include other noise sources, and would thus trigger a non-compliance below 54dB LA<sub>eq 1hr</sub> from the site itself.

100. At night, the drilling rig is forecast to generate a sound level of 37dB LA<sub>eq 1hr</sub> (free field) at the nearest noise sensitive receptor. This would be well below the PPG guidance level of 42dB LA<sub>eq 1hr</sub>. The ambient night time background levels are between 24 and 46dB LA<sub>90</sub> and, at some times, the rig could be audible outside the nearest noise sensitive receptor. This however would not be unacceptable, or result in harmful sleep disturbance, based on PPG and the World Health Organisation standards of 40dB L<sub>night</sub>, which is an average over 12 months.
101. The site access route along Packman Lane passes between the residential properties at Loscar and Honeysykes Farms. The site traffic would increase noise levels at these properties. Its character would however be short spikes, somewhat similar to agricultural and other vehicles passing. This, combined with the lower frequency of forecast site movements than is the case with existing vehicles, would not be unacceptable in terms of its impact on occupiers.
102. In terms of other vibration, the drilling would be of a bored and not percussion type. I am satisfied that ground borne vibration from this operation would be imperceptible at locations over 20m from the rig, and it is of note that the nearest sensitive receptor would be some 500m from the rig.
103. I now turn to consider air quality. The development would create fumes from diesel plant and vehicles. The site is not within an Air Quality Management Area (AQMA) and plant and vehicles would comply with current emission standards. The HGV site access route does however pass through the Barlborough AQMA, and the development would increase emissions in this AQMA. The AQMA however comprises the busy roundabout junction between the A616 and the A619, and I am satisfied that the additional HGV movements would be well below the trigger levels which would require further assessment.
104. The well would include a number of casings over its depth, with some of the casings separated by the addition of cementitious lining. The potential for the release of hydrocarbon or indeed other gases would be limited in any event, but the casings and linings would further reduce the risk of any escape. In view of the separation distances between the site and sensitive receptors and also the presence of woodland around the site, I do not consider that there would be any harm from fugitive dust emissions.
105. I therefore consider that the development would not have an unacceptable adverse impact on the living conditions of nearby occupiers.

#### *Historic Environment*

106. From the LVIA, I am not convinced that there would be any intervisibility between All Hallows Church, Harthill and the Church of St Peter, Thorpe Salvin, which are both Grade I listed buildings, and the development. This would include any rig on the site, and they would not be likely to be seen in the same view as any such rig. Furthermore, their separation distances approach 1.5km from the site, and they exist within settlements that generally form their setting. I therefore do not consider that the development would have a harmful effect on the settings of these churches.

107. The ruins of Thorpe Salvin Hall and its gatehouse are Grade II\* listed structures. They are some 1.5km from the appeal site and are separated from the site by two substantial blocks of woodland. The development would be for a temporary period, during which the woodland would be very unlikely to be felled. I am not aware of anywhere where the ground level development and the hall ruins and gatehouse would be seen in the same view. I suspect there may be some locations where the rig top and the hall ruins and gatehouse could be seen in the same view. The hall ruins and gatehouse exist however in the context of the adjacent village and the rig top would exist in the context of the open countryside and woodland blocks, together with the nearby turbines. I therefore do not consider that the proposal would have a harmful effect on the setting of the hall ruins and gatehouse.
108. There are a number of other designated heritage assets generally within Harthill and Thorpe Salvin. The circumstances and visibility relating to their settings are similar to those of the churches, and I similarly do not consider that there would be any harm to their settings.
109. The appeal site and the upper part of any rig would be visible from some very limited parts of the Harthill Conservation Area (CA). As a result of this very limited intervisibility, the separation distance of some 1km and the village environment of the CA, I am satisfied that there would be no harm to its significance or setting. A similar situation would exist in respect of the Thorpe Salvin CA except that the separation distance would be some 1.5km and only the upper parts of a rig would be visible over the areas of woodland around the appeal site.
110. Packman Lane is a non-designated heritage asset, said to be of pre-historic origin. Whilst the development could result in the removal of verge material at a number of locations along the lane, this would not result in the removal of the hedgerow boundaries. Any removal of material would be subject to a s278 agreement with the Council as Highway Authority and, if the Council thought necessary, I am of the view that an archaeological requirement could be included in the agreement. Furthermore, I am satisfied that, should anything of historical interest be found, sufficient flexibility would exist within the TMP approval mechanism to make amendments to the passing places.
111. I therefore consider that the development would not have a harmful effect on the significance of any heritage assets and would preserve their settings and the character and appearance of the CAs identified in terms of their settings. In coming to these opinions, I have paid special attention to the desirability of preserving these assets and settings, and these are matters to which I have attached considerable importance and weight.

#### *Aquifers*

112. The ground below the appeal site includes aquifers which feed Harthill Ponds and the many springs in the area as well as generally providing water supplies for the region. The development would not include any horizontal drilling and would have a limited effect outside of the immediate area around the well. Furthermore, there would be multiple casings, as described in the Inquiry by the appellant, to protect the interface between the drilling and the aquifers. Moreover, exploratory drilling through the aquifers is not unusual for this area.

113. The drilling would be assisted by water and oil based drilling fluids. The use of these fluids would be regulated by the EA under the Environmental Permit for the development, and the EA has granted the permit and made no objection to the planning application or this appeal. Water based drilling fluids would be used to a depth below the identified primary and secondary aquifers. These fluids would include polymers, which would be of drinking water quality.
114. Oil based drilling fluids, of low toxicity, would be used where necessary below the aquifers, and spent fluids would be returned to the supplier for disposal. Shallow groundwater monitoring, required by the Environmental Permit, would also be undertaken in sentinel wells. I therefore do not consider that the development would have an adverse effect on water quality within the identified aquifers.

#### *Human Rights*

115. Representations were made to the effect that the rights of local residents under the Human Rights Act 1998, Article 1 of the First Protocol and Article 8, would be violated if the appeal were allowed. I do not consider this argument to be well-founded, because I have found that the proposed development would not cause unacceptable harm to living conditions. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights. Furthermore, I do not consider Article 2 of the First Protocol to be engaged.

#### *Agricultural Land*

116. The appeal site comprises Grade 2 agricultural land. The loss of this land for agricultural purposes would be for a defined period of time, and a restoration and maintenance plan, to be approved by the Council, would be undertaken to return the site to agricultural use. I therefore do not consider that the loss of this land for the period of the development weighs against the appeal.

#### *Climate Change*

117. I have already considered the very limited potential for gas escape, including fugitive methane emissions and vehicular and plant emissions in terms of air quality. I am also satisfied that the temporary site offices would not represent development that was of an unsustainable nature. I therefore consider that the development would minimise greenhouse gas emissions in terms of climate change.

#### *Cumulative Impact*

118. I have assessed this exploration of onshore gas on merits against all material considerations and national planning policy in accordance with CS Policy CS26. My attention has however been drawn to other similar applications in the surrounding area. These include Woodsetts and Marsh Lane, Eckington. They are separated from the appeal site by some 5 and 11km. From the evidence given at this appeal, I am satisfied that the effects identified from the development would not extend sufficiently towards these other sites in order for there to be a cumulative effect. This is notwithstanding that there could be some intervisibility from ground level to rig top. As a result, I am also satisfied that the status of the appeal development as non-EIA

development is still valid. Any further applications would, of course, need to be considered on their own merits.

119. Emerging DPD Policies SP51 and SP53 set out various requirements for the exploration of unconventional hydrocarbons and mineral workings. These emerging policies have been found to be sound, subject to minor modification following an examination in public. I therefore give them great weight, and I am satisfied that the development would accord, and that my assessment has accorded, with their requirements.
120. I have considered all representations, including those by Rt Hon Sir Kevin Barron MP and Mr J Mann MP, in addition to those covered above. None however, either individually or cumulatively, carry sufficient weight to lead me to the view that the appeal should be dismissed.

#### Conditions

121. I consider that conditions in relation to passing places, a traffic management plan, a dilapidation survey, highway debris, access visibility, site surfacing, HGV movements, the site access gradient and site parking and turning facilities would be necessary in respect of highway safety.
122. It was agreed in the Inquiry that the condition relating to passing places would operate as a Grampian type condition, requiring the provision to be made before any development takes place. Any work itself would be carried out under a s278 agreement with the relevant Highway Authority. The Council has already expressed its satisfaction with the proposed passing places on Common Road and Packman Lane. There is therefore a reasonable prospect that passing places could be provided within an appropriate timetable for the development. I recognise that passing places could be regulated under an approved TMP, but I consider that this may not sufficiently accommodate the Grampian nature of the condition, and I would therefore impose the condition.
123. Any passing places on Bondhay Lane would require a s278 agreement with Derbyshire County Council (DCC) as Highway Authority. DCC has not voiced any objection to the planning application or to the use of Bondhay Lane as the appeal site access. A joint site visit with DCC officers has also taken place, including the future operation of the junction of Bondhay Lane with the A619. I am therefore satisfied that there is a reasonable prospect of any necessary places being provided on Bondhay Lane within the time-limit imposed by the permission. I therefore consider that the condition would be an acceptable solution in this particular context. It would also be necessary that the regulation under the condition itself is under the control of the Council. This would be in order that the development could be made acceptable in planning terms by the provision of any necessary passing places between the site and the A619.
124. During the Inquiry, the Council agreed that highway dilapidation due to appeal site access traffic could be remedied under a future s278 agreement. Whilst this may be the case, I am not convinced that such an agreement would be put in place for the lengths of highway between the passing places that would be the subject of the agreement and indeed the separate condition. I therefore consider that a dilapidation survey condition would be necessary, to accommodate the eventuality that the s278 agreement does

not include the entire highway. I also consider that 14 days would be a reasonable time in which to prepare a scheme to respond to damage, bearing in mind that other response times in conditions suggested by the main parties are 7 days.

125. The appellant has explained that all vehicles accessing the appeal site would require the permission of the logistics manager before entering Bondhay Lane for safety and security reasons. Furthermore, transport would be provided for staff to and from the site. I am therefore satisfied that there would not be pressure on the existing parking bays on Common Road, and that to have the parking bays on the site provided before the commencement of drilling would be an appropriate control. I am concerned that the condition suggested by the appellant and the Council to prevent parking on the carriageway of Common Road and Packman Lane could be unenforceable as it stands and could unreasonably restrict use of the highway by others. I therefore consider that it would fail the necessary tests.
126. Local residents have expressed concern over the Council's lack of action in protecting their environment, particularly in relation to traffic and environmental matters. I consider however that the Council's technical officers have acted appropriately and responsibly in first rejecting and then accepting revised draft proposals in relation to traffic management for the appeal site access. I therefore have no doubt that this approach would continue. I could therefore rely on them to protect local interests in relation to submissions that would be made under the traffic management conditions suggested by the appellant and agreed by the Council. I therefore do not give any appreciable weight to concerns expressed in this regard.
127. There is no suggested condition which would protect hedgerows along the site access route. The appellant has suggested that no hedgerows would be affected by the construction of any of the agreed passing places, and there is no objection from the Council in this regard. Furthermore, any highway boundary hedgerows are under the ownership of the Highway Authority or the adjacent landowner. I therefore consider that such a condition would be unnecessary.
128. Conditions relating to a noise management plan, a dust management plan, a community liaison group, hours of work, noise levels, reversing warning alarms and drilling rig details would be required to protect the living conditions of nearby occupiers.
129. It has been suggested that, in view of the types of plant to be used, tonal noise limits should be set for the development, and I accept that tonal noise should be regulated if appropriate. The Noise Management Plan would require data from manufacturers' noise tests to be approved by the Council, before any development takes place, for each item of noise emitting plant to be used on the appeal site. It would also require the submission and approval of methods to determine whether noise is free from tonal, intermittent or impulsive characteristics before any development takes place. Moreover, the plan would also include a mechanism for the setting of any necessary noise limits and tonal weighting together with mitigation.
130. The assessment and any Council approval of mechanisms for the regulation of tonal noise would therefore take place when the associated risks are better understood. Moreover, the Council's environmental health officers would

have the opportunity to address this matter with the maximum pre-commencement knowledge of matters relating to noise generation, rather than the alternative and separate condition as suggested by the parties. During the Inquiry, the parties also agreed that a condition to require site based vehicles and plant to have 'white noise' or similar low intrusion reversing warning alarms could be imposed.

131. In the Inquiry, the appellant agreed to the coverage of Common Road, Packman Lane and Bondhay Lane by the access time condition. This would mean that all HGVs accessing the appeal site would need to have left these highways by 19.00 on weekdays and 13.00 on Saturdays. Moreover, work on the site, apart from drilling operations, could not take place after these times. The effect of these conditions would be to require HGVs to have loaded or unloaded in advance of the site closure time in order that they could leave the surrounding area in accordance with the access time condition.
132. I have considered whether the access time condition should be brought forward from 19.00 or 13.00. This would however result in less working time on the site, and the potential for specific operations taking longer than currently planned as suggested by the appellant. On balance therefore, I am satisfied that the 19.00 and 13.00 condition suggested by the appellant and the Council would represent a reasonable balance.
133. Conditions in respect of species verification surveys, repeat ecological impact surveys, hedgerow work restrictions, the submitted ecological report, external lighting and hedgerow maintenance would also be necessary in the interests of biodiversity.
134. To protect the character and appearance of the surrounding area, conditions in relation to site restoration and aftercare would be required. The restoration condition suggested by the appellant and the Council would require the Council to confirm that the restoration works had been completed when this had taken place. This condition cannot bind the Council to a particular course of action, and I would therefore amend that element of the condition. In relation to the historic environment and public safety, conditions in respect of archaeology and contamination would also be necessary.
135. It would be necessary that the development should be undertaken in accordance with the approved plans and duration for the avoidance of doubt and in the interests of proper planning. Conditions would therefore be required to define the approved plans and development duration. I would also amend the conditions suggested by the main parties in the interests of precision and enforceability.

## Conclusion

136. I have found that the development could have a negative, but not significant, impact on features of biodiversity value for the period of the development. I have also found that the development would detract from, and be harmful to, the landscape and visual character of the surrounding area. These matters would not however outweigh the benefits from the investigation proposed in terms of future energy supplies, to which I give great weight.

137. Having taken into account all other matters raised, including cumulative effects, none carry sufficient weight to alter the decision. My conclusion is based on the evidence before me, including the environmental report submitted with the planning application and in terms of policy as a whole. Moreover, I am satisfied that my amended conditions would make the development environmentally acceptable and that it would constitute safe and sustainable development in the light of the NPPF. For the reasons given above, I conclude that the appeal should be allowed.

*Stephen Roscoe*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Darby of Counsel	Instructed by Ms S Shabir, Rotherham Metropolitan Borough Council
He called	
Mr I Ferguson BSc MCIHT	Case Officer, Highways Development Control Section, Rotherham Metropolitan Borough Council
Mr A Lowe BSc MSc	Planning Officer, Rotherham Metropolitan Borough Council
Mr A Godfrey BSc MSc DipTP MCIEEM	Ecological Development Officer, Rotherham Metropolitan Borough Council

### FOR THE APPELLANT:

Mr G Steele QC (Scotland)	Instructed by Mr S Telfer, DLA Piper
He called	
Dr A Buroni BSc MSc PhD FRSM FRSPH	Technical Director of Health, RPS
Mr D Goold BSc MSc	Geologist, INEOS Shale Ltd
Mr A Sloan BEng MSc CEng MIMMM	Independent Well Engineering and Operations Consultant
Dr C Hazell-Marshall BSc PhD MIAQM	Principal Consultant, ERM
Mr D Russell BSc MSc FGS CGeol	Technical Director, ERM
Mr S Fraser BSc MPhil MIOA CEnv	Consultant
Mr L Prazsky BSc MSc MCIWM	Technical Director, Wardell Armstrong LLP Consulting Engineers
Mr P Macrae MA CMLI	Associate Landscape Planner, LUC
Mr K Martin BEng CEng MICE	Director, AECOM Consulting Engineers
Mr T Pickering	Operations Director, INEOS Upstream Ltd

Ms S Olds BSc MCIEEM	Principal Consultant, ERM
Mr M Sheppard BSc MA MRTPI	Planning Director, Turley

INTERESTED PERSONS:

Ms D Gibson	Local Resident
Dr A Tickle BSc PhD DIC FRSA	Director, Campaign to Protect Rural England – South Yorkshire
Mr L Barlow	Local Resident
Mr M Gallie MSc MRTPI	Planner, Friends of the Earth (England, Wales and Northern Ireland)
Cllr J Vjestica	Planning Board Member, Rotherham Metropolitan Borough Council
Cllr J Whysall	Planning Board and Local Ward Member, Rotherham Metropolitan Borough Council
Rt Hon Sir Kevin Barron MP	Local Member of Parliament
Mr L Marston	Local Resident Representing Harthill Against Fracking
Dr I Dupère PhD	Reader, Aero-acoustics University of Manchester
Mr R Lonsdale	Local Resident
Cllr D Beck	Local Ward Member, Rotherham Metropolitan Borough Council
Cllr I Lloyd	Chairman, Harthill with Woodall Parish Council
Cllr F Raspin	Whitwell Parish Council
Cllr I Daines	Thorpe Salvin Parish Council
Mrs H Wilks	Local Resident
Mr C Brookes	Local Resident
Mr D Cunliffe	Local Resident
Dr G Kinghorn OBE MD FRCP	Local Resident
Mr J Burgess	Local Resident

Mrs C Whiting	Local Resident
Mr J Drake	Local Resident
Mr P Joynes	Local Resident
Mrs Y Bramall	Local Resident
Ms A Mosley	Local Resident
Ms L Widdowson	Local Resident
Ms S Kelly	Local Resident
Mrs T Wright	Local Resident
Ms E Biggin Marshall	Local Resident
Mr T Johnson	Local Resident
Mrs J Johnson	Local Resident
Mr G Littler	Local Resident
Ms M Havard	Local Resident

## **DOCUMENTS**

### **General**

- G1 Letter of Notification of the Inquiry
- G2 Communications from Interested Persons
- G3 Email from the appellant to the Council dated 23 March 2018 attaching the AECOM report.
- G4 Council email response to the appellant dated 26 March 2018

### **Core Documents**

#### *Application Documents*

- CD1.1 Document 1 Covering Letter
- CD1.2 Document 2 Application Forms and Checklist
- CD1.3 Document 3 Our Proposals Explained
- CD1.4 Document 4 The Proposal (May 2017)
- CD1.5 Document 5 Application Drawings
- CD1.6 Document 6 Planning Statement
- CD1.7 Document 7 Environmental Report
- CD1.8 Document 8 Statement of Community Involvement

#### *National Legislation, Policy Documents and Guidance*

- CD2.1 National Planning Policy Framework (March 2012)
- CD2.2 Landscape Institute (2013) *Guidelines for Landscape and Visual Impact Assessment*. 3rd Edition. Routledge. Extract pages 84 – 85 and 152 – 155
- CD2.3 National Heritage List for England: Barlborough Hall <https://historicengland.org.uk/listing/the-list/list-entry/1001365> and Shireoaks Hall <https://historicengland.org.uk/listing/the-list/list-entry/1000367>
- CD2.4 Bat Conservation Ireland (2010). *Bats & Lighting, Guidance Notes for: Planners, Engineers, Architects and Developers*
- CD2.5 Bat Conservation Trust and Institute of Lighting Engineers (2009). *Bats and Lighting in the UK. Bats and the Built Environmental Series*

- CD2.6 British Standards Institution (2013). *BS 42020:2013 Biodiversity – Code of Practice for Planning and Development*. British Standards Institution (BSI), London. Extract pages 9 – 12
- CD2.7 Wood White Factsheet. Butterfly Conservation. <https://butterfly-conservation.org/50-603/wood-white.html>
- CD2.8 Collins, J (ed) (2016). *Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd ed)*. The Bat Conservation Trust. Extract pages 14 – 23; 32 – 37; 44 – 49
- CD2.9 DEFRA (2007). *Hedgerow Survey Handbook: A standard procedure for local surveys in the UK. 2nd Edition*
- CD2.10 English Nature (2002). *Badgers and Development*
- CD2.11 Gilbert *et al.* (1998) *The Shortened BTO Common Birds Census (CBC) methodology*. Extract pages 386 – 388
- CD2.12 Institute of Environmental Assessment (1995). *Guidelines for Baseline Ecological Assessment*. Spon, London. Extract pages 9 – 27
- CD2.13 Institution of Lighting Professionals, 2011 *Guidance notes for the Reduction of Obtrusive Light GN01.2011*
- CD2.14 Joint Nature Conservation Committee (JNCC) (2010) *Handbook for Phase 1 habitat survey – a technique for environmental audit*
- CD2.15 Mitchell-Jones A.J. (2004) *Bat Mitigation Guidelines*. Peterborough: Joint Nature Conservation Committee (JNCC)
- CD2.16 Natural England (2014) (last updated 4/01/2018). *Ancient woodland and veteran trees: protecting them from development*
- CD2.17 Natural England (2015). *Standing advice for local planning authorities to assess impacts of development on bats*
- CD2.18 DEFRA and Natural England, August 2016, Protected sites and how to review applications that might affect protected sites and areas. <https://www.gov.uk/guidance/protected-sites-and-areas-how-to-review-planning-applications>
- CD2.19 Joint Nature Conservation Committee UK BAP Priority terrestrial mammal species <http://jncc.defra.gov.uk/page-5170>
- CD2.20 Hayhow, D.B. *et al* 2017. The State of the UK’s Birds. British Trust for Ornithology <https://www.bto.org/research-data-services/publications/state-uk-birds/2017/state-uk-birds-2017>
- CD2.21 Eaton, M.A. *et al.* (2015) Birds of Conservation Concern 4. RSPB [http://ww2.rspb.org.uk/Images/birdsofconservationconcern4\\_tcm](http://ww2.rspb.org.uk/Images/birdsofconservationconcern4_tcm)

9-410743.pdf

- CD2.22 Natural Environment and Rural Communities Act (2006). Section 41: Species of Principal Importance in England.  
<http://www.legislation.gov.uk/ukpga/2006/16/section/41>
- CD2.23 Planning Practice Guidance on Minerals (Minerals PPG) 17 October 2014 <https://www.gov.uk/guidance/minerals>
- CD2.24 Written Ministerial Statement on Shale Gas and Oil Policy HCWS202, 16 September 2015
- CD2.25 World Health Organization (WHO) (1999) *Guidelines for Community Noise*
- CD2.26 World Health Organization (WHO) (2009) Night Noise Guidelines for Europe
- CD2.27 The British Standards Institution (2014) BSI Standards Publication BS 4142:2014 Methods for rating and assessing industrial and commercial sound
- CD2.28 The British Standards Institution (2008) BSI Standards Publication BS 5228-1:2009 Code of practice for noise and vibration control on construction and open sites – Part 1: Noise
- CD2.29 DEFRA (2010) Noise Policy Statement for England
- CD2.30 International Organization for Standardization (ISO) International Standard ISO 9613-2 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation. First Edition 1996-12-15
- CD2.31 Department for Transport (2007) Manual for Streets. Extracts pages 74; 79; 91
- CD2.32 The Chartered Institution of Highways and Transportation (2010) Manual for Streets 2. Extract page 75
- CD2.33 The Road Traffic Regulation Act 1984
- CD2.34 Chartered Institute of Ecology and Environmental Management (CIEEM) (2017) Guidelines for Preliminary Ecological Appraisal. Second Edition
- CD2.35 Chartered Institute of Ecology and Environmental Management (2017) Guidelines for Ecological Report Writing. Second Edition
- CD2.36 Chartered Institute of Ecology and Environmental Management (2016) Guidelines for Ecological Impact Assessment in the UK & Ireland. Terrestrial, Freshwater & Coastal. Second Edition
- CD2.37 DEFRA (2014) Protected Species: how to review planning

applications. Last updated August 2016

*Development Plan and Evidence Base*

- CD3.1 Rotherham Unitary Development Plan (June 1999)
- CD3.2 Rotherham Local Plan Core Strategy (10 September 2014)
- CD3.3 Rotherham Publication Draft Sites and Policies Document (2015)
- CD3.4 Rotherham Landscape Character Assessment and Landscape Capacity Study (2010)

*Correspondence with LPA (including additional information submitted)*

- CD4.1 Archaeological Trial Trenching Evaluation Report (2 August 2017)
- CD4.2 Traffic Management Plan Addendum (21 August 2017)
- CD4.3 Hedgerow Survey Report (September 2017)
- CD4.4 Rotherham Metropolitan Borough Council Landscape Officer Memorandum (22 September 2017)
- CD4.5 Bat Report (19 October 2017)
- CD4.6 Passing Place Dimensions Plan (20 November 2017)
- CD4.7 Abnormal Load Swept Path (20 November 2017)
- CD4.8 Harthill Field Road-Common Road Swept Path Analysis (20 November 2017)
- CD4.9 Traffic Management Plan Addendum (2) (1 December 2017)
- CD4.10 Lighting Report (1 December 2017)
- CD4.11 Response to further ecology comments (23 November 2017)
- CD4.12 Letter of response to ecology, trees, landscape, PROW and Bolsover DC (issued to RMBC on 21 August 2017)
- CD4.13 Letter of response to pollution control issues (issued to RMBC on 01 September 2017)
- CD4.14 Letter of response to RMBC on noise and ecology (issued to RMBC on 19 October 2017)
- CD4.15 Letter of response to RMBC on ecology, lighting, highways and public objections (issued to RMBC on 1 December 2017)
- CD4.16 Secretary of State Screening Direction (12 July 2017)

CD4.17 Rotherham Metropolitan Borough Council Screening Opinion Letter (18 May 2017)

CD4.18 Rotherham Metropolitan Borough Council Environmental Health Officer Memorandum (3 October 2017)

*Inquiry Documents*

CD5.1 Statement of Common Ground between Appellant and Rotherham Metropolitan Borough Council

CD5.2 Rotherham Metropolitan Borough Council Statement of Case

CD5.3 INEOS Statement of Case

*Consultation Responses*

CD6.1 Natural England response letter of (26 July 2017)

CD6.2 Third Party Letter from Leigh Day on behalf of Harthill Against Fracking (7 Feb 2018)

CD6.3 Third Party Letter from Friends of the Earth (21 July 2017)

CD6.4 Third Party Letter from Harthill with Woodall Parish Council (21 July 2017)

CD6.5 Third Party Letter from Leigh Day on behalf of Harthill Against Fracking (22 Dec 2017)

*Other Points of Reference*

CD7.1 Environmental Permit (17 July 2017)

CD7.2 Officer Report to Planning Board (25 January 2018)

CD7.3 CON29M Non-Residential Mining Report (YO18FW23), The Coal Authority

CD7.4 (1) Samuel Smith Old Brewery (Tadcaster) (2) Oxton Farm V (1) North Yorkshire Council (2) Darrington Quarries Ltd [2018] EWCA Civ 489

CD7.5 Appeal Decision: Land off Bath Road, Leonard Stanley Appeal Ref APP/C1625/A/13/2207324 (21 July 2014)

CD7.6 Appeal decision: Land west of Enifer Downs Farm and east of Archers Court Road and Little Pineham Farm, Langdon Appeal Ref APP/X2220/A/08/20718801(6 March 2009)

CD7.7 Adams, Rick A; Pedersen, Scott C (2000). Ontogeny, Functional Ecology, and Evolution of Bats. Cambridge University Press pp 139-140 ISBN 0521626323. Extract pages 136 – 143.

- CD7.8 Newton, I (2017). *Farming and Birds*. William Collins
- CD7.9 Wray S, Well, D, Long E & Mitchell-Jones T (2010). *Valuing Bats in Ecological Impact Assessment*. In Practice, Edition 70, December 2010. Extract pages 23 – 25
- CD.7.10 Official Journal of the European Communities (25 June 2002) *Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise*
- CD7.11 URS (October 2014) *Evidence and Usage of LOAEL, SOAEL etc.* Prepared for DEFRA
- CD7.12 Harris, et al (1989) *Surveying badgers*. *Mammal Society Occ. Publication*. No. 9
- CD7.13 RSPB. Land Management for Wildlife. Corn Bunting (*Emberiza Calandra*)
- CD7.14 Stone, E.L. (2014) *Bats and Lighting. Overview of current evidence & mitigation guidance*. University of Bristol

### **Documents Submitted by the Council**

- RC/IF/1 Mr I Ferguson: Proof of Evidence
- RC/AL/1 Mr A Lowe: Proof of Evidence
- RC/AG/1 Mr A Godfrey: Proof of Evidence

### *Submitted During the Inquiry*

- RC1 Urgent Item Report for Planning Board on 19 April 2018
- RC2 Supplementary Statement of RMBC (20 April 2018)
- RC3 Opening Statement
- RC4 Traffic Management Plan Addendum 1 (15 September 2017)
- RC5 Rotherham Candidate Wildlife Sites as of April 2018
- RC6 Closing Submissions

### *Submitted Following the Inquiry*

- RC7 Email from Mr C Wilkins (25 May 2018) relating to the 17 May 2018 Energy Policy Written Statement

## **Documents Submitted by the Appellant**

IUL/AB/1	Dr A Buroni: Proof of Evidence
IUL/AB/2	Dr A Buroni: Summary Proof of Evidence
IUL/DG/1	Mr D Goold: Proof of Evidence
IUL/DG/2	Mr D Goold: Summary Proof of Evidence
IUL/DG/3	Mr D Goold: Appendices
IUL/AS/1	Mr A Sloan: Proof of Evidence
IUL/AS/2	Mr A Sloan: Summary Proof of Evidence
IUL/CH/1	Dr C Hazell-Marshall: Proof of Evidence
IUL/DR/1	Mr D Russell: Proof of Evidence
IUL/SF/1	Mr S Fraser: Proof of Evidence
IUL/SF/2	Mr S Fraser: Summary Proof of Evidence
IUL/LP/1	Mr L Prazsky: Proof of Evidence
IUL/LP/2	Mr L Prazsky: Summary Proof of Evidence
IUL/LP/3	Mr L Prazsky: Appendices
IUL/PM/1	Mr P Macrae: Proof of Evidence
IUL/PM/2	Mr P Macrae: Summary Proof of Evidence
IUL/KM/1	Mr K Martin: Proof of Evidence
IUL/KM/2	Mr K Martin: Summary Proof of Evidence
IUL/TP/1	Mr T Pickering: Proof of Evidence
IUL/TP/2	Mr T Pickering: Summary Proof of Evidence
IUL/SO/1	Ms S Olds: Proof of Evidence
IUL/SO/2	Ms S Olds: Summary Proof of Evidence
IUL/SO/3	Ms S Olds: Appendices
IUL/MS/1	Mr M Sheppard: Proof of Evidence
IUL/MS/2	Mr M Sheppard: Summary Proof of Evidence

IUL/MS/3	Mr M Sheppard: Appendices
IUL/AT/1	Mr A Tilley: Proof of Evidence - Not Called
IUL/AT/3	Mr A Tilley: Summary Proof of Evidence - Not Called

*Submitted During the Inquiry*

IUL1	AECOM Review of Traffic and Transport Matters (22 March 2018)
IUL2	Opening Statement
IUL3	Email from Mr Lowe to Mr Sheppard (18 October 2017)
IUL4	Curtins' Swept Path Analyses
IUL5	Updated Planning Conditions
IUL6	Closing Submissions

*Submitted Following the Inquiry*

IUL7	Email from Mr Sheppard (17 May 2018) relating to the Bondhay Golf Club Complex and Monition Ltd
IUL8	Email from Ms O Carr (25 May 2018) relating to the 17 May 2018 Energy Policy Written Statement

**Documents Submitted at the Inquiry by Interested Persons**

IP1	Email from Ms D Allison (20 April 2018)
IP2	Email from Mr G Littler (17 April 2018)
IP3	Statement of Harthill with Woodall Parish Council
IP4	Statement of Harthill Against Fracking Group
IP5	Statement of Whitwell Parish Council
IP6	List of Residents and Other People Wishing to Speak
IP7	Updated Statement of Harthill Against Fracking Group
IP8	Statement of Dr I Dupère
IP9	Email from Mr N White (25 April 2018)
IP10	Statement and Documents of Rt Hon Sir Kevin Barron MP
IP11	High Court Citation: [2017] EWHC 1456 (Admin) - Steer

IP12	Statement of Mr L Barlow
IP13	Statement of Mrs H Wilks
IP14	Statement of the Campaign to Protect Rural England
IP15	Supplementary Statement of Mr L Barlow
IP16	Statement of Mr C Brookes
IP17	Statement of Mr D Cunliffe
IP18	Statement of Dr G Kinghorn OBE MD FRCP
IP19	Statement of the Friends of the Earth (England, Wales and Northern Ireland)
IP20	Statement of Ms D Gibson
IP21	Statement of Mrs C Whiting
IP22	Statement of Mr J Drake
IP23	Statement of Mr P Joynes
IP24	Statement of Mrs Y Bramall
IP25	Statement of Ms A Mosley
IP26	Statement of Ms L Widdowson
IP27	Statement of Mrs T Wright
IP28	Statement of Ms E Biggin Marshall
IP29	Statement of Mr T Johnson
IP30	Statement of Mrs J Johnson
IP31	Statement of Mr L Marston
IP32	Statement of Mr G Littler
IP33	Statement of Ms M Havard
IP34	Statement of Mr J Burgess
IP35	Statement of Mr D Wigg
IP36	Email from Mr P Rowland (3 May 2018)

*Submitted Following the Inquiry*

IP37

Email from Bondhay Golf Club (9 May 2018)

## CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision. The local planning authority shall be notified in writing of the date of commencement at least 7 days prior to that date.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - P304-S2-PA-00 Rev A Strategic Location Plan
  - P304-S2 -PA-01 Rev G Application Site Plan
  - P304-S2-PA-04 Rev C Existing Ground Plan
  - P304-S2-PA-05 Rev B Proposed Site Entrance & Highway Works
  - P304-S2-PA-06 Rev C Proposed Site Layout Plan - Construction
  - P304-S2-PA-07 Rev F Proposed Site Layout Plan - Drilling Stage
  - P304-S2-PA-08 Rev B Proposed Site Layout Plan - Listening Stage
  - P304-S2-PA-09 Rev B Proposed Site Restoration
  - P304-S2-PA-10 Rev B Proposed Lighting Plan - Drilling & Coring
  - P304-S2-PA-11 Rev B Proposed Drainage Plan
  - P304-S2-PA-12 Rev B Proposed Site Layout Plan - Suspension
  - P304-S2-PA-13 Rev B Proposed Internal Access Plan
  - P304-S2-PA-16 Rev A Proposed Sections & Details
  - P304-S2-PA-17 Rev B Proposed Site Layout Plan - Possible Workover
  - P304-S2-PA-21 Rev A Parameter Sections - Develop. & Establish
  - P304-S2-PA-22 Rev A Parameter Sections - Drilling & Coring
  - P304-S2-PA-23 Rev A Parameter Sections - Suspension
  - P304-S2-PA-24 Rev A Parameter Sections - Workover of Well
  - P304-S2-PA-25 Rev A Parameter Sections - Listening Stage
  - P304-S2-PA-26 Rev A Parameter Sections - Abandonment
  - P304-S2-PA-30 Rev A Heras Fence Details
  - P304-S2-PA-31 Lighting Examples
- 3) A copy of these conditions, together with the approved plans and any details or schemes subsequently approved pursuant to this permission, shall be kept at the site office for the development at all times, and the terms and contents thereof shall be made known to the supervising staff on the site.
- 4) The development hereby permitted shall be for a limited period, being the period of five years from the date of commencement,

as notified under condition 1. The site shall thereafter be cleared of all plant, buildings, machinery and equipment and the land restored in accordance with condition 28.

- 5) No development shall take place until passing places have been provided on Common Road, Packman Lane and Bondhay Lane between the A619 and the site access in accordance with details that have been submitted to, and approved in writing by, the local planning authority.
- 6) No development shall take place until a Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved plan.
- 7) No development shall take place until details of a photographic dilapidation survey of the sections of Packman Lane and Common Road to be used by development traffic has been undertaken and submitted to, and approved in writing by, the local planning authority. A scheme for the repair of any damage incurred as a direct result of site traffic using Packman Lane and Common Road, which shall include a delivery mechanism and programme for the works, shall be submitted to the local planning authority, for approval in writing, within 14 days of being requested. The approved scheme shall thereafter be implemented in full.
- 8) No development shall take place until a Noise Management Plan has been submitted to, and approved in writing by, the local planning authority. The plan shall include:
  - i) data from the relevant manufacturers' noise tests for each item of noise-emitting plant to be used on site, to establish whether noise emissions are likely to be compliant with the noise limits set out in condition 20;
  - ii) if noise-emitting plant is not likely to be compliant, details of what mitigation would be introduced and timescales for mitigation implementation;
  - iii) procedures for addressing any complaints received;
  - iv) details of a Noise Monitoring Scheme, including a mechanism to address any non-compliance with the noise limits set out in condition 20;
  - v) management responsibilities including operator training, compliance response and investigation, and routine environmental noise monitoring and reporting; and
  - vi) methods to determine whether noise is free from tonal, intermittent or impulsive characteristics, the incorporation of these methods in the Noise Monitoring Scheme and a mechanism for the setting of any necessary noise limits and weighting together with any mitigation, including approval in writing by the local planning authority.

Development shall be carried out in accordance with the approved plan.

- 9) No development shall take place until details of the measures to prevent the deposit of mud, clay and other deleterious materials upon the public

highway have been submitted to, and approved in writing by, the local planning authority. The measures shall include as appropriate:

- i) the sweeping and cleaning of internal access roads;
- ii) the provision and use of wheel-cleaning facilities;
- iii) the provision and use of lorry sheeting;
- iv) the use of a mechanically propelled road sweeper on the public highway; and
- v) a timetable for providing the above.

Development shall be carried out in accordance with the approved measures. In the event that the measures do not adequately prevent the deposit of mud, clay and other deleterious materials upon the public highway then, within 7 days of a written request from the local planning authority, a scheme of revised and timetabled additional measures to be taken in order to prevent the deposit of materials upon the public highway shall be submitted to the local planning authority for its approval in writing. Following any approval, development shall thereafter be carried out in accordance with the approved revised and timetabled additional measures.

- 10) No development, apart from that required to provide site access sight lines, shall take place until sight lines have been provided, in accordance with drawing no. P304-S2-PA-05 Rev B. The areas within the sight lines shall be cleared and be kept clear of all obstructions to visibility in excess of 900mm in height measured above the nearside carriageway channel level.
- 11) No development shall take place until verification surveys for the presence of protected species on the site, and within the 30m buffer area, have been undertaken and the results submitted to, and approved in writing by, the local planning authority. If protected species are found on the site and buffer area which would be likely to be affected by the development, no development shall take place until mitigation measures have been submitted to, and approved in writing by, the local planning authority. Development shall thereafter be carried out in accordance with the approved mitigation measures.
- 12) No development shall take place until a Dust Management Plan, detailing a programme of measures to minimise the spread of airborne dust from the site during the development, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved plan.
- 13) Notwithstanding condition 2, no development shall take place until details of the surfacing and drainage of on-site vehicular areas have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 14) No development, including any groundwork, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation (WSI) to the local planning authority which has subsequently been approved in writing. The WSI shall set out a strategy for archaeological investigation to include:

- i) a programme and method of site investigation and recording;
- ii) a requirement to seek the preservation in situ of identified features of importance;
- iii) a programme for post-investigation assessment;
- iv) provision for analysis and reporting;
- v) provision for the publication and dissemination of results;
- vi) provision for the deposition of the archive created;
- vii) nomination of a competent person, persons or organisation to undertake the works; and
- viii) a timetable for completion of all site investigation and post-investigation works.

No development, including any groundworks but excluding any work associated with the approved WSI, shall take place until the local planning authority has confirmed in writing that the relevant pre-commencement requirements of the WSI have been fulfilled. The development shall be undertaken in accordance with the approved WSI.

- 15) No development shall take place until a scheme to convene and operate a Community Liaison Group has been submitted to, and approved in writing by, the local planning authority. The scheme shall include measures to seek membership from the local planning authority and the local community. The scheme shall be implemented as approved and as far as practicable, unless otherwise approved in writing by the local planning authority.
- 16) If the development hereby permitted does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of this decision, the approved ecological measures secured through Condition 23 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to establish if there have been any changes in the presence and/or abundance of protected species and identify any likely new ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that would be likely to result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures shall be revised and new or amended measures, together with a timetable for their implementation, shall be submitted to, and approved in writing by, the local planning authority prior to the commencement or re-commencement of the development. The development shall thereafter be carried out in accordance with the approved new or amended ecological measures and timetable.
- 17) The development hereby permitted shall take place only between the following hours, except in the case of an emergency.

*Non-Drilling Works*

Monday to Friday – 07.00 to 19.00

Saturdays – 07.00 to 13.00

Sundays, Public and Bank Holidays – Not at any time

*Drilling Works - including the assembly and demobilisation of the drilling rigs*

Monday to Friday - 24 hours

Saturdays - 24 hours

Sundays, Public and Bank Holidays - 24 hours

- 18) HGV movements accessing and leaving the site along Common Road, Packman Lane and Bondhay Lane shall only take place between 07.00 and 19.00 Monday to Friday and 07.00 to 13.00 on Saturdays and not at any time on Sundays or on Bank or Public Holidays, except in the case of an emergency.
- 19) No hedgerows shall be trimmed, laid or removed and no vegetation shall be removed during the bird-breeding season between 1 March and 31 August inclusive, unless they have been previously checked and found clear of nesting birds in accordance with Natural England guidance. If appropriate, an exclusion zone shall be set up around any vegetation to be protected. No work shall be undertaken within the exclusion zone until birds and any dependant young have vacated the area.
- 20) The level of noise during the construction set-up and restoration activities hereby permitted, as measured at any noise sensitive receptor, shall not exceed 55dB LA<sub>eq 1hr</sub> (free field) between 07.00 and 19.00hrs, 44dB LA<sub>eq 1hr</sub> (free field) between 19.00 and 22.00hrs and 42dB LA<sub>eq 1hr</sub> (free field) at any other time. The level of noise during any other activities hereby permitted, as measured at any noise sensitive receptor, shall not exceed 50 dB LA<sub>eq 1hr</sub> (free field) between 07.00 and 19.00hrs, 44dB LA<sub>eq 1hr</sub> (free field) between 19.00 and 22.00hrs and 42dB LA<sub>eq 1hr</sub> (free field) at any other time. The local planning authority shall be notified in writing of the dates of completion of the construction set-up activities, within 7 days of that date, and the commencement of restoration activities, at least 7 days prior to that date.
- 21) All reversing warning alarms fitted to vehicles and plant based at the site shall be of a 'white noise' or similar low intrusion type.
- 22) Any contamination that is found during the course of the development hereby permitted that was not previously identified shall be reported to the local planning authority as soon as is reasonably possible. Development shall be suspended and a risk assessment carried out and submitted to, and approved in writing by, the local planning authority before the development is resumed, unless otherwise approved in writing by the local planning authority. Where unacceptable risks are found, a remediation strategy shall be submitted to, and approved in writing by, the local planning authority. The approved strategy shall be implemented before the development is resumed.
- 23) The development hereby permitted shall be carried out in accordance with the recommendations of the ecology report contained in the Environmental Report submitted with the application and any subsequent assessment work undertaken.
- 24) Notwithstanding condition 2, the gradient of the site access from Common Road shall be no steeper than 1 in 15 for the first 10m

measured from the nearside highway boundary. Drainage measures shall be implemented, retained and maintained during the development to prevent the flow of surface water from the access onto the adjacent highway.

- 25) Notwithstanding condition 2, no external lighting shall be utilised in respect of any phase of the development hereby permitted until details of all external lighting for that phase have been submitted to, and approved in writing by, the local planning authority. The submitted details shall substantially accord with the lighting report submitted with the planning application. The submitted details shall also have regard to the "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" produced by the Institution of Lighting Professionals and "Bats and Lighting in the UK", the Bat Conservation Trust & Institute of Lighting Engineers (2009), Bats and the Built Environment Series BCT. The approved lighting details for any phase shall be implemented in full before the lighting for that phase is first used, and the approved lighting shall be retained for the duration of that phase, unless otherwise approved in writing by the local planning authority.
- 26) No drilling operations shall take place until details of the make, model and technical noise specification for the drilling rigs to be used in the development hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority.
- 27) No drilling operations shall take place until space has been laid out within the site, in accordance with drawing no. P304-S2-PA-13 Rev B, for vehicular parking and turning facilities, and that space shall thereafter be kept available for parking and turning for the duration of the permission.
- 28) Notwithstanding condition 2, no restoration shall take place until a detailed Restoration Plan has, within the period of this permission, been submitted to the local planning authority for approval in writing. The plan shall substantially accord with the measures set out in the Proposal document, submitted to the local planning authority on 30 May 2017 and drawing no. P304-S2-PA-09 Rev B and shall include a timetable for implementation. The approved plan shall thereafter be implemented in full. The local planning authority shall be notified within 7 days of when the restoration works are complete, to allow the local planning authority to issue written confirmation that the restoration has been completed satisfactorily.
- 29) Any replacement hedgerow planted as part of the approved Restoration Plan shall thereafter be maintained for a period of five years including weed control, replacement of dead and dying trees and maintenance of planting protection measures.
- 30) Within three months of the issue of the local planning authority confirmation of the completion of the restoration works, a scheme for the aftercare of the site for a period of five years, to promote the agricultural after-use of the site, shall be submitted to the local planning authority for

approval in writing. The approved scheme shall thereafter be implemented in full.

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