



Senior Town Planner
Third Energy UK Gas Limited
Knapton Generating Station
East Knapton
MALTON
North Yorkshire
YO17 8JF

Your ref: PSSLTE/KMA/HFS/PA/003

Our ref: NY/2015/0164/ENV

9th June 2015

Dear

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
ORDER 2015 SCHEDULE 1**

Planning application to hydraulically stimulate and test the various geological formations previously identified during the 2013 KM8 drilling operation, followed by the production of gas from one or more of these formations into the existing production facilities followed by wellsite restoration on land at KMA wellsite, Alma Farm, Kirby Misperton, North Yorkshire

I write with reference to your recently submitted planning application in respect of the abovementioned development which was received on 22nd May 2015.

The application details specify the proposal as being to hydraulically stimulate and test the various geological formations previously identified during the 2013 KM8 drilling operation, followed by the production of gas from one or more of these formations into the existing production facilities followed by wellsite restoration.

At this point in time, having reviewed the submitted document, it is considered that the application is incomplete and, therefore, in accord with the County Council's adopted policy, cannot be registered as being a complete and, thereby, a duly-made application.

This letter comprises two parts; the first being the detailed reasons for coming to the view that the application has not been duly made and, the second, more general comments on those matters that have been identified during the review of the documentation as submitted in hard copy and need to be addressed should the application be progressed further. It is noted that the application has been submitted in hard copy rather than electronically through the national Planning Portal.

Please note that the content of this letter does not prejudice the right of the County Planning Authority to identify further matters requiring to be addressed should the application be progressed further. The bullet points identified are not exhaustive and are derived as an outcome of a review of the documentation for the purpose of the exercise of validation, but are, nevertheless, felt to be material to raise at this early stage.

(cont'd...)

Business and Environmental Services

Please note that under the provisions of Regulation 4 of the Town & Country Planning (Applications) Regulations 1988, the County Planning Authority may direct an applicant to provide an Officer any evidence in respect of an application as is reasonable for that Officer them to call for to verify any particulars of information given to that Officer. In accord with the County Council's adopted policy, if an application is subsequently found to be invalid following registration, the time period for determination will be suspended until such time as it becomes valid and the period for determination of the application reset.

Furthermore, Regulation 22 of the Town and County Planning (Environmental Impact Assessment) Regulations 2011, provides for a circumstance whereby if an Authority is of the opinion that an Environmental Statement should contain additional information in order to be an Environmental Statement, written notice will be given to you accordingly, and there will then be an obligation to provide the additional information sought. This information is formally referred to as '*further information*' and is required to be advertised and a time period of 21 days allowed for representations to be made to the County Planning Authority.

Part One

Please note that your application cannot be validated for the following reasons:

The Planning Application Form as submitted:

1. **Section 5 - Type of Application** – Rather than listing the planning permissions for minerals development, the last element of Section 5 of the Application Form simply refers the reader to the Planning Statement to research the information. However, the Application Form is an important document. An '*interested person*' (i.e. any person engaged in the process including consultees, members of the public etc.) should not have to review the content of a number of documents to find the answers to these specific sections on the Application Form. Please enter the relevant information to ensure absolute clarity for those appraising themselves of the application;
2. **Section 6 – Type of Development** - Section 6 of the Application Form requests information with regard to the cubic metres of gas. The completed form, as submitted, states "N/A". However, an estimate of the quantity of gas must be stated taking into consideration that the application seeks permission for production as well as appraisal;
3. **Section 6 – Type of Development** - Section 6 of the Application Form also requests information as to the period of permission sought. This has not been completed on the submitted form. Please complete. It is important that the Planning Authority is provided with information regarding exactly for what purpose permission is being sought. While there is no reference within the submitted application documentation itself, it is noted that, by way of example, a Technical Appendix accompanying the Environmental Statement has undertaken its assessment based upon a production phase of 52 weeks. However, this does not illicit information upon which this period of time is based. Information within the Application Form regarding timescales should be made explicit and given with absolute clarity. In the absence of such information on the Application Form itself, the following has been deciphered from within the text of the supporting Planning Statement; although it would be appreciated if this could be confirmed:
 - **Phase 1 – Pre-Stimulation Work-over** – estimated to take 2 weeks on a 24/7 basis;

- **Phase 2** – Hydraulic fracture stimulation/well test – the hydraulic fracture stimulation is stated as being estimated to take 6 weeks on a 24/7 basis; although there is no information provided as to the period of time or hours of operation in respect of the well testing process. Instead a statement is made within the submission at Section 6.2.3 on Page 45 of the submitted Planning Statement that “*a number of well tests will be performed*”;
 - **Phase 3** – Production Test – estimated to take 3 months on a 24/7 basis;
 - **Phase 4** – Production – no estimate of time has been provided;
 - **Phase 5** – Restoration – notwithstanding mention of restoration taking place between 7am and 7pm Mondays – Saturdays (inclusive), the only comment in the submitted application concerning timescale is “*The site restoration phase will be the reverse of the wellsite construction phase, as detailed in the previous planning application ref: C3/12/00989/CPO*”. The reader of the submitted planning application should not be expected to undertake further research to find the relevant information. The timescale should be stipulated in respect of this case.
4. It is recognised that gas developments are regulated by a system of specific licences awarded to companies through the Secretary of State which are subject to a number of safeguards, particularly relating to pollution and details of drilling operations. However, in planning terms, these types of development involve sensitive and complex issues of local concern which need to be considered by the County Planning Authority. Therefore, please provide the following information:
- the anticipated maximum volume of gas expressed as barrels/standard cubic feet per day and total per annum;
 - total reserve anticipated; and,
 - life of the well expressed in years.
5. **Section 7 – Plans, Drawings and Other Supporting Information** - Section 7 of the Application Form requires a list of the Plans, Drawings and Other Supporting Information. This should be a comprehensive list for the reader of the Application Form to understand where to find information they are seeking. As submitted, the reader is simply signposted as follows “*Please see Planning Statement*”. All submitted documentation should be correctly and accurately cited within the Application Form. To fail to do so has the potential for confusion and leads to an absence of any definitive answer as to precisely what comprises the application documents;
6. **Section 8 Equipment and Method used** - Section 8 requires completion. It seeks details of the equipment to be used including details relating to the maximum height and type of drilling rig. Again, the Application Form as submitted, refers the reader to the Planning Statement, but the reader of the application form should not have to review the content of the Planning Statement to find the answers to these specific sections on the Application Form. Please enter the relevant information to ensure absolute clarity for those appraising themselves of the application. The Planning Statement is a supporting document in support of the information first provided within the formal Planning Application Form;
7. **Section 9 – Hours of Operation** - Similarly, Section 9 refers the reader to the Planning Statement. Notwithstanding and acknowledging the complexity of the

application, an interested person should nevertheless be able to glean the basics of the application from the form alone without the necessarily referring to a number of separate documents. Section 9 asks the specific questions of hours of use of such items of plant as generators and pumps. This must also be provided on the Application Form;

8. **Section 11 – Employment** - Section 11 of the Application Form requires completion;
9. **Section 13 Trees and Hedges** - In answering “No” to the first of the questions in Section 13 of the Application Form, there is conflict with the text within the Landscape & Visual Assessment which makes the statement “*Post production the wellsite would revert back to agriculture or would be planted with native trees and shrubs to create a new woodland*”. Please complete this part of the form as appropriate;
10. **Section 18 Trade Effluent** - Section 18 of the Planning Application Form states five principal sources of waste which require disposal; however, only four are cited in the list on this section completed on the submitted form. Please correct this part of the form;
11. **Section 21 – Site Ownership** – The address of the owner is stated as being “*East Pro Limited*”; whereas, in a later section on the completed form, the owner’s address is “*East Pre Limited*”. The address is misspelt as ‘*Albermarle Crescent*’ whereas the registered street name is ‘*Albermarle Crescent*’;
12. **Section 22 – Voluntary Agreements / Planning Obligations** - Section 22 refers to Voluntary Agreements and/or Legal Agreements. It is understood that Members of UKOOG (the industry body of the Onshore Oil and Gas industry in the UK (of which Third Energy UK Gas Limited is understood to be a member) have signed a Charter conveying an agreement to pay:
 - £100,000 per site for the local community situated near to each exploratory (hydraulically fracked) well site. This will be paid by the operator, regardless of whether or not, recoverable deposits are found; and,
 - The payment of 1% of production revenues to communities during the production stage, before the operator has accounted for their costs.
13. **Section 23 – Ownership Certificate and Agricultural Land Declaration** - In respect of Section 23, the Town & Country Planning (Development Management Procedure) Order 2015 which came into force on 15th April 2015 should be cited on the Application Form rather than the 2010 Order as in the case of the submitted form. Furthermore, it is not clear from the submitted form whether a Notice has been displayed on the application site itself in order to comply with Article 13 of the Town & Country Planning (Development Management Procedure) Order 2015. The Application Form, as submitted, indicates the erection of a Notice on the Parish Council Notice Board. However, there is no accompanying text to declare that the Notice has been displayed on the application site. Moreover, in order to comply with sub-paragraph 5 of Article 13, any Notice must include reference to the County Council’s Online Planning Register. The copy of the Notice which accompanies the submitted application does not include such information;

Compliance with the County Planning Authority's Local List of Validation Requirements:

14. The submission contains a NYPA2 checklist; whereas, a 'NYPA15-Validation Checklist for Minerals Development' should be submitted;
15. For the purpose of compliance with both the County Council's adopted Local Validation List and the Town & Country Planning (Development Management Procedure) Order 2015, a Flood Risk Assessment (FRA) must be submitted as a Planning Application document. The planning application and the Environmental Statement are two distinctly separate documents in respect of the legal definition and as such the Planning Application must be supported by the requisite documents as cited within either the regulations or the published Local Validation List. While acknowledging the existence of a Flood Risk Assessment being within the Environmental Statement, that FRA must sit as a 'stand-alone' document as a part of the application and submitted as an application document in its own right;
16. For the purpose of compliance with both the County Council's adopted Local Validation List and the Town & Country Planning (Development Management Procedure) Order 2015, the red line boundary around the application site should fully enclose the site area. The submitted hard copy of *Drawing no. PSS/LTE/KM8/HFS/PA/01* (dated 20/04/2015) does not show a red line wholly encompassing the application area. In particular, a continuous red line at the junction of the access with the public highway is missing. However, for the sake of the avoidance of doubt on the part of all interested parties, the red line as a whole around the KMA well site could be made clearer by the use of a thicker red line and the omission of the detailed drawing as an underlying base which is currently rendering the decipher of the red line difficult;
17. The Site Plan does not follow the advice as provided within the County Council's adopted List of Validation Requirements which seeks to secure in applications the inclusion of matters, in particular, "*All Public Rights of Way crossing or adjoining the site... [...]...The position of all trees on the site, and those on adjacent land that could influence or be affected by the development... [...] ...The position of any river, pond or other water/coastal feature on or adjacent to the site*". Taking into account that such features either influence the design of the proposed development or are potentially affected by the proposed development, they should be shown on the relevant drawing(s). Furthermore, the Site Plan, indeed all application plans must use the most up-to-date Ordnance Survey information as the base layer. In this respect, the OS Survey base of the Site Plan does not show the expanded caravan and camping area some 400 metres to the north-east of the recently constructed KM8 well pad;
18. The County Council's adopted Local List of Validation Requirements seeks the submission of, inter alia, a Utilities Assessment especially for major and complex schemes which, in this particular case, is considered necessary. Such a statement should demonstrate the availability of utility services without resulting in any undue stress on the delivery of utility services, the consequences should those services be disrupted or rendered unavailable for any reason and/or the consequences of there arising a need for utility services where they haven't been initially envisaged e.g. water;

The Application Plans/Drawings as submitted:

19. There must be consistency between the textual descriptions and plan annotations to assist all interested parties in the understanding of what exactly is being proposed. As submitted, the documentation requires the reader to undertake a

significant exercise in cross-correlation. In such a circumstance there is a high likelihood of mis-interpretation and incorrect assumptions as a result. Therefore all Plans/Drawings must be reviewed and cross-referenced for statements within the text of the Planning Statement being clearly annotated on the Plans and Drawings accompanying the application;

The Planning Statement as submitted:

20. Mention is made within Section 2.2.2 (Section 6.2 also refers) of the submitted Planning Statement to the "*pumping of a designed non-hazardous stimulation treatment*". However, no indication is provided with regard to the pressure of the said 'pumping' or, indeed, the volumes of the required "*designed non-hazardous stimulation treatment*". Notwithstanding mention of a total volume of water of 4,000m³ in Section 8.14, the volume figures of the '*treatment*' i.e. water sand and additives, should be provided split between each of the five hydraulic fracture operations. Furthermore, while there is mention made within the Environmental Statement's Technical Appendix no. 12 entitled '*Monitoring of subsurface*' to a pressure rate of 32 bpm. No other mention can be found within the submitted planning application documentation. The submitted information should also include information as to how the '*treatment*' is produced and the source of the water component of the '*treatment*';
21. Section 2.2.2 also makes the statement that "*the stimulation fluids are a mixture of water and fracture additives to which sand will be added*" (Section 6.2 also refers). There is no indication of volumes, or indeed, proportional quantities or what comprises the '*fracture additives*'. There do not appear to be any quantities of the either the '*proppant*' or the '*additives*'; although references exist within Technical Appendix no. 12 entitled '*Monitoring of subsurface*' stating that "*Third Energy plans to inject around 2,400 bbl. of fluid containing 105,000 lbs of sand grains*" (Section 2.0 of that Appendix refers). This Appendix also states that this specific quantity relates to the "*main treatment*"; what exactly is the "*main treatment*"? These are significant material considerations to be taken into account in respect of the proposal being put forward to the County Planning Authority for consideration and should be provided within the documentation that comprises the planning application. The planning application documents should contain sufficient information such that any person may be able to understand what is being proposed;
22. Similarly, Section 2.2.2 makes reference to "*any waste generated*". This presumably includes '*flow back fluid*'? Again, volumes must be stated in order for the County Planning Authority and any interested party to fully understand what the application is proposing. The submitted Planning Statement refers later to this in Section 6.2 stating "*A percentage of the hydraulic fracture fluid ... [...] ... returned is anticipated to be circa 30% with the maximum of 50%*". However, with no mention of volumes, an assessment of the impact of the waste removal cannot be made by the Planning Authority. Therefore, the required information is 30% - 50% of what volume?;
23. Section 6.2 also makes reference to "*waste water treatment may include electrocoagulation and UV screening*". However, there is no further mention of what this entails. It is not clearly explained. A review of Drawing No. PSSL/TE/KM8/HFS/PA/05 during the process of validation has revealed an item of equipment called a '*clean stream unit*'. Is it this unit which comprises the waste water treatment? The level of uncertainty expressed within the Planning Statement has the potential to lead to misunderstanding and/or confusion

amongst all parties involved in the planning process including consultees as well as those making representations;

24. A statement made within the submission refers to "*all flowback water may be diverted directly to storage tanks on site*". However, such a statement is not then correlated against the relevant plans *Drawing No. PSSL/TE/KM8/HFS/PA/05* and *Drawing No. PSSL/TE/KM8/HFS/PA/10*. Are the roadable tanks each with a capacity of 70m³ proposed to be utilised for flow back water, or, are they for the storage of water for use in the "*designed non-hazardous stimulation treatment*"? This is queried in particular in light of Section 8.14 of the submitted Planning Statement making reference to temporary storage tanks for water that has arrived at the site via an existing pipeline from the Knapton Generating Station. However, it is not clear from a review of the submission which tanks are being referred to, nor does there appear any contingency for a disruption to the supply of water via the pipeline to the application site for 4,000m³ (4 million litres/880,000 gallons of water);
25. With respect to lighting, the textual explanation does not appear to correlate with that which is illustrated on *Drawing No. PSSL/TE/KM8/HFS/PA/04*. The text refers to "*4 x 1000W metal halide portable lighting towers*" but does not state how many towers are proposed. The drawing, however, indicates that there are two 8-metre high lighting units with four 1000W lights proposed. The numbers need to be specific for the purpose of the application. This is similarly the case in respect of Phase 2 – Hydraulic fracture stimulation where Figure 6.9 on Page 43 refers to "*4 x 1000W metal halide portable lighting towers*"; whereas, there are displayed eight 8-metre high lighting units on *Drawing No. PSSL/TE/KM8/HFS/PA/05* resulting in thirty-two 1000W lights on the application site for the period of 6 weeks on a 24/7 basis and, presumably, on the basis of any explanatory text to the contrary, these thirty-two 1000W lights would be retained on site for the unstated duration of the well tests. Furthermore, Section 6.3.2 on Page 46 refers to "*Mobile Lighting Towers will be positioned around the site...*"; whereas, the relevant plan (*Drawing No. PSSL/TE/KM8/HFS/PA/06*) displays only one lighting tower consisting of four 1000W lights. The area of countryside in which the application site is situated benefits from dark skies and therefore the presence of significant numbers of high wattage lighting units will undoubtedly materially impact upon the amenity of the area during night-time periods. It is therefore important to be precise and avoid the use of such statements as "*when lighting is not required it will be switched off*". It is concerning that the use of such powerful lighting structures are suggested in the submitted application details as being required for the purpose of the restoration of the site. There is therefore a need for greater precision within the submission;
26. Section 6.5.3 on Page 49 of the submitted Planning Statement refers to '*Aftercare and Monitoring*'. Under the provisions of Schedule 5 of the Town & Country Planning Act 1990, such development as that proposed should make provision for restoration of the site and for a period of after-care of five years (a statutory requirement) or, indeed more, should agreement be reached between an operator and Mineral Planning Authority. The planning application documents, per se, must make reference to details of a restoration and after-care scheme. Furthermore, the submitted Planning Statement cannot rely on making reference to "*The site restoration phase will be the reverse of the wellsite construction phase, as detailed in the previous planning application ref: C3/12/00989/CPO*" as the application site comprises the consented area of land of the previous wells on the KM-A well site and should therefore provide details of both a restoration and an after-care scheme both of which will encompass the whole of the application site;

27. On Page 52 of the submitted Planning Statement reference is made to a scheme of noise monitoring; although no further reference to such a scheme lies elsewhere in the submitted planning application documentation. Furthermore, on Page 58 reference is made to a scheme of monitoring for seismic activity; although no specific signposting is made to the monitoring programme as advised by the appointed consultant within the submitted planning application documentation. Moreover, there is no undertaking made within the submitted planning application documentation with regard to a commitment to any of the recommendations within the consultant's report; notwithstanding an acknowledgement of the Environmental Commitments Table within one of the technical appendices to the Environmental Statement. For the submitted planning application documentation to be considered by the County Planning Authority as being an integral element of the proposal being put forward, it must include the schemes to which reference has been made and indeed reliance has been placed:
- Gas monitoring scheme;
 - Air Quality Monitoring scheme;
 - Water Quality Monitoring scheme;
 - Noise Monitoring scheme;
 - Protected Species Monitoring scheme;
 - Hydraulic Fracture Plan;
 - After-care Plan;
 - Details of the proposed Community Liaison Group; and
 - Waste Management Plan, Traffic Management Plan, Lighting Management Plan and Restoration Plan (the existence of these within the technical appendices to the ES is nevertheless acknowledged).
28. The planning policy analysis of planning applications of this particularly nature and complexity requires due regard to be had to all policies that comprise the Development Plan for the area in which the application site is situated; however, Section 7.0 of the Planning Statement entitled '*Planning Policy*', does not refer the policies pertaining to Ryedale District Council (RDC). The County Council's adopted Local Validation Checklist requires that Applicants include "*an assessment of how the proposed development accords with relevant national and local planning policies*" in their Planning Statements. By way of example, the submitted Landscape and Visual Assessment within the Technical Appendices to the Environmental Statement cites relevant RDC policy;
29. Section 8.5 on Page 60 of the Planning Statement states "The landscaping scheme was established in 2014 and once mature will effectively screen the site". Taking into account that the planting was only undertaken last year, there is likely to be a significant period of time (some 10-15 years depending upon the species planted) before this particular planting will be established as an effective screen and therefore very little likelihood of such planting mitigating the effects of the proposed development at least in the short to medium term. This should be made clear within the application documentation.

Part Two - General comments

The Ordnance Survey bases that have been submitted with the application are in some cases out-of-date and, whilst not significantly material to certain sections of the Environmental Statement, they are material to others, including Air Quality, Lighting, Noise, Public Health and Socio-economics. The specific area of concern lies in the fact that certain assessments have used OS bases which do not show the expanded Caravan & Camping

area that lies some 400 metres to the north-east of the application site. Whilst the Noise Impact Assessment has made use of an up-to-date OS base plan, there appears no acknowledgement within the report of the sensitivity of receptors within the transient populations that would come to enjoy the camping and caravanning areas in the vicinity of the application site. Similarly, the Air Quality Impact Assessment makes reference only to "*permanent human habitation*". Having reviewed the Assessment, there is no acknowledgement therein to the presence of a transient population enjoying the nearby Flamingo Land Resort and the caravan and camping areas in the vicinity of the application site. While it is acknowledged that a Caravan Park is identified and referenced within Table 3.1, it is nevertheless some 300 metres further away from the application site than the caravan site as now exists.

The review of the submitted documentation has not been able to categorically establish that the proposal put forward seeks planning permission for the production of gas solely from the five hydraulic fracture processes as proposed in the application and, thereby, rendering any future proposal for further hydraulic fracturing operations subject to a requirement for a further planning application. This needs to be made clear within the application documentation.

The level of uncertainty expressed in the submitted planning application documentation in respect of certain matters give cause for concern when considering the assessments contained within the accompanying Environmental Statement will have been prepared on a number of assumptions. If those assumptions are found to be incorrect or unfounded assumptions, there is the potential that the Environmental Statement is rendered deficient for these reasons and therefore an exercise of reviewing the Environmental Statement and the assumptions contained therein needs to be undertaken.

Upon receipt of the requisite information to the satisfaction of the County Planning Authority, you will receive further communication with regard to status of your application and whether the application meets the validation requirements of this Authority and can be registered as a duly-made application. A formal acknowledgement of receipt of your application and a notification of a date by which you should expect a Decision by this Authority will be provided. However, should there remain outstanding matters, you will receive further communication in writing from the County Planning Authority.

One final point that requires inclusion in this letter is to give notice to you of the consideration at this early stage in the application process that the County Planning Authority is giving to the period of time in which consultees and, indeed any interested party, may have to comment and/or make their representations. The Town and Country Planning (Development Management Procedure) Order 2015 requires the period of time to be no less than 21 days. However, in light of the significant public interest, consideration is being given to extending this period by a further 5 weeks. This is considered to be a reasonable time in which to enable those interested in the application the time to review its content and prepare written submissions in response. Should you have any views on this, please do not hesitate to express those views in writing to the County Planning Authority together with an acknowledgement of receipt of this letter in writing.

Yours sincerely,


Head of Planning Services