

Planning and Rights of Way Committee

2 March 2021 – At a meeting of the Committee held at Virtual meeting with restricted public access.

Present: Cllr High (Chairman)

Cllr Kitchen, Cllr Atkins, Cllr Baldwin, Cllr Barrett-Miles, Cllr Burrett, Cllr Goldsmith, Cllr McDonald, Cllr Millson, Cllr Montyn, Cllr S Oakley, Cllr Patel and Cllr Sudan

Also in attendance: Cllr Acraman

Part I

7. Declarations of Interest

7.1 In accordance the County Council's Constitution: Code of Practice on Probity and Protocol on Public Participation in Planning and Rights of Way Committees, the following members declared that they have been lobbied in relation to Item 4 - planning application WSCC/045/20:
Cllr Kitchen, Cllr Atkins, Cllr Baldwin, Cllr Barrett-Miles, Cllr Burrett, Cllr Goldsmith, Cllr McDonald, Cllr Millson, Cllr Montyn, Cllr S Oakley, Cllr Patel and Cllr Sudan.

8. Minutes of the last meeting of the Committee

8.1 Resolved – That:

- (1) updates on outstanding applications and delegated decisions for planning and rights of way matters and status reports regarding previously decided rights of way applications be circulated by email to Committee members monthly; and
- (2) the minutes of Planning and Rights of Way Committee held on 2 February 2021 be amended, as noted in the Agenda Update Sheet (copy appended to the signed copy of the minutes) and that the minutes be agreed and that they be signed by the Chairman.

9. Urgent Matters

9.1 There were no urgent matters.

10. Planning Application: Minerals

WSCC/045/20 – Temporary permission for exploration and appraisal comprising the removal of drilling fluids and subsequent engineering works with an extended well test for hydrocarbons along with site security fencing and site restoration. Lower Stumble Exploration Site, London Road, Balcombe RH17 6JH.

10.1 The Committee recessed at 10.47 a.m. to allow all speakers to join the meeting and reconvened at 11.00 a.m.

10.2 The Committee considered a report by the Head of Planning Services, including changes to conditions as amended by Agenda Update Sheet (copy appended to the signed copy of the minutes). The report was introduced by Chris Bartlett, Principal Planner, who gave a presentation on the proposals, details of the consultation and key issues in respect of the application. 21 further objections were received and considered following publication of the Committee report; these had not affected the recommendation before the Committee because the concerns raised were the same as those already outlined in other objections.

10.3 Mrs Sue Taylor, local resident and representative of Frack Free Balcombe Residents Association spoke in objection to the application. The development represents major development in the High Weald Area of Outstanding Natural Beauty (AONB). There are no exceptional circumstances and the proposed development would not be in the public interest and it is therefore contrary to Policies M7a and M13 of the West Sussex Joint Local Minerals Plan and paragraphs 170 and 172 of the National Planning Policy Framework (NPPF). The applicant may have a PEDL license, but planning and environmental permissions still need to be considered. The potential maximum of 300 barrels of oil per day would not contribute to UK energy security. The UK could meet its oil needs with much reduced domestic production and it has access to diverse and politically stable oil imports. It is not true that oil produced in the UK has a lower carbon footprint than overseas imports. Some UK produced oil is exported. The proposed development carries a real risk of economic, social and environmental damage to Sussex. The flare would be on 24 hours per day during the full year of testing.

10.4 Mrs Rachel Hall, local resident, spoke in objection to the application. The number and size of HGVs would have an impact on residents, including pupils at the school, users of the scout hut and the church. The location of the school, which is below pavement level, the need for open windows due to COVID-19 and position of the play area near the road means there are concerns about children's exposure to pollution. This includes NOx, carbon monoxide and benzene. Particulate matter stays in the body and can cause long term health problems; therefore the proposal would be in contrast to NPPF paragraph 205b regarding human health. Noise from HGVs also disrupts lessons. The development stands in opposition the school's teachings on greener lifestyles and general public concerns about climate change. The 2018 flow test caused an acrid, creosote/varnish-like smell; this proposal would mean this would be repeated for up to a year. Local people do not want this development.

10.5 Mr Jonathan Millbanks, Chairman of Balcombe Parish Council, spoke in objection to the application. There are no material changes between this proposal and the previous WSCC/071/19 application made in 2019 that had been recommended for refusal before being withdrawn. The proposal represents a major development in an AONB, and should not be permitted. Oil consumption in the UK is declining. The site would be likely to produce less than 0.005% the volume of Wytch Farm, which in turn produces less than 1% of the national daily consumption, therefore the potential contribution is so small as to be negligible to the overall national picture. Potential local economic benefits have been hugely

inflated and are based on untested assumptions. The need for the development has not been correctly assessed. Significant overweighting has been placed by Planning Officers on the site as an area that has potential strategic significance. There has been insufficient articulation of any evidence that the site meets the 'exceptional circumstance' criteria.

10.6 Mr John Butcher, local resident, spoke in objection to the application. The proposal does not meet the economic, social and environmental tests on sustainable development under the NPPF. Economic benefits are vastly overstated, including business rate benefits. The potential annual income is based on production, which is not relevant to this application. Local economic benefits would likely be only around 11% of the stated aimed local spend. Not all spend, including on staffing, would be made locally. The community has been weakened and wearied by this site. Emissions, which contain harmful pollutants, will blow to the village on the prevailing wind. The additional HGVS will also increase air pollution. The NPPF S.17, para 205b states there should be no adverse impacts on human health. The proposal does not contribute to the natural, built and historic environment and is detrimental to all. The tiny level of possible oil production would make no impact on foreign imports or national energy security. The climate emergency is an exceptional circumstance for refusing the application and requires bold action to tackle it including a refusal of this planning application.

10.7 Cllr Gary Marsh, Mid Sussex District Councillor for Ardingly and Balcombe and local resident, spoke in objection to the application. Prior planning applications were correctly approved, based on material matters and the circumstances at the time of each application, although non-adherence to conditions has caused distress and distrust. Before being withdrawn, planning application WSCC/071/19 was recommended for refusal on the basis of permanent looking structures and it being major development in the AONB. AONBs hold the same status as national parks in terms of planning policy. Why should the change from a proposal for 3 year to a 1 year extended well test make a difference to the earlier recommendation to refuse permission? This proposal is against current government policy and thinking around the move away from use of fossil fuels. The UK is only nine years away from the 2030 deadline to stop selling carbon fuelled cars and so the demand for oil will reduce; this is a material consideration. Members were asked to consider if they would wish to live near the site throughout its operation.

10.8 Mr George Lucan, Chief Executive, Angus Energy plc, the applicant, spoke in support of the application. Previous exploration and tests indicate a potential for commercial hydrocarbon development at this site. The proposal is sensitive to its surroundings and is for the shortest time possible to allow for technical analysis. Alternative options have been explored but the Balcombe site represents the best environmental option from which the target reservoir can be accessed. The development proposal accords with relevant national and local planning policies. The recent Government energy White Paper maintains that there is a need case for oil and gas into the future and it states that "the UK's domestic oil and gas industry has a critical role in maintaining the country's energy security and is a major contributor to our economy". The development

will boost the local economic supply chain and could equate to local investment of over £800,000.

10.9 Cllr Bill Acraman, County Councillor for Worth Forest, the local member, spoke on the application. Alok Sharma was quoted on the need to tackle climate change being one of the most urgent shared endeavours of our lifetime; this should be overriding. Government policy now looks to prevent climate change; oil applications go against that. The previous application WSCC/071/19 implied there was a need for the development but the recommendation was for refusal. The officer recommendation for this application states that the development should be permitted "on balance". Differences between the two applications include the shorter duration, which in reality is actually likely to be nearer 2 years. Stated benefits to the local economy are unlikely to be realised, e.g. installation of a replacement membrane is a good thing, but it would probably be imported. The amount of oil likely to be produced would have a minimal impact in terms of UK oil production, but the local effects of the development would be maximum on the local community. There is strong local feeling against the application. The County Council has an approved policy on climate change, and only the types applications that propose renewable energy should be supported.

10.10 The Committee debated the proposed planning application, as follows.

The Committee made the following points and sought clarification, where applicable, in relation to the differences between the previous 2019 planning application WSCC/071/19 and the proposal under consideration in the current application WSCC/045/20:

- The proposal would be considered major development in the AONB and it had not been proved that there are any exceptional circumstances nor was public interest proved. Therefore, the application is contrary to policies M7a and M13 of the JLMP and paragraphs 170 and 172 of the NPPF.
- The reduced development timescales are not a sufficient reason to justify the change in recommendation to approval for this application. It was questioned why the applicant now feels they could do the same amount of work in reduced timeframe. And, clarification on the timescales of the proposal were sought.
- The potential pollution of the site was not raised in the previous application WSCC/071/19 and, so installation of a site wide impermeable membrane would not be a justification to approve this application.
- There are no new material changes between this application and WSCC/071/19. It was noted that both the recommendations were "on balance", so clarification was sought on the differences and reason for the change in recommendation.
- References in the committee report regarding paragraph 124 of the PPG: Minerals, in relation to the need to take into account government energy policy, and the Annual Energy Statement 2013, as noted in paragraphs 6.31 of the committee report, were in existence prior to receipt of the previous planning

application WSCC/071/19. They were not considered as reasons not to refuse that application.

In response to matters raised in relation to the differences between the current proposal and planning application WSCC/071/19, Planning Officers provided the following responses:

- The timescales and phases for the proposed development are shown in the table under paragraph 9.39 on pages 40 and 41 of the committee report. The 12-month period refers only to Phase 3 the extended well test. Timescales for all phases are outlined in the table and provide worse case scenarios. No information has been provided by the applicant as to why the overall timeframe has reduced from that detailed in the previous planning application WSCC/071/19.
- Paragraph. 3.8 of the committee report details the reasons that planning application WSCC/071/19 had been recommended for refusal before it was withdrawn. In relation to the current application, additional supporting information and documents were provided, as noted in paragraph 4.25 which outlines the differences/changes; this information was not available for the previous application.
- The committee report states that the application has the "potential" to increase noise and impact on air quality. It is felt that this would certainly occur, in part due to the definite increase in HGV movements.

The Committee raised the following points regarding other matters, where no reply by Planning and Legal Officers was required:

- The statistics on the benefit to the local economy, provided in the Socio-Economic Report, amount to four jobs. Because they are specific to the oil industry they would be unlikely to provide employment to local people.
- The potential benefits to the local economy were overstated at £1.7m originally. It was noted that this had been queried and reduced to £815K. The sums are negligible to the county's gross value added per year. The claimed "potential" benefits to the local economy would be temporary and would be insignificant when weighed against the adverse impacts on the local community of noise, HGV movements and air pollution.
- The use of the quote "the UK's domestic oil and gas industry has a critical role in maintaining the country's energy security and is a major contributor to our economy", taken from the government's White Paper 'Powering our Net Zero Future', is misleading. The document makes only a small mention of on-shore oil reserves compared with mention of off-shore sources. The main focus being the transition to renewable energy sources. There is no caution against oil or gas shortages in the report. Since approval of planning application WSCC/040/17/BA in January 2018, public opinion and government policy on climate change has altered in line with the White Paper, with a

commitment to move away from oil production and use of fossil fuels. Climate change trumps all other considerations and there would need to be very exceptional circumstances to approve the current planning application.

- It was disappointing that High Weald AONB Unit did not say more in their response to the application.
- Issues around pollutants and air quality are better understood than they used to be.
- The changes to proposed conditions, as outlined in the Agenda Update Sheet, were noted. However, it was suggested for the future that matters pertaining to landscaping, the Construction Management Plan and hours of work need to be more carefully considered in advance.

The Committee sought clarification on the following matters and responses were provided by Planning and Legal Officers:

- What is the situation in relation to meeting the needs for minerals in some other way?
Response – Paragraphs 9.26 and 9.27 address matters in relation to the need for the development in the current location.
- When would an Environmental Impact Assessment be required? The committee report is not clear as paragraph 5.3 mentions a threshold of more than 0.5 hectares in area (Schedule 2, Part 2(e)) but, paragraph 5.5 states that for Part 2(e) the indicative thresholds refer to a development site of 10 hectares or more, or where production is expected to be more than 100,000 tonnes of petroleum per year.
Response – The thresholds referred to in the report address different legislative requirements. As the proposed development was over 0.5 hectares, a screening assessment was required to determine whether an EIA *may* be necessary. However, as the proposed development was not over 10 hectares or where production is expected to be more than 100,000 tonnes of petroleum per year, an EIA was not formally required.
- In reference to toxicity of the hydrocarbons, are the the oil reserves at the site 'sweet' or 'sour'? This level of detail should be included in order for the Committee to make an informed decision.
Response – The terms 'sweet' or 'sour' refer to the level of sulphur present in hydrocarbons. This is not known for this site.
- To what degree would the site be able to contain a 1 in 100 plus 30% exceptional rainfall situation? What are the arrangements for removal of excess surface water and regular maintenance? How many HGV movements would this involve?
Response – Calculations have been made on the basis of a 1 in 100 plus 30% exceptional rainfall event. Although this had not been considered in the Transport Assessment, it would be expected that the site operator would do everything necessary to remove excess water within the bounds of acceptable HGV movements.

- What type of flare is proposed?
Response - The proposed flare would be enclosed and no flame would be visible.
- What would be the process and outcomes of site restoration? Would this include removal of fluids from the well?
Response – Conditions approved under planning application WSCC/040/17/BA state that “prior to the commencement of development, a scheme of restoration and aftercare specifying the steps to be taken to manage restored land shall be submitted for approval”. This means that details, including the removal of fluids, would need to be agreed by Planning Officers with the site operator.

10.11 The motion below was proposed by Cllr Patel and seconded by Cllr Atkins:

That Planning and Rights of Way Committee refuses the application on the following grounds: the proposed development would represent major development in the High Weald Area of Outstanding Natural Beauty, for which there are no exceptional circumstances, and which is not in the public interest. There are alternative sources of hydrocarbon supply, both indigenous and imported, to meet the national need, there would be minimal benefit to the local economy from the development, and there is scope for meeting the need in some other way, outside of nationally designated landscapes. It would therefore be contrary to Policies M7a and M13 of the West Sussex Joint Local Minerals Plan (2018) and paragraphs 170 and 172 of the National Planning Policy Framework (2019).

The proposal was put to the Committee and approved unanimously.

10.12 Resolved – that the Committee refuses planning application WSCC/045/20 for the reasons set out in minute 10.10 above.

11. Update on Mineral, Waste and Regulation 3 Planning Applications

The Committee received and noted a report by the Head of Planning Services on applications awaiting determination (copy appended to the signed minutes) detailing the schedule of County Matter applications and the schedule of applications submitted under the Town and Country Planning General Regulations 1992 – Regulation 3.

12. Delegated Action - Planning Applications

The Committee received and noted a report by the Head of Planning Services on (copy appended to the signed minutes) applications approved subject to conditions under the Town and Country Planning Act 1990 and Regulation 3 of the Town and Country Planning General Regulations 1992 since the Planning Committee meeting on 2 February 2021.

13. Current Applications and Actions - Path Orders and Consultations

The Committee received and noted a report by the Director of Highways, Transport and Planning, Place Services on the schedule of creations and permissive path proposals, diversions and extinguishment applications and District Council consultations.

14. Delegated Actions - Path Orders and Consultations

The Committee received and noted a report by the Director of Highways, Transport and Planning, Place Services on delegated actions - creations and permissive path proposals, diversions and extinguishment applications and District Council consultations decided between 17 August 2020 and 17 February 2021.

15. Current Applications - Definitive Map Modification Orders and Town and Village Green Applications

The Committee received and noted a report by the Director of Law and Assurance on the schedule of Definitive Map Modification Orders and Town and Village Green applications.

16. Delegated Actions - Definitive Map Modification Orders and Town and Village Green Applications

The Committee received and noted a report by the Director of Law and Assurance on delegated actions - Definitive Map Modification Orders and Town and Village Green applications decided between 17 August 2020 and 17 February 2021.

17. Date of Next Meeting

17.1 The next scheduled meeting of Planning and Rights of Way Committee will be on Tuesday, 30 March 2021 at 10.30 a.m.

17.2 In accordance with regulations in response to the current public health emergency. This meeting may be held virtually with members in remote attendance and with public access via webcasting.

The meeting ended at 1.06 pm

Chairman