

APPLICATION NO	PA/2018/794
APPLICANT	Mr Mark Abbott, Egdon Resources UK Ltd
DEVELOPMENT	Planning permission for the variation of condition 11 on appeal number APP/Y2003/W/17/3182879, decision date 4 January 2018 to state the following: 'The buildings, structures and works hereby permitted shall be removed, the use hereby permitted shall be discontinued and the land restored to its condition before the implementation of planning permission MIN/2013/0281 no later than 12 months from the date of this decision.'
LOCATION	Lodge Farm, Clapp Gate, Appleby, DN15 0DB
PARISH	Broughton
WARD	Broughton and Appleby
CASE OFFICER	Andrew Law
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Objection by Broughton Town Council Officer discretion

POLICIES

National Planning Policy Framework: Paragraph 14 explains that a presumption in favour of sustainable development should be seen as a 'golden thread' running through decision taking. It makes clear, in circumstances where there is no extant adopted plan or relevant plan containing no applicable policies, that planning permission should be granted unless adverse impacts of the development would significantly and demonstrably outweigh the benefits or where there are policies within the NPPF which indicate such development should be restricted.

Paragraph 17 identifies the core land use planning principles that should underpin decision taking.

Paragraph 18 states that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meet the twin challenges of global competition and of a low carbon future.

Paragraph 19 states that the Government is committed to ensuring the planning system does everything it can to support sustainable economic growth and significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 20 states that local authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

Paragraph 28 advocates supporting economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

Paragraph 93 explains that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and infrastructure.

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment.

Paragraph 118 encourages local planning authorities to consider opportunities to incorporate biodiversity in and around developments.

Paragraph 120 states that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

Paragraph 121 requires that planning decisions also ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented. It is clear that land, once remediated, should not thereafter be capable of being determined as contaminated land.

Paragraph 122 expressly makes it clear that local planning authorities should focus on whether the development itself is an acceptable use of land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Authorities must “assume that these regimes will operate effectively”. It follows that where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraph 142 states minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite resource, and can only be worked where they are found, it is important to make the best use of them to secure their long-term conservation.

Paragraph 144 relates specifically to decision-taking with regard to mineral applications and requires local planning authorities to:

- give great weight to the benefits of the mineral extraction, including to the economy;
- ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;

- ensure that any unavoidable noise, dust and particle emissions...are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties; and
- provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.

Paragraph 147 states that minerals planning authorities should also:

- when planning for on-shore oil and gas development, including unconventional hydrocarbons, clearly distinguish between the three phases of development (exploration, appraisal and production) and address constraints on production and processing within areas that are licensed for oil and gas exploration or production;
- encourage underground gas and carbon storage and associated infrastructure if local geological circumstances indicate its feasibility; indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable;
- encourage capture and use of methane from coal mines in active and abandoned coalfield areas; and
- provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use.

Paragraph 186 states that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development.

Paragraph 187 states that authorities should look for solutions rather than problems, and...should seek to approve applications for sustainable development where possible and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Paragraph 196 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It also establishes that the NPPF is a material consideration in planning decisions.

North Lincolnshire Local Plan:

Policy M1 (Applications for Mineral Workings)

Policy M3 (Residential Amenity and Protection Zones)

Policy M5 (Best and Most Versatile Agricultural Land)

Policy M21 (Oil and Gas Exploration Boreholes)

Policy M22 (Oil and Gas Appraisal Boreholes)

Policy RD2 (Development in the Open Countryside)

Policy DS1 (General Requirements)

Policy DS3 (Planning Out Crime)

Policy LC7 (Landscape Protection)

North Lincolnshire Core Strategy:

Policy CS1 (Spatial Strategy for North Lincolnshire)

Policy CS2 (Delivering More Sustainable Development)

Policy CS3 (Development Limits)

Policy CS11 (Provision and Distribution of Employment Land)

Policy CS17 (Biodiversity)

Policy CS18 (Sustainable Resource Use and Climate Change)

Policy CS21 (Minerals)

National Planning Practice Guidance:

Minerals

Natural Environment

CONSULTATIONS

Highways: No objection or comments.

Archaeology: No objection or comments.

Environmental Health: No objection.

Ecology: No objection.

Environment Agency: No objection.

Natural England: No comment to make.

Humberside Fire and Rescue: No objection.

TOWN COUNCIL

Broughton Town Council strongly objects to the proposal due to concerns that the original deadline had passed.

PUBLICITY

The application has been advertised by site and press notices. Letters of objection have been received on the following material grounds:

- The proposal would be a blot on the landscape of an area of outstanding natural beauty.
- The chalk streams and their wildlife are exceptionally rare and need to be protected.
- Why is an application for an extension being submitted when the time limit has already been exceeded?
- The Planning Inspectorate has already ruled that the site should be fully restored by 28 April 2018.
- Following the dismissal of Egdon's appeals there is no justification for allowing a further extension of time.
- The proposal goes against the appeal judgement. Is it in the council's power to reverse the judgement of the Government appointed inspector?
- You need to specify a depth to which they must restore the land to its former condition so that pipes are not left in the ground which will leach fluids.
- The disbenefits of refusing the scheme in respect of economic costs and HGV movements have been overplayed.

A number of objections have been received in relation to proposals for the long-term production of oil and gas from the wellsite. These objections are listed below but are not relevant to this planning application and regard cannot be had to them in its determination:

- Traffic generated by the development would result in air pollution, which is something that has been targeted for reduction nationally.
- This is not a safe or suitable location for hydrocarbon production owing to the threat that it poses to the underlying aquifers and to British Steel's nearby water extraction boreholes.
- Warnings are becoming more confident about the devastating potential societal and environmental effects and huge economic costs of continuing to ignore the climate crisis. Egdon must not be allowed to retain their Wressle-1 well with the intention of using it to extract even more climate-wrecking oil and gas.
- The greatest threat to us all is climate change and there is overwhelming acceptance globally that burning fossil fuels is a major contributor. The other likely impacts on local communities are water contamination as all wells fail eventually, transportation and disposal of toxic waste water, increased air pollution, increased levels of HGV traffic on country roads, noise and light pollution, and industrialisation of rural areas. All of this has effects on public health.
- The inquiry findings cast doubt on the soundness of the permit granted by the EA for this site.
- Egdon's attempts at acid fracking in our area must be stopped or there will be dire consequences for our beautiful countryside.

One letter of support has been received which also relates to the long-term production of oil and gas and is not relevant to the consideration of this proposal.

STATEMENT OF COMMUNITY INVOLVEMENT

No statement of community involvement has been provided with the application.

ASSESSMENT

Site

The application site is a piece of land which forms part of a flat rectilinear field located approximately 1.6 kilometres to the north of Wressle and 1.7 kilometres north-east of Broughton. The site is outside of any defined development boundary and as such is located with the open countryside.

The site currently comprises an existing temporary, exploratory well site which was granted planning permission by North Lincolnshire Council on 18 June 2013 (MIN/2013/0281). The wellsite pad and earth bund is contained by a 2 metre high fence. Following drilling of the well in 2014, and subsequent flow testing operations during 2015, there is currently only a limited amount of equipment and facilities on site. The development on site at present comprises:

- a production tree (a system of valves to manage hydrocarbon flow and well entry) over the wellhead;
- four storage tanks situated within a temporary bund;
- a site office/cabin; and
- three storage containers.

The site is partially screened along its northern and western boundaries by existing earth bunds.

The surrounding landscape is characterised by a mix of flat agricultural land and areas of woodland. There are blocks of woodland located to the south, east and west of the application site. With regard to existing structures within the surrounding landscape, there are agricultural buildings to the north of the site and a sub-station to the north-east.

Additionally, a network of pylons and electricity lines cross the agricultural fields to the north and east of the site.

The nearest residential property to the application site is North Cottage, located approximately 530 metres to the east. This dwelling forms part of a small residential development at Lodge Farm, to the west, which is centred around the original farmhouse.

Decoy Cottage, located to the south, is approximately 580 metres away from the site.

Access to the site is currently obtained via an existing agricultural track. This track passes in a westerly direction from the B1208, through Lodge Farm courtyard and runs partly parallel to Ella Beck before crossing over an existing bridge into the existing arable field (in

which the site lies). There are no public footpaths within the immediate vicinity of the site, with the nearest footpath 215 lying approximately 0.8 kilometres away.

Broughton Far Wood SSSI, lies to the north-west, approximately 700 metres away.

Broughton Alder Wood, another SSSI, is located approximately 1.3 kilometres to the west of the application site. The nearest non-statutory site is Rowland Plantation, a Local Wildlife Site which is approximately 270 metres to the north of the application site.

The application site is not designated as an area of national or local archaeological importance. The closest designated heritage asset is a Scheduled Ancient Monument and Protected Wreck Site located approximately 1.5 kilometres to the north, known as Thornholme Augustinian Priory. The nearest listed building to the site is Broughton Grange Farmhouse, which is grade II listed and is located approximately 600 metres to the south.

Approximately 10 metres to the east of Broughton Grange Farmhouse is the coach house and stables which are also grade II listed.

The site is not designated as being of special landscape importance and is located within flood zone 1 (low risk) of the Environment Agency's flood maps.

Proposal

North Lincolnshire Council granted temporary planning permission (MIN/2013/0281) at Lodge Farm, Clapp Gate, Appleby on 18 June 2013 for *“the construction of a temporary wellsite for drilling of an exploratory borehole with associated structures and works”*. Condition 24 of that permission states that the site shall be restored to its former condition within three years of development commencing; this requires all buildings, structures and works to be removed, the use discontinued and the land restored to its former condition by 28 April 2017, unless otherwise agreed in writing by the local planning authority.

A subsequent application (PA/2017/268) was submitted on 22 February 2017 which sought consent to vary condition 24 of MIN/2013/0281 to allow the retention of the well site for a further twelve months. This would require the site to be restored by 28 April 2018. This application was refused by the planning committee on 3 July 2017 for the following reason:

“Exploratory works have been completed and there is no justified reason to extend the time period for restoration of the site. Therefore the proposed variation of condition 24 is contrary to policy M21 of the North Lincolnshire Local Plan”.

The applicants subsequently lodged an appeal against the local planning authority's refusal of planning permission in respect of the proposed variation of condition. This appeal (APP/Y2003/W/17/3182879) was dealt with by the Planning Inspectorate, along with two linked appeals related to the use of the site for long-term hydrocarbon production, and was determined on 4 January 2018. The Inspector determined that the appeal should be allowed and granted consent for the variation of condition 24, extending the time limit for the restoration of the site until 28 April 2018. Given the fact that a number of conditions were formally discharged from the original planning permission (MIN/2013/0281), the numbering of conditions on the appeal decision is different and condition 24 became condition 11 on the consent issued by the Planning Inspectorate.

This application seeks planning permission to vary condition 11 of the consent granted under appeal number APP/Y2003/W/17/3182879 to allow for the retention of the wellsite for an additional 12 months from the date that the application is determined.

Reason for the application

Following drilling of the exploratory borehole in 2014, and testing in 2015, the applicants have established that there are commercially viable reserves of hydrocarbons within the Ashover Grit, Wingfield Flags and the Penistone 3 and 3A formations. The applicants submitted a planning application for the retention of the wellsite and access track for the long-term production of hydrocarbons (MIN/2016/810), which was refused on 11 January 2017. The applicant appealed against this decision (APP/Y2003/W/17/3173530). Alongside this appeal, the applicants submitted a further planning application for hydrocarbon production in May 2017 (PA/2017/696), which was subsequently refused by North Lincolnshire Council on 3 July 2017. The applicants also submitted an appeal against this refusal of planning permission (APP/Y2003/W/17/3180606).

Due to delays caused by the initial unsuccessful planning application (MIN/2016/810) in respect of long-term production from the site, the applicants submitted a planning application (PA/2016/0808) to vary condition 24 of the original consent for exploratory works (MIN/2013/0281). This variation sought to extend the permission by an extra 12 months to allow the retention of the borehole installations on site, whilst providing sufficient time for the resubmission (PA/2017/696) to be determined and to see the outcome of the appeal process. This application was refused by North Lincolnshire Council on 3 July 2017 and was subsequently appealed against by the applicants (APP/Y2003/W/17/3182879).

All three appeals were considered at a joint Public Inquiry and determined on 4 January 2018. Appeals APP/Y2003/W/17/3173530 and APP/Y2003/W/17/3180606, which related to applications MIN/2016/870 and PA/2017/696 for long-term hydrocarbon production, were dismissed and the refusal of planning permission upheld. Appeal APP/Y2003/W/17/3182879, relating to application PA/2016/0808 for variation of condition 24 of MIN/2013/0281, was allowed and permission granted for the proposed extension of this consent for an additional 12 months to 28 April 2018.

At the Inquiry the applicants suggested that, due to the length of time that it had taken to determine the application and the subsequent appeal, if the appeal were to succeed, then the restoration period should be extended by 12 months from the date of the appeal decision (4 January 2018) and not 12 months from the original restoration date (28 April 2017). However, the Inspector concluded that, as the application (PA/2016/0808) was specific in seeking an additional 12 months from the date of the original restoration period, altering this date would go beyond the scope of the appeal and may prejudice those who were not party to the discussion of conditions at the Inquiry. Therefore, the Inspector allowed the appeal but by only extending the restoration period to 28 April 2018.

Following receipt of the appeal decisions, the applicants confirmed that it was their intention to submit a new planning application for the development of the site to enable the long-term production of hydrocarbons. This new application is to include additional information and modifications to address the issues raised through the appeals process. The applicants also confirmed that, due to the production of new and updated documents, it would not be possible to complete and submit a new application before the 28 April 2018 expiry date. For this reason, the applicants have submitted the current application to vary condition 11 of the appeal decision (previously condition 24 of MIN/2013/0281) to extend

the temporary time period for restoration of the site by an additional 12 months to allow for the new application to be submitted and determined. It is proposed that the new 12 month period would run from the decision date of this application to avoid issues that may be caused if the determination of the application is delayed for any significant period.

It should be noted that a new application for the long-term production of hydrocarbons from the site has now been submitted by the applicants.

The proposed variation of condition does not entail any changes to the restoration scheme as approved under MIN/2013/0281; it merely seeks to delay the implementation of the restoration scheme. If approved, the variation of condition will not result in additional exploration or testing taking place on site; this work has already been carried out.

The main issue to consider in the determination of this planning application is whether the retention of the wellsite on site for an additional 12 months would have an unacceptable impact on the local area.

Principle

The principle of an exploratory wellsite has already been established by the existing consent (MIN/2013/0281).

In his decision letter of 4 January 2018, the Inspector stated that the proposal to extend the temporary period of the permission by 12 months was not in accordance with Paragraph 144 of the NPPF and saved Policy M22 of the Local Plan. Paragraph 144 states that local planning authorities should provide for restoration and aftercare “at the earliest opportunity”. Policy M22 actually applies to appraisal boreholes, which is not the case at Wressle. Nevertheless, both policy M21 (v) (Oil and Gas Exploration Boreholes) and policy M22 (iv) (Oil and Gas Appraisal Boreholes) require that adequate proposals are made for restoration on completion. On the basis of the Inspector’s previous decision, it is considered that the proposal for a further extension of time would not comply with these policies.

However, in respect of the previous appeal decision, it is noted that the Inspector considered that there were material considerations that outweighed the aforementioned policy conflict and this is the reason why the appeal was allowed. These material considerations related to the existing investment in the site, the modest duration of the proposed extension, the potential for abortive work and the lack of demonstrable impacts on local residents and the surrounding area.

As set out above, it is considered that the proposal does not concur with Paragraph 144 of the NPPF and policy M21 of the Local Plan. This policy conflict must be weighed in the planning balance and it must be considered whether (as with the previous appeal) there are material considerations which outweigh these policy conflicts.

Impact

Whilst the Planning Inspectorate do not provide reasons for the imposition of conditions on their decisions, condition 11 of the appeal decision replaces and varies condition 24 of MIN/2013/0281. The reason for the imposition of condition 21 of MIN/2013/0281 as stated on the decision notice was:

“To define the terms of the planning permission and ensure that the site is returned to its former condition”.

The proposed variation of condition 11 does not seek to retain the wellsite in perpetuity, but to extend the deadline for restoration for an additional 12 months. The reason for this proposed extension is outlined above. Should the variation be approved, the condition would still secure the restoration of the site to its former condition and would still define a specific and reasonable time-frame for this restoration to take place.

As previously stated, only a limited amount of facilities and infrastructure remains on the site following drilling of the exploratory borehole and subsequent testing and the site is currently on a care and maintenance footing. The remaining facilities and infrastructure are not highly intrusive and do not have a significantly detrimental impact on the character and appearance of the area. The Inspector’s decision of 4 January 2018 concurred with this view. Furthermore, no adverse comments have been received from the council’s ecologist or Historic Environment Record with regard to the impact of the existing development on ecology and cultural heritage in the area. For these reasons it is considered that the retention of the wellsite for an additional 12 months would have no unacceptable impact on the area with regard to landscape, ecology or cultural heritage.

As the proposed variation of condition would result in no additional development taking place on site, there would be no further impact on residential amenity or highway safety. Nor would there be any additional impact with regard to hydrology, air quality, waste or seismicity.

The applicants have confirmed that they have currently invested approximately £5 million at the site, including the construction of the wellsite, undertaking the drilling of the borehole and production testing. If the well was decommissioned (“plugged and abandoned”) and the site restored now, the applicants would be required to rebuild the site and potentially re-enter and drill out of the borehole, should the new application for hydrocarbon production be approved. This would effectively repeat the exploratory work (with associated cost and HGV movements) which took place in 2014 and 2015, as a new well bore would be needed. The applicants have stated in their supporting documents that, having constructed the wellsite and drilled the exploratory borehole, it would not be commercially viable to restore the site with a new application for long-term development pending determination.

Conclusion

It is acknowledged that the proposed development does not fully accord with Paragraph 144 of the NPPF or policy M21 of the Local Plan, which seek to secure restoration of mineral sites as soon as possible. However, a new application for hydrocarbon production from the site has been submitted by the applicants, which, if approved, would allow for the retention of the wellsite. The proposed 12 month extension to the restoration date would allow time for the production application to be determined prior to restoration taking place, which would avoid the risk of abortive work, at significant expense, should the production application be approved.

With regard to the environmental impact of the proposed variation, the site is currently on a care and maintenance footing with very limited activity. The site is considered to have no significant adverse visual impact on its surroundings or on the amenity of local residents.

Given the relatively modest duration of the proposed extension to the restoration period, the lack of demonstrable environmental harm as a result of this extension and the financial implications of potentially abortive work should the extension be denied, it is considered that, in this instance, there are material considerations which outweigh the identified policy conflicts.

For the reasons outlined above, the proposed extension to the restoration period is considered to be acceptable and is recommended for approval.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development hereby permitted shall be carried out in accordance with the following approved plans: 3334 P 01, 3334 P 02, 3334 P 03, 3334 P 04, 3334 P 05, 3334 P 06, 3334 P 07, 3334 P 08, 3334 P 09, 3334 P 10, 3334 P 11 and 3334 P 12.

2.

Earthworks associated with site restoration and HGV deliveries shall only take place between the hours of 7:00 hours and 17:30 hours Monday to Friday and Saturday 7:00 hours to 13:00 hours with no deliveries on Sundays or Bank Holidays.

3.

Noise from the approved exploration well site shall not exceed 42dB LAeq, 5min when measured at any noise sensitive dwelling between 7pm and 7am Monday to Sunday inclusive.

4.

Noise from the approved exploration well site shall not exceed 60dB LAmax when measured at any noise sensitive dwelling between 7pm and 7am Monday to Sunday inclusive.

5.

Noise from the approved exploration well site shall not exceed 55dB LAeq, 1h when measured at any noise sensitive dwelling between 7am and 7pm Monday to Sunday inclusive.

6.

Noise from the approved exploration well site shall not exceed 70dB LAmax when measured at any noise sensitive dwelling between 7am and 7pm Monday to Sunday inclusive.

7.

The lighting layout for the scheme shall be as set out in drawing number 3334 P06, dated February 2013, and shall be implemented and retained during the life of the development.

8.

The site shall be maintained as a bunded, sealed site with sufficient containment capacity to prevent pollutants from discharging to land.

9.

The development shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated January 2013. Specifically, the surface water run-off generated

by the 100 year critical storm shall be limited to 5 litres per second so that the risk of flooding off site is not increased. Sufficient attenuation must be supplied in the ring ditch to prevent any negative impact on the site for the aforementioned storm event.

10.

The biodiversity management plan submitted with application MIN/2013/0281 shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter.

11.

The buildings, structures and works hereby permitted shall be removed, the use hereby permitted discontinued and the land restored to its former condition no later than 12 months from the date of this decision.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

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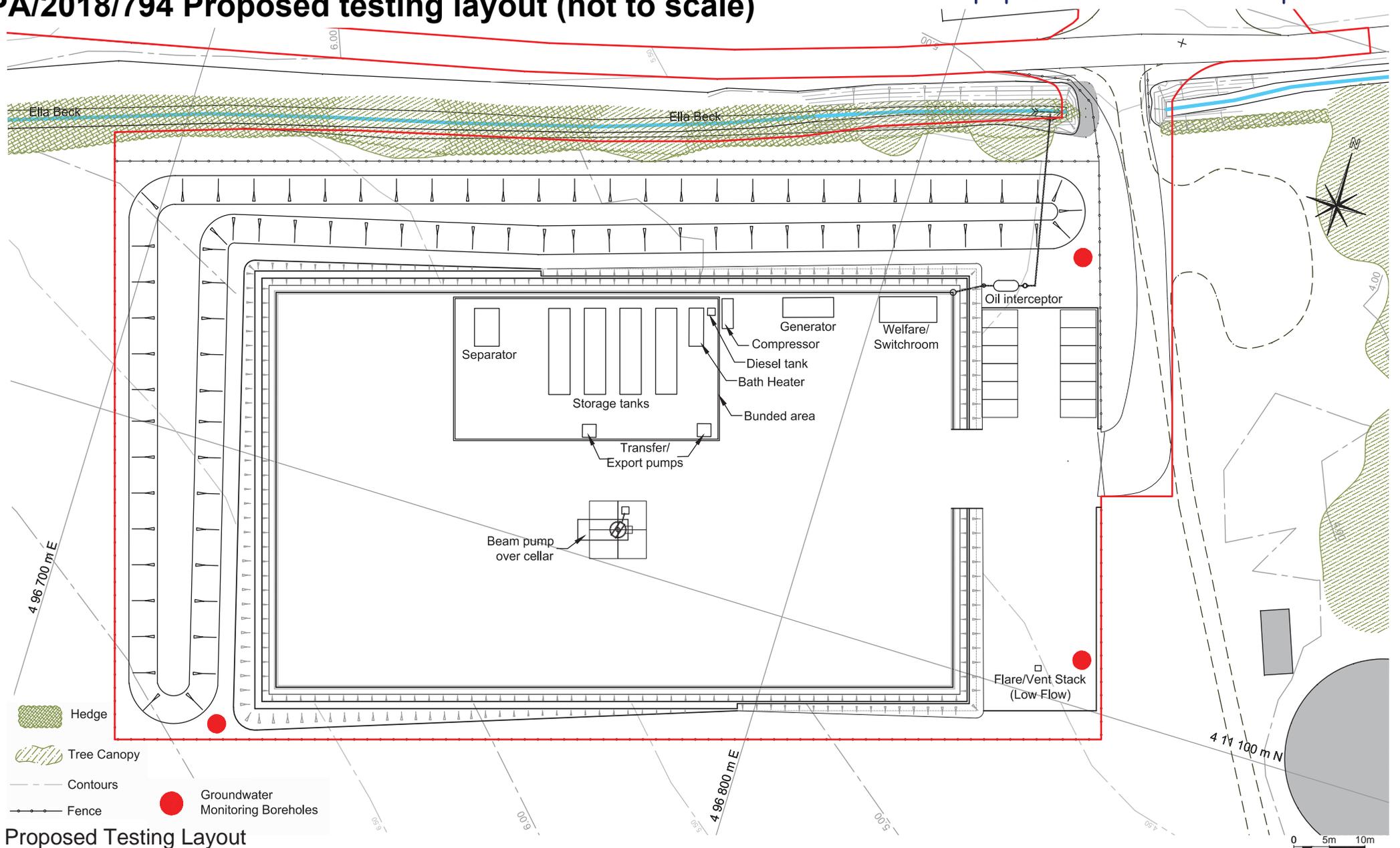


PA/2018/794

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PA/2018/794 Proposed testing layout (not to scale)



Proposed Testing Layout

Scale 1:500

Levels taken to arbitrary datum

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Client: Egdon Resources UK Ltd
 Wressle
 Brigg
 Lincolnshire
 Job Title: Wressle Site

Drawn By	Date	Sheet Size
AJNE	April 2016	A3
Drawing Title		
Proposed Testing Layout (1:500)		
Drawing Number		
3334 P 11		
Revision		
A		