

Your Ref: LCC/2019/0037
Our Ref: ZG/AER/AM/PA/008

17th July 2020

Mr J Haine
Lancashire County Council
County Hall
Fishergate
Preston
Lancashire
PR1 8XJ.

Dear Mr Haine,

PLANNING APPLICATION: SUTTON'S LANE, GREAT ALTCAR, LANCASHIRE

I am in receipt of a letter dated 23rd June 2020, submitted to Lancashire County Council (LCC) by the Environment Agency (EA), in response to the consultation on 'clarification' submitted by the Applicant at the request of LCC. I note the EA has referred to a number of the Applicant's responses as being misleading or containing erroneous statements, which is not the case and the purpose of this letter is to provide the Applicant the opportunity to respond to the points raised, for the benefit of planning officers and Members of the Planning Committee.

REF: ID 33

In accordance with Environment Agency Oil and Gas Sector Guidance, the Applicant sought pre-application advice from the EA, which took place by way of a meeting held on 6th December 2017 at the EA's Warrington office. A second pre-application meeting was held on 28th March 2019, again at the EA's Warrington office. It is the Applicant's understanding from these meetings, particularly the second meeting, where groundwater and the current legislation surrounding groundwater were discussed at length, that the conceptual site model was generally agreed 'in principle' between the parties. Notwithstanding the fact that the position of the EA will only be agreed following a detailed review and assessment of the Environmental Permit application, submitted in accordance with Environmental Permitting (England and Wales) Regulations 2016 (EPR 2016) and the issuing of an Environmental Permit, it should be noted that the purpose of pre-application advice is to seek agreement in principle to the merits of development in the context of EPR 2016. The aim of the pre-application advice is to reduce delays during the application process itself (i.e. addressing any concerns

up front). Again, notwithstanding the position of the EA, with respect to formal agreement by way of issuing an Environmental Permit, at no time during the pre-application meetings was the 'principle' of the conceptual model in dispute. The majority of the meetings were taken up with the discussing the EA's legal position of the definition of groundwater.

In summary, the Applicant's reference to the conceptual model being agreed 'in principle' remains valid, otherwise it renders the EA's principle of pre-application not fit for purpose, which I am sure the EA will agree, is not the case.

REF: ID 37

Throughout the planning application process for Altcar Moss, similarities have been drawn between the Altcar Moss development and the Preston New Road development, in particular, in respect of the geological setting. The Applicant was aware of the EA's decision to issue an Environmental Permit for the Preston New Road development, including its consultation response which stated 'that there is no plausible pathway for the contamination of shallow aquifers as a result of hydraulic fracturing operations at depth'. It is for this reason that the Applicant included it within its 'Clarification Response' to LCC. Given the similarities between the Altcar Moss development and the Preston New Road development, the likelihood of the EA reaching a different conclusion may be considered remote. This view is supported by the conclusions to be drawn from a two-day conference in July 2018 hosted jointly by the EA and British Geological Society (BGS) entitled "Use of the deep subsurface in the UK: what are the implications for groundwater resources?" in which 35 papers and posters covering both modelling, theory, and case studies showed no instances where activities in the deep subsurface had impacted shallow groundwater.

REF: ID 37

The Applicant is aware of the EA's legal position with respect to the regulation of deep saline groundwater, which is based on the EA's interpretation of relevant legislation. The Applicant's interpretation differs to that of the EA, of which the EA is also fully aware.

In the context of Town and Country Planning, however, the differing interpretation of groundwater legislation is not a matter for LCC. In accordance with National Planning Practice Guidance on Minerals (NPPG on Minerals) Paragraph 110 (ID: 27-110-20140306), the protection of water resources (including groundwater aquifers) rests with the EA. Furthermore, NPPG on Minerals Paragraph 112 (ID: 27-112-20140306) states that 'whilst the issues may be put before the minerals planning authorities, they should not need to carry out their own assessment as they can rely on the assessment of other regulatory bodies'.

REF: ID 20

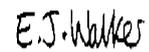
The response provided by the EA to ID 20 serves only to confuse what is essentially a very simple demarcation of regulatory regimes. In particular, the EA's reference to water supply, the volumes of water to be used in hydraulic fracturing and the storage/treatment of flowback fluids, is confusing, given that the supply of water for the hydraulic fracturing is via a commercial arrangement with the local water authority, who has an obligation to ensure its commercial agreements to provide water do not impact on supply. The storage and

treatment of flowback water is subject to a mining waste permit under EPR 2016 and, in certain instances, the hydraulic fracturing process may itself come under EPR 2016.

It is correct that NPPG on Minerals Paragraph 112 (ID: 27-112-20140306) states that minerals planning authorities can and do play a role in preventing pollution of the water environment from hydrocarbon extraction, but in many situations this is simply a duplication of another regulatory regime and, as stated previously, minerals planning authorities can rely on the assessment of other regulatory bodies.

Yours sincerely,

For **Aurora Energy Resources Limited**



Elizabeth Walker BSc(Hons) MRTPI
Planning Manager