

10<sup>th</sup> April 2015

Dear Mr Atkinson

**REF: Planning application: NY/2015/0069/FUL**

I am writing to you, on behalf of Frack Free Ryedale, regarding the above application to erect a security fence around the perimeter of Third Energy's well-site in Kirby Misperton. We have a number of objections and proposed conditions to this new security fence, which are outlined below.

**The Need for a Security Fence**

Firstly, we feel that the documentation provided by Third Energy has not sufficiently justified the need for a security fence at this well-site, and nowhere in the application is there any clear evidence given that such a fence is necessary. Third Energy have been continuously promoting themselves in the media as 'good neighbours' to the local community and that the local community 'hardly knows we are there', yet are now planning to erect a very tall, unsightly fence next to a public footpath. This does not appear to be the behaviour of a so-called 'good neighbour' and it is noted that none of their other well-sites requires this type of fence.

We also note with some alarm that the Applicant has consulted North Yorkshire Police Counter Terrorism Security Advisors regarding the need for a security fence. While we acknowledge that many local people are opposed to fracking, which Third Energy are hoping to undertake at KM8/KMA, we utterly refute the implication that people who are opposed to fracking should be classed as 'terrorists', or that advice from counter-terrorist forces is necessary or required.

Frack Free Ryedale is a peaceful organisation of concerned residents and friends of Ryedale, many of whom are retired people, mothers and local business people, who believe sincerely that fracking will be very much to the detriment of the residents, businesses, farms and wildlife. However, a person's opposition to fracking does not make them a 'terrorist' and we would also like to point out at this point that Frack Free Ryedale would not condone any action that involves violence, either to people or property, and would not support any such action at KM8/KMA.

**We would therefore respectfully request that the company provide full and complete written justification for the need for such a fence, and hard evidence that they are expecting some 'terrorist' attacks on the well-site, before any such request is approved. If no such evidence or justification is provided, we respectfully ask the NYCC to reject the application.**

**Wildlife concerns**

The Application Form states that there are "no protected or priority species on or near the site", without providing any proof or evidence that this is the case. We are concerned about the effect the construction and location of the fence would have on the varied wildlife in the immediate area, the lack of consideration that is given to the protection of wildlife during the construction of the fence, and in particular the effect the fence might have on birds and bats.

Our specific concerns are as follows:

**Nesting Birds**

This area is well-known by local residents to be popular with birds, and we are concerned how such a large fence, and the disturbance that is inevitable during its construction, would affect the local bird population.

We note that both the Ecology Department of the NYCC and the Yorkshire Wildlife Trust require that all work to vegetation, including clearance, felling or pruning, should be undertaken outside the bird-nesting season, which is generally considered to be 1<sup>st</sup> March to 31<sup>st</sup> August. This condition is required because all nesting birds, their eggs, nests and young are protected under the Wildlife and Countryside Act 1981. It is also clear that the construction of this fence would be noisy and disturb any wildlife living near the site.

**We therefore respectfully request that if permission is granted for this security fence, a condition is in place to say that no work can commence until 1<sup>st</sup> September 2015.**

### **Great Crested Newts and Water Voles**

It is also known in the village of Kirby Misperton that there may be great crested newts and water voles in the ponds and ditches that are potentially connected to the wellsite. The Conservation Officer at the Yorkshire Wildlife Trust points out that scoping surveys for these two animals must be undertaken before any work is allowed to commence. We also note that both of these animals are protected under law, and if work were to commence on the site without a comprehensive survey being undertaken, then the Applicant would be vulnerable to legal action.

**We therefore request that a full independent survey of the area for water-based wildlife, including great crested newts and water voles, be undertaken before any permission for construction can take place.**

### **Bats**

Many local residents have pointed out that there are colonies of bats living near the wellsite and in the summer the night sky is teeming with bats. It is also noted that all species of bat in the UK are protected by law. There is a high probability of disturbance of bats during the construction of the proposed security fence, and we feel that it is extremely likely that the application will impact negatively on bat populations in the area.

Planning authorities have a statutory duty to have regard to conserving biodiversity (which includes restoration and enhancement of biodiversity) in the exercise of their planning functions; this includes having due regard to and safeguarding bats.

Planning authorities are classed as a competent authority under Regulation 7(1) of the Conservation of Habitats and Species Regulations 2010, under which they must have regard to the requirements of the Habitats Directive. The Directive includes a strict system of protection for certain European Protected Species including bats.

These requirements have been implemented by Part 3 of the Habitats Regulations so planning authorities must have regard to the contents of Part 3 prior to granting planning permission where European protected species – such as bats - may be affected. In England and Wales this duty falls under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006.

The presence of a protected species is a material consideration, when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat (ODPM 06/2005, paragraph 98). LPAs should consider attaching planning conditions to enable protection of species and advise developers that they must comply with any statutory species protection issues affecting the site (ODPM 06/2005, paragraph 98).

**We believe that it is a significant failing of the application that the welfare of bats – and indeed any wildlife – has not been considered by the Applicant, and that no survey of bat**

**populations, or study of the effect that the proposed development may have on such populations, has been undertaken.**

**We therefore respectfully request that the Applicant is instructed to undertake a full and complete independent survey of bat populations, and assessment of the impact of the proposed security fence, and that the application is deferred until the results of the survey have been put to the Planning Authority.**

### **Barbed Wire**

We are very concerned that the top 0.3m of the fence would be constructed of barbed wire. We feel this is unnecessary given that the height of the wire mesh fence is already 2.4m, and that this barbed wire represents a danger to bats and birds in the area. These animals will not expect there to be any obstruction to their established flight paths at this height, particularly not wire covered with deadly spikes, and this will certainly result in the deaths of some of these creatures. It is worth reminding the Planning Authority that bats, and some birds such as owls, are protected species under UK law, and they therefore have a statutory duty to protect them against injury.

**We therefore respectfully request that if permission is granted to the security fence, a condition is in place to say that barbed wire should not be used in its construction.**

### **Footpath**

There is no information in the planning application how this fence might impact on the footpath (a Public Right of Way) that runs very close to the proposed fence, either during the construction period or after this has been completed. We understand that local residents have already had problems with the footpath being illegally blocked by the Applicant, and are concerned that this construction will result in either the temporary or permanent closure of the footpath.

**We respectfully request that the Applicant is required to provide a detailed assessment how the construction of the fence would impact on this Public Right of Way before any permission is granted.**

### **Lack of detail in the Planning Application**

The planning application contains no information about the construction phase of the proposed development. Specifically:

- There is no work schedule for the proposed fence, including times that work would be allowed to start and finish.
- There is no estimated time period for the construction of the fence.
- There are no estimates for truck and digger movements, the type of machinery required, traffic considerations, noise levels, etc.

It is therefore impossible for local residents to ascertain how much the construction of the fence would impact on their daily routines, and as such we consider that the application has not been duly made.

**We respectfully request that the Applicant submits a full construction schedule, including but not limited to the information shown above, before permission is considered.**

### **Safety concerns**

We note that there are only two emergency exits in the design of the security fence, one of which is a long way from the actual well-head. We feel that this might potentially endanger the lives of those working at the site in the event a catastrophic blowout at the well. While this eventuality is unlikely, it is by no means impossible. We note that Halliburton, who are believed to be Third Energy's contractor at the KM8 well-site, were responsible for causing at least one catastrophic blowout in the USA, in Oklahoma in March 2013. For more details of this event, please see the following website:

<http://this-small-planet.com/2013/major-failure-a-graphic-example-of-the-risks-of-modern-well-completion-technologies/>

Bearing in mind the risk of such an event, and the speed at which anyone in the immediate area of the well-site might be affected, we feel that having two exits may endanger the lives of those who are working at the site. We note that no justification has been given for only having two emergency exits, and that no safety considerations have been included in the planning application (which again is a significant failing of the application). We note that were such an incident to take place, and permission had been granted by the NYCC without reviewing safety procedures, there could be significant legal consequences for all concerned.

**We would respectfully request that a full safety review is conducted regarding the proposed nature of the drilling activities that the Applicant intends to undertake at the site, with regard to the safety features of the proposed security fence, and that the application be deferred until this information is put before the Planning Authority.**

#### **Referring to the Planning Committee**

Given the number of concerns regarding this proposed security fence, and the possible legal implications for the Applicant and NYCC regarding wildlife protection legislation in particular, we would respectfully request that this application should be heard by the Full Planning Committee at the next available meeting, rather than delegated to an individual Planning Officer.

Finally, we would request that this, and all other, objections be placed on the NYCC Planning Portal so that they become a matter of public record.

We look forward to hearing from you about the above points, and we request that you include a copy of this letter in your planning report to the Committee.

Yours sincerely