

## **Planning and Rights of Way Committee**

**19 March 2024**

### **Mineral Planning (County Matter) Applications**

**WSCC/046/23 - The siting and development of a temporary borehole, well site compound and access road including all ancillary infrastructure and equipment (Variation of condition 1 of planning permission WSCC/002/22 extending the permission by 24 months to enable the completion of phase 4 site retention and restoration)**

**WSCC/047/23 - Temporary installation of a security fence, gates, and cabins (Variation of condition 1 of planning permission WSCC/001/22 to enable the retention of security fencing, gates & cabins for a further 24 months).**

**at Wood Barn Farm, Adversane Lane, Broadford Bridge, Billingshurst, West Sussex, RH14 9ED**

### **Report by Head of Planning Services**

**Local Member: Councillor Charlotte Kenyon**

**Electoral division: Pulborough**

**District: Horsham**

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## **Summary**

This report concerns two planning applications to retain, for an extended period of 24 months (two years), the hydrocarbon exploration well site (application WSCC/046/23) and associated fencing, gates and cabins (application ref. WSCC/047/22) at Wood Barn Farm, Broadford Bridge, near Billingshurst.

The additional two-year period is sought to carry out further off-site appraisal of the hydrocarbon resource, with the site remaining in its current dormant state before being restored and fencing/cabins being removed (if no viable hydrocarbon resource is found). If a viable resource is confirmed, the site and fencing would be retained pending the preparation of a new planning application for further appraisal or production.

This report provides a generalised description of the site and a detailed account of the proposed development and appraises it against the relevant policy framework from national to local level.

The main development plan policies of relevance to this application are Policies M7a, M12, M15, M16, M17, M18, M19, M20, M22, M23 and M24 of the West Sussex Joint Minerals Local Plan (July 2018 – Partial Review March 2021)('JMLP'), and

Policies 1, 10, 24, 25, 26, 31, and 33 of the Horsham District Planning Framework 2015 (HDPF).

Horsham District Council, the Environment Agency, Health and Safety Executive, Southern Water, and the North Sea Transition Authority either raise no objection or have provided no comment in respect of the applications. West Chiltington Parish Council object to the proposals, considering the site should be restored immediately. Internal (WSCC) consultees including the County Ecologist, County Arboriculturist, Highway Authority, and Lead Local Flood Authority have raised no objection to the proposals. In principle, the County Councillor for Pulborough, Cllr Charlotte Kenyon, is not in favour of repeated extensions in time for the site. She also questions whether the activities are temporary and considers that continued extensions are contrary to the wishes of the local community who wish to see the site restored.

For the application for the retention of the well site (ref. WSCC/046/23), 103 representations have been received, 102 of which object to the development, and one expresses support. For the application for the retention of fencing/gates application (ref. WSCC/047/23), one representation has been received in objection to the development.

### **Consideration of Key Issues**

The main material planning considerations in relation to the two applications are:

- Need for the development;
- Impact on landscape character; and
- Restoration of the site.

### ***Need for the Development***

The proposals from part of the appraisal phase of hydrocarbon development the need for which is attributed great weight by national and local policy. The applicant seeks an extension in time to restore the site to allow for further appraisal of the target geology for exploitation of hydrocarbons. This would be informed by the collection and analysis of data from the other sites that share geological commonality with the application site; that data would help determine the extent of reserves, the mix of hydrocarbons, flow rates and pressures at play, and thus inform the viability of the application site for future recovery of hydrocarbon resources (and/or need for further testing and appraisal). However, the applicant's collection and appraisal of data from other sites has been significantly delayed by legal challenges over the past four/five years. Overall, the need for/benefits of hydrocarbon appraisal is supported by national and local policy and attracts great positive weight in the planning balance. Furthermore, it is considered that there is a justified need for the proposed extensions in time to undertake appraisal in accordance with Policy M23 of the JMLP.

### ***Impact on Landscape Character***

The proposals would result in the continued retention of a site not wholly in keeping with its countryside location for a further two-years, extending the period for which any impacts on landscape character of the locality would be experienced. However, the site does not fall within a protected landscape, and the temporary nature of the proposals and the secluded location of the site within a heavily wooded and well-

screened area, is such that the impact on the character of the area is largely limited. The requirement to restore the site to its original agricultural condition would remain, which would ensure that the proposals would not result in any permanent impact on the area following completion of restoration. Overall, it is considered that the proposals accord with Policies M12 and M23 of the JMLP and Policies 25, 26, and 33 of the HDPF and that the potential for adverse impacts on landscape character attract little negative weight in the planning balance.

### ***Restoration of the Site***

A restoration scheme for the site has already been agreed. The current applications do not result in any change to the scheme, rather a delay as to when it would be carried out. Although this is the fifth extension in time sought by the applicant, there have been mitigating factors including a change in ownership and legal challenges to the development of other, related sites, which would provide valuable information about the identified resource, including whether it could be economically exploited. Overall, given the identified need for appraisal and the limited impact on the character of the area, it is considered that a delay to the restoration of the site for a further two years attracts little negative weight in the planning balance.

### **Overall Conclusion**

The two planning applications propose a 24-month (two-year) extension of time to allow for retention of the well site and associated fencing, gates, and cabins at the hydrocarbon site at Broadford Bridge. The proposals would result in retention of the site in a dormant state until its final restoration to be required by 31 March 2026. This is to allow further off-site appraisal of the hydrocarbon resource to be carried out.

National and local policy supports oil and gas appraisal and justified extensions in time thereto, subject to any unacceptable impacts on the environment and communities being minimised and/or mitigated to an acceptable level.

It is considered that there is a justified need for the proposed extension in time sought to allow for further appraisal of the viability of the target hydrocarbon resource through analysis of other sites that may share commonality with target hydrocarbon discovery.

The proposals would result in the continued retention of a site of an industrial character not wholly in keeping with its countryside location for a further two-years, extending the period for which any impacts on landscape character would be experienced. However, the site does not fall within a protected landscape, it is enclosed and well-screened from public views, and is temporary in nature. Accordingly, the potential for any negative impact on landscape character is largely limited.

Many third-party objections highlight the need to ensure proposals for temporary minerals development are restored at the earliest opportunity in accordance with the JMLP, NPPF and PPG. However, there is a need for flexibility to take account of changing circumstances. In this specific case, it is considered that there have been mitigating factors including a change in ownership and legal challenges to the

development of the other sites, which would provide valuable information about the identified resource.

Other than final plugging of the well and restoration towards the end of the two-year period sought (which have already been considered acceptable through previous permissions), no physical works are proposed. The only change would be in the delay to the restoration of the site, which would be subject to previously accepted conditional controls being carried over and updated (as appropriate) from the 2022 planning permissions.

In conclusion, the applications for an extension of time to enable further detailed evaluation/appraisal of the hydrocarbon resource are considered justified and would not give rise to unacceptable impacts on people or the environment.

Overall, it is considered that the proposed development accords with the statutory development plan when read as a whole. Furthermore, there are no material considerations in this case that indicate a decision other than in line with the statutory development plan. In favour of the proposal, the need for the development carries great weight. Against the scheme, the potential for adverse impacts on landscape character and a further delay to restoration of the site carry little weight. Therefore, on balance, it is considered that the benefits of the proposal outweigh the disbenefits and, as such, the proposed development constitutes sustainable development (as defined in paragraphs 7 and 8 of the NPPF).

## **Recommendations**

- (a) That planning permission be granted for planning application ref. WSCC/046/23 subject to the conditions and informatives set out at **Appendix 1.**
- (b) That planning permission be granted for planning application ref. WSCC/047/23 subject to the conditions and informatives set out at **Appendix 2.**

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## **1. Introduction**

- 1.1 This report concerns two planning applications to retain, for an extended period of 24 months (two years), the hydrocarbon exploration well site (application ref. WSCC/046/23) and associated fencing, gates and cabins (application ref. WSCC/047/23) at Wood Barn Farm, Broadford Bridge, near Billingshurst.
- 1.2 The site benefits from planning permissions for the retention of the site and the fencing, gates and associated structures until 31 March 2024 (refs. WSCC/001/22 and WSCC/0002/22).
- 1.3 These applications seek an additional two-year period to carry out further off-site appraisal of the hydrocarbon resource, after which the site would be restored (and the fencing removed) if no viable hydrocarbon resource is proven. If a viable resource is confirmed, the site and the fencing would be

retained pending the preparation of a new planning application for further appraisal or production.

- 1.4 For the avoidance of doubt, all construction/site set-up activity, mobilisation and drilling and the testing of the borehole have been completed. The current applications only seek the additional time to retain the site in its dormant state to allow time to review data from other boreholes in the wider Weald Basin formation and to complete the restoration of the site.

## **2. Site and Description**

- 2.1 The site, which is the subject of the two applications, is located in the countryside in the parish of West Chiltington, in Horsham District, approximately 7km to the south-east of Horsham and 3km to the south of Billingshurst.
- 2.2 The drilling pad and main operational area is set back 430m from the western side of Adversane Lane (the B2133), accessed via a purpose-built crushed stone track (**Appendix 3 – Site Location Plan**). Currently the only visible elements on site are the well-pad itself (with a container protecting the well-head/borehole), the access track, and the surrounding fencing and gates. All drilling equipment, storage tanks, pumps, separators and any other plant required for the testing phase, has been removed (**Appendix 4 – Retention Mode**).
- 2.3 The site is surrounded on all sides by woodland and arable fields, typically enclosed with hedgerows. The most significant areas of woodland consist of Pocock's Wood to the north-west and Prince's Wood approximately 150m to the east, the latter being designated as Ancient Woodland.
- 2.4 The local area is generally characterised by gently undulating farmland enclosed by mature hedgerows and scattered woodland blocks. The settlement pattern comprises a network of farmsteads and associated agricultural workings alongside smaller villages, groups of residential properties and individual cottages and homes, some of which are Listed Buildings (the closest being Broadford Bridge Farmhouse 500m to the east). The closest area of development lies approximately 300m to the east and consists of a number of poultry houses at Homefield Farm. Further to the east of the poultry houses is the main farmhouse and other detached properties associated with the hamlet of Broadford Bridge. The most significant populated area is the village of Billingshurst which lies approximately 3km to the north of the site, while Pulborough is approximately 4km to the south-west.
- 2.5 There is a network of public footpaths and bridleways in the locality. The closest Public Rights of Way pass approximately 300m to the north-west between Wood Barn Farm and Gay Street Farm, and 210m to the south-east between Homefield Farm and Gatewick Copse.

## **3. Relevant Planning History**

- 3.1 Planning permission was initially granted in February 2013 for *"The siting and development of a temporary borehole, well site compound and access road including all ancillary infrastructure and equipment, on land at Wood Barn*

*Farm, Broadford Bridge, for the exploration, testing and evaluation of hydrocarbons in the willow prospect"* (ref. WSCC/052/12/WC). The permission for exploration and appraisal was to be undertaken in four main phases as follows:

<b>Phase</b>	<b>Best Case Scenario</b>	<b>Worst Case Scenario</b>
<b>Phase 1</b> Construction	6 weeks	6 weeks
<b>Phase 2</b> Mobilisation and Drilling	6 weeks	10 weeks (includes 4 week contingency)
<b>Phase 3a</b> Testing (gas)	1 week (includes mobilisation, 1 week test with rig and flaring)	2 weeks (includes mobilisation, 2 weeks test with rig and flaring)
<b>Phase 3b</b> Testing (oil)	2 weeks (includes mobilisation, 1 wk test with rig and flaring)	14 weeks (2 weeks mobilisation, 12 weeks testing, but rig would not be at site during an extended test such as this)
<b>Phase 4a</b> Restoration	6 weeks	6 weeks
<b>Phase 4b</b> Retention	1 month	30 months

- 3.2 The applicant subsequently determined that a temporary security fence and cabins would be required, so a separate planning permission (ref. WSCC/037/14/WC) was sought and granted in September 2014.
- 3.3 As a result of delays in the commencement of drilling impacted by a change in operator, both temporary planning permissions were extended by 12 months in September 2017, allowing a *"further 12 months of continued operations to enable the completion of phase 3 testing and phase 4 restoration or retention"* (ref. WSCC/029/17/WC and WSCC/032/17WC).
- 3.4 Since the completion of the testing phase in March 2018, further temporary planning permissions to extend the period to complete the restoration of the site and remove fencing were granted. Application refs WSCC/032/18/WC and WSCC/033/18/WC were granted in September 2018 allowing an additional 18 months to 31 March 2020, application refs WSCC/078/19 and WSCC/079/19 were granted in July 2020 allowing an additional 24 months to 31 March 2022, and application refs WSCC/001/22 and WSCC/002/22 were granted in May 2022 allowing an additional 24 months until 31 March 2024. These permissions were sought to enable further analysis of data, including from other sites, which could inform the viability of hydrocarbon resource found.
- 3.5 Since the completion of Phase 3 in March 2018, the site has remained in the 'retention' phase.

#### **4. The Proposal**

- 4.1 Planning application ref. WSCC/046/23 relates to the well site and seeks to amend condition 1 of planning permission ref. WSCC/002/22 which states:

*"This permission shall be for a limited period only expiring on 31 March 2024, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery, including foundations, hard standings shall have been removed from the site, and the site shall be restored in accordance with the approved restoration scheme (ref. Well Site Restoration Layout Plan – KOG-LL-BB-PA-XX-09 Rev 2)."*

*Reason: To secure the proper restoration of the site following the approved period for this temporary development"*

- 4.2 Planning application ref. WSCC/047/23 relates to the associated security fencing and cabins and seeks to amend condition 2 of planning permission ref. WSCC/001/22 which states:

*"This permission shall be for a limited period only expiring on 31 March 2024, by which date the fencing, gates and structures hereby approved shall be removed from the site, and the site restored in accordance with the approved restoration scheme (ref. Well Site Restoration Layout Plan – KOG-LL-BB-PA-XX-09 and Landscape Proposals – 1377-3001 Rev 01)."*

*Reason: To secure the proper restoration of the site following the approved period for this temporary development."*

- 4.3 In summary, approval is now sought to extend both permissions until 31 March 2026 to allow for a further two-year period to review technical data from other boreholes in the wider Weald Basin formations. The applicant states that the potential viability of the site and, therefore, its future will be informed by data retrieved from other boreholes that are targeting the same geological formation within the wider Weald Basin.
- 4.4 While future data sought from the appraisal of other sites is awaited, the site would be held in its 'retention mode' (see paragraph 2.2. above), essentially maintaining the site in its current dormant state (**Appendix 6 – Site Photos**). If further review of data from other sites indicates that there is not a viable hydrocarbon resource at the application site, the well would be permanently plugged and abandoned and all structures, security fencing, cabins, plant, foundations, and hardstanding would be removed. The site surface would then be reprofiled using stored soils and allowed to regenerate naturally to its former agricultural condition, in line with the approved restoration plan (**Appendix 5 – Restoration Layout Plan**). This would be undertaken in the planting season from October 2025-March 2026.
- 4.5 If data confirms the site is viable, a new planning application would be prepared to retain the site for either further appraisal or production.
- 4.6 For the avoidance of doubt, no further drilling or testing activities are sought by the current applications and all operations at the well site have been suspended, with permission being sought to retain the site in its current dormant state. Hydraulic fracturing ('fracking') was not permitted under any previous permissions, is not proposed under the current applications, and it could not be carried out at the site without further permissions and authorisations being secured.

## **5. Environmental Impact Assessment (EIA) and Habitat Regulations Assessment (HRA)**

### ***Environmental Impact Assessment***

- 5.1 The proposals do not comprise Schedule 1 development, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations').
- 5.2 The original application submitted in respect of the approved development proposals (ref. WSCC/052/12/WC) was voluntarily accompanied by an Environmental Statement as proposals which may fall within the EIA Regulations, Schedule 2, Part 2 (e) 'Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale'. The Screening threshold set out in column 2 to Schedule 2 for such development is where 'The area of the development exceeds 0.5 hectare'.
- 5.3 The development proposals are also considered to fall within Schedule 2, Part 13(b) as relating to a 'change to or extension of development of a description listed in paragraphs 1 to 12 of Column 1 of this table (Schedule 2), where that development is already authorised, executed or in the process of being executed.'
- 5.4 Although the site is not located within a 'sensitive area' as defined in the EIA Regulations, the site (including the access track) extend to 2.12 hectares in area, exceeding the 0.5 hectare threshold set out in Column 2 to Schedule 2. As a result, with reference to Schedule 3 of the EIA Regulations, consideration needs to be given as to whether the proposed variations amendments to the approved developments, along with the existing, approved development has the potential to result in 'significant environmental effects' that require an EIA.
- 5.5 Planning Practice Guidance (PPG) on Environmental Impact Assessment (26 March 2015) sets out 'Indicative screening thresholds' when considering whether EIA is necessary. For part 2(e) 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. The present proposals would not fall within either of these criteria. The key issues to consider are the scale of development, emissions to air, discharges to water, risk of accidents and arrangements for transporting the fuel.
- 5.6 In this case, the development site is relatively small in scale, as is the physical development, no further activities/works beyond those previously approved are proposed (the site being held in its current dormant state), and temporary permissions are being sought. As a result, any potential for emissions is not considered to be significant, any potential for emissions to air are limited and controlled through the Environmental Permitting process, and the risk of accidents is also limited as no transport of fuel is proposed, and the site would be regulated by the Health and Safety Executive (HSE). No potentially significant impacts have been identified when considering the key issues.
- 5.7 In approving the previous applications, it has been determined that the development would not be likely to result in significant impact on people or



the environment. Given the similarities between these proposals and those previously approved (and which have now been largely completed), these conclusions are relevant when considering whether EIA is necessary, even when taking into account the increased period of time.

- 5.8 Taking into account the EIA Regulations, it is considered that the proposals would not have the potential for significant effects on the environment, within the meaning of the EIA Regulations. Therefore, an EIA is not considered necessary for either of the application proposals.

### ***Habitats Regulations Assessment***

- 5.9 Under 'The Conservation of Habitats and Species Regulations 2017 (as amended)' (the 'Habitats Regulations') all planning applications that may affect the protected features of a protected European Habitat Site require consideration of whether the plan or project is likely to have significant effects on that site.
- 5.10 The proposals do not propose any further physical development or activities beyond those previously approved. Also, given the distance from European Habitat Sites and ecological appraisals have not identified any potential for significant impacts on habitats and species, the proposals are not considered to have the potential for a likely significant effect on any European Habitat Site.
- 5.11 The application site falls within the Sussex North Water Supply Zone which draws its water supply from groundwater abstraction in the Arun Valley. Natural England has issued a Position Statement, which states that it cannot be concluded with the required degree of certainty that any new development, which would increase the use of the public water supply in this zone, would not contribute to an adverse effect on the integrity of the Arun Valley, a Special Area of Conservation (SAC), Special Protection Area (SPA), and Ramsar site.
- 5.12 With specific regard to water neutrality, HRA screening has been undertaken, which concludes that, without mitigation in place, the proposal will not have a 'likely significant effect' on the designated features of the Arun Valley site, either alone or in combination with other plans and projects. Therefore, an Appropriate Assessment is not required, and the proposals would not conflict with the County Council's obligations under the Regulations.

## **6. Policy**

### **Statutory Development Plan**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the statutory 'development plan' unless material considerations indicate otherwise (as confirmed in paragraph 2 of the National Planning Policy Framework (NPPF)). For the purposes of the applications, the following documents form the statutory development plan: West Sussex Joint Minerals Local Plan (July 2018 – Partial Review March 2021), and the Horsham District Planning Framework (2015).

6.2 All key policies in the development plan, which are material to the determination of the application, are summarised below. In addition, reference is made to relevant national Planning Practice Guidance, and national policy which guide the decision-making process and can be material to the determination of the application.

**West Sussex Joint Minerals Local Plan (July 2018 – Partial Review March 2021)('JMLP')**

6.3 The JMLP was adopted in July 2018, subsequently reviewed with formal revisions adopted in March 2021, and covers the period up to 2033. It is the most up-to-date statement of the County Council's land-use planning policy for minerals. It accords with the approach taken in the NPPF and should be given significant weight when considering this application.

6.4 Policy M23 of the JMLP is of key relevance to the present applications, relating to 'Design and Operation of Minerals development' and requiring:

*"Proposals to vary conditions of existing consents to extend the time limit for working and/or final restoration of sites must demonstrate the need for the development and its acceptability in terms of other relevant policies of this Plan".*

6.5 Supporting text to Policy M23, at paragraph 8.12.8 clarifies that "*Such extensions may be acceptable provided that there is a need for the activity, and they do not result in unacceptable impacts on the environment and communities.*"

6.6 The other policies of relevance to the proposal are as follows:

- Policy M7a: Hydrocarbon development not involving hydraulic fracturing Provides support for proposals for oil and gas exploration and appraisal, subject to certain criteria including the demonstration that the site represents an acceptable environmental option, consideration of potential impacts on the communities and the environment, and restoration of the site being secured.
- Policy M12: Character – supports development which would not have an unacceptable impact on the character, distinctiveness, sense of place of the different areas of the County;
- Policy M15: Air and Soil – supports development which would not have unacceptable impacts on the intrinsic quality of air and soil or their management;
- Policy M16: Water Resources – supports development which would not cause unacceptable risk to water quality or quantity;
- Policy M17: Biodiversity and Geodiversity – supports development which avoids/mitigates/remedies significant harm to wildlife species and habitats;
- Policy M18: Public Health and Amenity – supports development which would not result in an unacceptable impact on public health and amenity through lighting, noise, dust, odours, vibration, and other emissions and that routes and amenity of public rights of way are safeguarded;

- Policy M19: Flood Risk Management – Seeks to ensure measures are provided to an appropriate standard so that there would not be an increased risk of flooding on the site or elsewhere;
- Policy M20: Transport – supports development with adequate transport links; is capable of using the Lorry Route Network rather than local roads; does not have an unacceptable impact on highway capacity; provides safe access to the highway; provides vehicle manoeuvring/parking on site; and minimises vehicle movements;
- Policy M22: Cumulative Impact – supports development provided an unreasonable level of disturbance does not result from cumulative impact;
- Policy M24: Restoration and Aftercare – supports development with restoration schemes which ensure that land is restored at its earliest opportunity to a high quality.

### **Horsham District Planning Framework (2015)('HDPF')**

6.7 The HDPF was adopted in November 2015 and forms part of the 'Development Plan'. The relevant policies are:

- Policy 1 - Sustainable Development;
- Policy 10 - Rural Economic Development
- Policy 24 - Environmental Protection;
- Policy 25 - Natural Environment and Landscape Character;
- Policy 26 - Countryside Protection;
- Policy 31 - Green Infrastructure and Biodiversity; and
- Policy 33 - Development Principles.

### **National Planning Policy Framework (December 2023) ('NPPF')**

6.8 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF does not form part of the development plan but is a material consideration in determining planning applications.

6.9 The key relevant paragraphs of the NPPF relevant to the proposed development are: 11 (presumption in favour of sustainable development), 47 (determining applications in accordance with the development plan), 55-58 (planning conditions and obligations), 104 (protect and enhance public rights of way), 114 (Transport and considering development proposals), 157 (meeting the challenge of climate change) 173 (flood risk and ensuring flood risk is not increased elsewhere), 180 (conserving and enhancing the natural environment), 186 (habitats and biodiversity in determining planning applications), 189-190 (ground conditions and pollution), 191 (effects on health, living conditions and the natural environment including from noise and lighting), 194 (control and processing of emissions are subject to separate pollution control regimes), 215 (ensuring the essential supply of minerals to meet the needs of the country; highlights that minerals can only be worked where they are found), 217 (great weight to be given to the extraction of minerals, and key considerations for proposals for minerals extraction including restoration at the earliest opportunity), and 221 (clearly

distinguishing between exploration, appraisal and production phases and ensuing appropriate monitoring/site restoration).

### **National Planning Practice Guidance (PPG)**

- 6.10 PPG is a web-based resource that sets out the Government's planning guidance to be read in conjunction with the NPPF. It does not form part of the development plan but is a material consideration in determining planning applications.
- 6.11 PPG: Minerals (October 2014) sets out the Government's approach to planning for mineral extraction in both plan-making and the planning application process.
- 6.12 Paragraph 12 sets out the relationship between planning and other regulatory regimes noting that *"the focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under regimes. Mineral planning authorities should assume that these non-planning regimes will operate effectively."*
- 6.13 Paragraph 13 sets out the environmental issues minerals planning authorities should address including noise, air quality, lighting, visual impact, landscape character, traffic, risk of contamination to land, geological structure, flood risk, ecological networks, site restoration and aftercare, surface and in some cases ground water issues, and water abstraction.
- 6.14 Paragraph 37 sets out when site restoration should be considered. It states: *"The most appropriate form of site restoration to facilitate different potential after uses should be addressed in both local minerals plans, which should include policies to ensure worked land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites takes place, and on a site-by-site basis following discussions between the minerals operator and the mineral planning authority."*
- 6.15 Paragraphs 91 to 127 relate specifically to hydrocarbon extraction.
- 6.16 Paragraphs 99-100 explains the appraisal phase of hydrocarbon extraction noting it *"takes place following exploration when the existence of oil or gas has been proved, but the operator needs further information about the extent of the deposit or its production characteristics to establish whether it can be economically exploited"* and that it *"...may involve additional drilling at another site away from the exploration site or additional wells at the original exploration site...Much will depend on the size and complexity of the hydrocarbon reservoir involved"*.
- 6.17 Paragraph 110 sets out the key regulators in addition to the Mineral Planning Authority, namely:
- Department of Energy and Climate Change (now principally the North Sea Transition Authority): issues petroleum licences, gives consent to drill, responsibility for assessing risk of and monitoring seismic activity, grant consent for flaring or venting;

- Environment Agency: protects water resources (including groundwater aquifers), ensures appropriate treatment of mining waste, emissions to air, and suitable treatment/management of naturally occurring radioactive materials (NORMs); and
- Health and Safety Executive: regulates safety aspects of all phases of extraction, particularly ensuring the appropriate design and construction of a well casing for any borehole.

6.18 Paragraph 112 reaffirms the responsibility of the above authorities and associated regulatory regimes, and highlights that *“minerals planning authorities should assume that these regimes will operate effectively”* and that minerals planning authorities *“should not need to carry out their own assessment as they can rely on the assessment of other regulatory bodies”*.

6.19 Paragraph 120 makes clear that each phase of hydrocarbon proposals must be considered on their own merits, and that minerals planning authorities should not take account of hypothetical future activities for which consent has not yet been sought since they will be the subject of separate planning applications and assessments.

6.20 Paragraph 124 sets out how minerals planning authorities should consider the demand for hydrocarbons and whether there is a need to consider alternatives to oil and gas resources. It states *“Mineral planning authorities should take account of government energy policy, which makes clear that energy supplies should come from a variety of sources. This includes onshore oil and gas, as set out in the government’s Annual Energy Statement published in October 2013”*.

6.21 Paragraph 127 sets out how minerals planning authorities should consider the delivery of restoration and aftercare. It states: *“Mineral planning authorities will ensure the proper restoration and aftercare of a site through imposition of suitable planning conditions and, where necessary, through section 106 Agreements...”*

### **Overarching National Policy Statement for Energy (EN-1) November 2023 (“NPS EN1”)**

6.22 This highlights the role that fossil fuels have in the UK’s energy supply and that they will continue to be needed to provide for heating, cooking, electricity and transport, and the production of many everyday essentials like medicines, plastics, cosmetics and household appliances, during the transition to a net zero economy.

### **The Annual Energy Statement (2013)**

6.23 This set out the Government’s commitment to maximising indigenous resources, onshore and offshore, where cost-effective and in line with safety and environmental regulations to help ensure security of supply. It also noted oil and gas as remaining key to the energy system for years to come despite increasing renewable energy sources.

## **The Energy White Paper: Powering our Net Zero Future (2020)**

- 6.24 This recognises the critical role of domestic oil in maintaining energy security and as a major contributor to the economy. However, it is also made clear that, during the transition to net-zero carbon emissions, the vast majority of oil supplies are from North Sea offshore production with the smaller proportion from the onshore oil and gas sector.

## **British Energy Security Strategy (April 2022) ("BESS")**

- 6.25 The BESS identifies the continuing need for oil, even as the UK transitions to net-zero. On page 5, it states that *"Even as we reduce imports, we will continue to need gas to heat our homes and oil to fill up our tanks for many years to come – so the cleanest and most secure way to do this is to source more of it domestically with a second lease of life for our North Sea. Net zero is a smooth transition, not an immediate extinction, for oil and gas."*

## **7. Consultations**

### **WSCC/046/23 (Well-site)**

- 7.1 **Horsham District Council:** No objection.
- 7.2 **Horsham District Council (Environmental Health Officer - EHO):** No comments received.
- 7.3 **West Chiltington Parish Council:** Objection. The site should be immediately restored. If a further extension is allowed, a bond should be secured to ensure the land is restored.
- 7.4 **Environment Agency:** No objection. Note the requirement for an Environmental Permit or variation thereto.
- 7.5 **Southern Water:** No comments received.
- 7.6 **Health and Safety Executive:** No comments to make.
- 7.7 **Naturespace 'newt officer':** Proposed development presents a low risk to great crested newts and/or their habitats.
- 7.8 **North Sea Transition Authority:** No comments received.
- 7.9 **WSCC Highways:** No objection. Conditions relating to the approved site access and construction traffic management must be taken forward.
- 7.10 **WSCC Ecology:** No objection.
- 7.11 **WSCC Arboriculturist:** No objection. Recommend conditions relating to approved tree protection measures and restoration landscaping are taken forward. Also request approved infill hedgerow planting is carried out without further delay (as would be unaffected by future restoration proposals).
- 7.12 **WSCC Lead Local Flood Authority (LLFA):** No objection.

7.13 **WSCC Councillor Charlotte Kenyon:** In principle, is not in favour of repeated extensions in time for the site. Questions whether the activities are temporary and raises concerns about continued extensions on speculative and uncertain grounds, contrary to the wishes of the local community who wish to see the site restored. It also undermines confidence in the planning system.

***WSCC/047/23 (Security fencing and cabins)***

7.14 **Horsham District Council:** No objection

7.15 **West Chiltington Parish Council:** No comments received.

7.16 **Environment Agency:** No comments received.

7.17 **Southern Water:** No comments received.

7.18 **Health and Safety Executive:** No comments to make.

7.19 **Naturespace Newt Officer:** Proposed development presents a low risk to great crested newts and/or their habitats.

7.20 **North Sea Transition Authority:** No comments received.

7.21 **WSCC Highways:** No objection. Conditions relating to the approved site access and construction traffic management must be taken forward.

7.22 **WSCC Ecology:** No objection.

7.23 **WSCC Arboriculturist:** No objection.

7.24 **WSCC Lead Local Flood Authority (LLFA):** No objection.

7.25 **WSCC Councillor Charlotte Kenyon:** In principle, is not in favour of repeated extensions in time for the site. Questions whether the activities are temporary and raises concerns about continued extensions on speculative and uncertain grounds, contrary to the wishes of the local community who wish to see the site restored. It also undermines confidence in the planning system.

## **8. Representations**

8.1 The applications were publicised in accordance with The Town and Country Planning (General Development Procedure) (England) Order 2015. This involved the erection of three site notices located around the application site, an advertisement in the local newspaper, and thirty-two neighbour notification letters.

8.2 The application for the retention of the well site (ref. WSCC/046/23) received 103 representations, 102 of which object to the development and one expresses support. The application for the retention of fencing/gates application (ref WSCC/047/23), received one representation objecting to the development.

8.3 The main issues for both applications raised through objections, are, in summary:

- The applicant has had more than long enough to reach a decision on the well's future and the site must now be restored. National and local planning policy require the site be restored at the earliest opportunity;
- Time periods sought are not long enough and further extensions of time will be sought. Potential to lead to further hydrocarbon development that would not be acceptable;
- Planning committee have previously made comments that suggest further extensions in time will need to be given thorough consideration and that patience is wearing thin;
- WSCC must enforce the restoration requirements to maintain public confidence in the planning system;
- A financial guarantee/bond for restoration must be required from the applicant to protect from potential insolvency and avoid potential costs to the public purse;
- Concerns over the applicant's track record with failure to restore and environmental responsibility, and lack of honesty;
- A viable hydrocarbon resource has not been discovered nor are there prospects of it being commercially viable here – no justification for further appraisal or to retain the site for an additional period;
- No need for hydrocarbon development, any theoretical future production volumes would be small in the UK context and would not benefit energy security. No benefit to the local population;
- Contrary to Government Policy, the UK Climate Emergency and achieving 'Net Zero'. Not compatible with WSCC Climate Change Strategy. Hydrocarbon development is not sustainable, nor appropriate, will contribute to climate change/cause global warming. Alternative renewable energy sources should be pursued.
- Previous drilling activities may have given risen to contamination/harm to the water environment. The proposed development and retention of the well could result in it leaking and/or causing impacts on the water environment/drinking water;
- Potential for pollution from hydrocarbon development associated with emissions to air/land/water, earthquakes being caused, risk to human health, impacts on drinking water.
- Impacts on residential amenity associated with noise, lighting and dust emissions and through increased HGV movements on the Highway Network;
- HGVs cause damage to roads;
- Any future geothermal potential is completely speculative, not feasible from this well/location, and could give rise to significant environmental impacts;
- Negative impacts on landscape and rural locality/character of the area and countryside location. The development is an eyesore and impacts on natural beauty;



- Impacts on biodiversity/wildlife and habitats including bats, birds and ancient woodland. no biodiversity net gain, and negative impact on wildlife, and natural habitat;
- Increased surface water run-off from the site causes flooding and damage to properties downstream.

8.4 The main issues raised through support, are, in summary:

- Protests and legal challenges have delayed hydrocarbon operations and appraisal at sites that would inform the viability of this site – more time is needed.

## **9. Consideration of Key Issues**

9.1 The main material planning considerations in relation to the two applications are:

- Need for the development;
- Impact on the landscape character;
- Restoration of the site.

### **Need for the Development**

9.2 Overall, national and local policy are supportive of the supply and utilisation of mineral resources within acceptable environmental constraints, with great weight afforded to the benefits of mineral extraction, including to the economy. This includes consideration of onshore hydrocarbon development, for which there are three main phases: exploration, testing (appraisal), and production.

9.3 The proposals are for an extension in time to carry out further appraisal of potential for hydrocarbon deposits. PPG states "*The appraisal phase takes place following exploration when the existence of oil or gas has been proved, but the operator needs further information about the extent of the deposit or its production characteristics to establish whether it can be economically exploited*" (Paragraph 099, Reference ID: 27-099-20140306).

9.4 The current applications relate solely to the appraisal phase, which is a necessary precursor to any future production and without which it would not be possible to identify the extent and economic viability of the identified resource. The need for, and potential benefits of, the appraisal phase of hydrocarbon development must be attributed great weight in accordance with national and local policy. Furthermore, granting permission for these applications would not create any presumption in favour of consent for subsequent phases, including for further appraisal or production.

9.5 Policy M23 of the JMLP specifically provides for justified extensions in time to time-limited mineral operations. In this regard, the applicant seeks planning permission to retain the existing site until 31 March 2026 to allow for a further two-year period to review the technical data obtained from other boreholes in the wider Weald Basin formations. During this period, the site would be held in its 'retention mode' (see paragraph 2.2. above), essentially maintaining the site in its current dormant state. If further review of data

from other sites indicates that there is not a viable hydrocarbon resource, the site would be restored (see paragraph 4.4 above).

- 9.6 PPG states "*The appraisal phase can take several forms including additional seismic work, longer-term flow tests, or the drilling of further wells. This may involve additional drilling at another site away from the exploration site or additional wells at the original exploration site. ... Much will depend on the size and complexity of the hydrocarbon reservoir involved*" (Paragraph: 100 Reference ID: 27-100-20140306).
- 9.7 The applicant states that the potential viability of hydrocarbon discoveries at the site (and thus its future) will be informed by data retrieved from other boreholes that are targeting linked geological formations within the wider Weald Basin. The applicant considers the data from other sites is critical to the future planning and viability of the application site and do not wish to prematurely restore a site where future hydrocarbon extraction may still be viable and/or further appraisal could inform the viability of the target geology for exploitation of hydrocarbons.
- 9.8 In particular, the applicant is awaiting the outcome of further appraisal of the Horse Hill well-site in Surrey (north of Gatwick Airport) where it is suggested initial findings indicate the potential for linked continuous oil deposits in the Kimmeridge Limestone and Portland geological horizons. The applicant states that further works are necessary at the Horse Hill site to determine: production performance; the connectivity/similarity of geological formations common to the sites; and the potential presence of an open and continuous network of hydrocarbon deposits capable of flowing to surface without stimulation. These matters would affect the future viability of the application site for further appraisal or hydrocarbon production (which would require further planning permissions).
- 9.9 However, the works at Horse Hill have been significantly delayed by an ongoing legal challenge to the Surrey County Council (SCC) planning permission approving hydrocarbon production at the site in September 2019. The challenge was dismissed in the High Court of Justice in December 2020, dismissed in the Court of Appeal in February 2022, and now is under the consideration of the Supreme Court (hearing in June 2023 - outcome pending).
- 9.10 The applicant has also been awaiting the outcome of legal challenges to the planning approval of a hydrocarbon exploration, testing and appraisal development at Loxley in Surrey (granted on appeal by the Secretary of State in June 2022 following SCC's refusal of planning permission in December 2020). This site falls within the same Petroleum Exploration and Development Licence (PEDL) area (east of Dunsfold), and the applicant states that it would target the same Kimmeridge limestone reservoirs; therefore, it would provide geological data of direct relevance to the future of the application site. Implementation of development at Loxley has been delayed by an ongoing legal challenge to the appeal decision to grant planning permission. The challenge was dismissed in the High Court of Justice in July 2023 and a subsequent request to challenge that decision was refused on 9 January 2024.

- 9.11 The applicant has stated in the application that the borehole on the site may have the potential to be repurposed for the recovery of geothermal heat and are investigating the site's potential as a private agricultural heat source for commercial fruit, vegetable, or tea production. However, the recovery of geothermal heat does not form part of the current proposals and any future proposals for geothermal energy would require planning permission in their own right. Accordingly, the potential future repurposing of the site for geothermal energy recovery is not a material consideration in the determination of the current applications.
- 9.12 In conclusion, the proposals from part of the appraisal phase of hydrocarbon development the need for which is attributed great weight by national and local policy. The applicant seeks an extension in time to restore the site to allow for further appraisal of the target geology for exploitation of hydrocarbons. This would be informed by the collection and analysis of data from the other sites that share geological commonality with the application site; that data would help determine the extent of reserves, the mix of hydrocarbons, flow rates and pressures at play, and thus inform the viability of the application site for future recovery of hydrocarbon resources (and/or need for further testing and appraisal). However, the applicant's collection and appraisal of data from other sites has been significantly delayed due to legal challenges over the past four/five years. Overall, the need for/benefits of hydrocarbon appraisal are supported by national and local policy and attracts great weight in the planning balance. Furthermore, there is a justified need for the proposed extensions in time to undertake appraisal in accordance with Policy M23 of the JMLP.

### **Impact on Landscape Character**

- 9.13 The applications have the potential to adversely affect the landscape character of the area through the retention of hardstanding, ancillary structures, and security fencing/cabins in a countryside location for an additional period of two years, and through disturbance during the final plugging of the well restoration of the site.
- 9.14 The site is located adjacent to agricultural land within a rural countryside area characterised by open fields and woodland; however, it does not fall within a protected landscape. At present, the key visible elements of the site comprise the well-pad, access track, and security fencing/gates/bund surrounding the main well-site (with the fence being a total of 4m in height including the wire top). No changes are proposed to the existing site, and it is notable that site access onto Adversane Lane was an existing field access prior to the development being permitted, albeit now widened and with a 2.5m high gate. (**Appendix 6 – Site Photos**).
- 9.15 The proposals also include provision for a fire water tank, on-site security accommodation, and two prefabricated containers within the main well-site (the largest being 3m x 7m and 3m in height) and approximately 50m from Adversane Lane, a prefabricated cabin to control vehicular access to the site (3m x 2m and 3m in height). Although they are not currently on site, they have previously been in place during operational activities and may be required again during the final restoration of the site.

- 9.16 The well-site and security fencing is of an industrial character not wholly in keeping with its rural countryside location, thus resulting in some negative impact upon the character of the locality. However, it does not fall within a protected landscape, is enclosed to the north, west and south by mature woodland, and has a vegetated bund to the east (formed from stockpiled soils). The main mesh part of the fencing is finished in a dark green colour, which also helps to minimise its visual impact. The distance and screening from Adversane Lane offered by intervening mature trees and hedgerows is significant, meaning that there are limited public views into the site, with most views only being transient and from a moving vehicle. In addition, no further physical activities are proposed on site (except for restoration, which is required regardless), meaning the potential for any additional negative impact on landscape character is largely limited.
- 9.17 Although the proposed extension in time sought would delay restoration of the site to its former agricultural use until 31 March 2026, there would be no permanent impact on the landscape character of the area. Should the applicant wish to retain the site in the future or seek permission for further appraisal/production facilities following results of the data from other hydrocarbon sites, that would require a new planning application. The merits of any future application would need to be considered at that time and are not material considerations in the determination of the current applications.
- 9.18 In conclusion, the proposals would result in the continued retention of a site not wholly in keeping with its countryside location for a further two-years, extending the period for which any impacts on landscape character of the locality would be experienced. However, the site does not fall within a protected landscape, and the temporary nature of the proposals and the secluded location of the site within a heavily wooded and well-screened area, is such that the impact on the character of the area is largely limited. The requirement to restore the site to its original agricultural condition would remain, which would ensure that the proposals would not result in any permanent impact on the area following completion of restoration. Overall, it is considered that the proposals accord with Policies M12 and M23 of the JMLP and Policies 25, 26, and 33 of the HDPF and that the potential for adverse impacts on landscape character attracts little negative weight in the planning balance.

### **Restoration of the Site**

- 9.19 A restoration scheme for the site has already been agreed, and which remains a conditional requirement of the latest permissions for the site (**Appendix 5 – Restoration Layout Plan**). This includes a detailed restoration methodology for removing the well-pad as well as the access track, the protection of trees, and landscaping proposals. In general terms, the site would be restored to its original profiles and reinstated to an agricultural field, and the 'gapping up' of hedgerows would be ensured along the access track. It is of note that hedgerow planting was, in the most part, implemented a number of years ago and is establishing well.
- 9.20 The proposals do not result in any change to the currently approved restoration scheme other than a delay to when it would be carried out. A scheme of aftercare would be sought by condition, as is currently required,

which would secure the details of aftercare following the restoration of the site.

- 9.21 Policy M24 of the JMLP seeks to ensure that land is restored at its earliest opportunity to a high quality. Paragraph 8.13.2 of the JMLP states that mineral extraction "... can also have a potentially significant impact upon the environment and local communities. An important way of managing such impacts is to ensure that sites are ... restored at the earliest opportunity" and that "the successful restoration and aftercare of mineral sites should therefore be planned at the earliest opportunity, whilst offering an element of flexibility to allow changes in future circumstances".
- 9.22 Paragraph 217 of the NPPF states that mineral planning authorities should provide for restoration and aftercare at the earliest opportunity. Paragraph 37 of the PPG refers to the need to ensure that "worked land is reclaimed at the earliest opportunity ... on a site-by-site basis following discussions between the minerals operator and the mineral planning authority."
- 9.23 The proposals would result in the continued retention of the site for an additional two-year period until 31 March 2026, which would be 8.5 years beyond the restoration date of September 2017 required by the initial temporary permission for exploration. This would be the fifth extension in time sought by the applicant. However, in granting previous extensions in time at the site, the County Council has considered the justification/need for extensions in time against any impacts (including on landscape character) and has, to date, deemed them acceptable.
- 9.24 As identified in paragraph 3.3, there was an initial delay in drilling due to a change in operator and, as identified above in paragraphs 9.9-9.10, there have been legal challenges to planning permissions granted on other sites under the applicant's control, the data from which would help to determine the future of the application site. These challenges have been outside the control of the applicant and, as recognised in Paragraph 8.13.2 of the JMLP, there is a need for flexibility to allow for unforeseen changes in circumstances.
- 9.25 In proposing a two-year period for a further extension in time, the applicant has considered the timescales during which further appraisal/development at the linked sites at Horse Hill and Loxwood would likely be completed, and data produced to inform the future viability of the application site. Although it is recognised that this is likely to be the minimum period required, this is in accordance with policy requirements to restore at the earliest opportunity.
- 9.26 It has been suggested by objectors that a bond or financial guarantee should be sought to cover remediation in the event that the operator finds itself in financial trouble. However, for minerals projects, typically quarries and similar, financial guarantees are only justified in 'exceptional cases' involving very long-term projects, novel approaches, or reliable evidence of the likelihood of financial or technical failure (PPG: Minerals, paragraph 48). For oil and gas projects, the North Sea Transition Authority (NSTA) are responsible for issuing licences for the exploration of hydrocarbons within defined areas (a PEDL Licence). As part of the licencing process the NSTA review the licensee's financial viability/capacity. It is not, therefore,

considered appropriate to secure a bond in relation to the present applications.

- 9.27 In conclusion, a restoration scheme for the site has already been agreed. The current applications do not result in any change to the scheme, rather a delay as to when it would be carried out. Although this is the fifth extension in time sought by the applicant, there have been mitigating factors including a change in ownership and legal challenges to the development of other, related sites, which would provide valuable information about the identified resource, including whether it could be economically exploited. Overall, given the identified need for appraisal and the limited impact on the character of the area, it is considered that a delay to the restoration of the site for a further two years attracts little negative weight in the planning balance.

### **Other Material Matters**

- 9.28 The following material matters are considered to be neutral factors in the planning balance.
- 9.29 **Climate Change:** Many third-party objections raise concerns about the potential to contribute to climate change, in particular, that the extraction and use of hydrocarbons conflicts with both the UK and County Council's commitments to address climate change and reach net zero.
- 9.30 The amended Climate Change Act 2008 sets a goal for the UK to achieve net zero greenhouse gas emissions by 2050. In this context, national policy generally recognises this will need to partly be secured through a significant reduction in reliance on hydrocarbons. Nonetheless, the Government's Energy White Paper (2020), British Energy Security Strategy (2022), and Overarching National Policy Statement for Energy (EN-1 which came into force 17 January 2024), highlight the significant role of fossil fuels to the UK's energy supply and economy, and the importance of indigenous oil and gas to UK energy security. In general terms, latest Government policy makes clear that hydrocarbons will continue to be needed and will play a vital role during the transition to net zero.
- 9.31 However, in this specific case, the proposals would not result in any change to activities already permitted and which have largely been completed. Rather, they would result in a delay to when approved restoration proposals would take place and be completed. As a result, the proposals would not directly result in any change to potential emissions of greenhouse gasses nor climate change considerations. Any climate change implications of future proposals for further appraisal or production would be a matter for those planning applications should they come forward. It is therefore considered that the proposed development is consistent with Government policy on climate change.
- 9.32 **Impact on Local Residents:** The proposed extensions of time would not result in any increase in either vehicle movements or potentially noise/dust producing activities beyond those that have already been considered acceptable through previous permissions. In essence, the site would remain in its current inactive state for the remainder of the two-year extensions in time sought.

- 9.33 Final restoration of the site, as has previously been agreed by the Planning Committee, would be undertaken from 07.00 to 19.00 Monday to Friday and 08.00 to 13.00 on Saturdays, which would minimise the risk of disturbance to local residents, particularly from noise.
- 9.34 A Noise Management Plan (NMP) was approved as part of the original permission for the well site and has been taken forward as a conditional requirement of subsequent extensions in time. The NMP requires monitoring of the development throughout the various phases of the development to ensure that noise from the site does not exceed the noise limits established in the assessments carried out as part of the original Environmental Statement. Should application ref. WSCC/046/23 be approved, the NMP would be taken forward as part of the approved documents to which the operator would be required to adhere.
- 9.35 It is not considered that the proposed extension of time would have potential for any unacceptable impacts on the amenity of local residents. All previously imposed conditions will be updated and amended as appropriate and carried over to any permissions granted.
- 9.36 **Flood Risk/Water Environment:** The site is within Flood zone 1 (a low probability of flooding from rivers and the sea). The site is not within a groundwater source protection zone.
- 9.37 Third parties have raised concerns that surface water run-off from the site may be exacerbating flows into the catchments of local watercourses and contributing to flooding events experienced further downstream.
- 9.38 Conditions attached to the extant permissions control surface water drainage arrangements for the site. In summary, the approved surface water drainage arrangements consist of an impermeable liner under the stoned site where surface water is collected, including within a perimeter ditch. If surface water storage reaches capacity, collected surface water is required to be tankered offsite to an appropriate facility.
- 9.39 The applicant advises that informal surface water monitoring arrangements are in place in accordance with Environmental Permit controls. Monitoring is undertaken periodically by both the applicant and landowner/tenant farmer, and that there is no evidence of the system having reached exceedance nor any localised ponding around the site. Nonetheless, tanker provision remains a mitigation measure that can be deployed.
- 9.40 The Environment Agency raise no objection to the proposals. WSCC, as Lead Local Flood Authority (LLFA), also raise no objection to the proposals provided that the surface water drainage provision remain as currently approved.
- 9.41 PPG (Minerals) Paragraph 13 notes that minerals planning authorities should address flood risk as a material planning consideration. Provided existing approved surface water drainage arrangements are consistently taken forward (as has been the case for all previous permitted extensions in time), there would be no potential for the site to exacerbate flood risk offsite. However, to ensure that the site is not resulting in any surface water flows offsite, a more robust scheme of monitoring is considered appropriate with

clear triggers/mechanisms for tankering offsite. As a result, it is proposed that previous drainage conditions are updated to require a scheme of surface water monitoring to be agreed and implemented.

- 9.42 Concerns raised in third party objections also include the potential impacts of the water environment from well drilling activities, and those that may have arisen from previous completed activities. PPG (Minerals) Paragraph 13 notes that ground water issues should be addressed by minerals planning authorities.
- 9.43 However, these applications only seek an extension of time to allow the evaluation of data from other hydrocarbon sites in the wider locality. No further drilling or on-site operations are proposed, apart from the final plugging of the well and restoration of the site in accordance with the methodology and specifications previously approved.
- 9.44 The main potential for risk is that to groundwater through a failure of the well casing and potential migration of liquid via the borehole. These matters are addressed through regulation by the Environment Agency and Health and Safety Executive, and the County Council must assume that those regimes will operate effectively (PPG: Minerals, paragraph 112). The Environment Agency raise no objection to the proposals.
- 9.45 Taking the above into account, it is considered that the proposals do not pose any increased risk of flooding offsite nor any increased risk to the water environment.
- 9.46 **Water Neutrality:** The well site is located within the Sussex North Water Supply Zone, subject to a position statement issued by Natural England on 14 September 2021 (see paragraphs 5.9–5.12).
- 9.47 HRA screening has been undertaken, which concludes that without mitigation in place, the proposal will not have a likely significant effect on the designated features of the Arun Valley site, either alone or in combination with other plans and projects. Therefore, an Appropriate Assessment is not required, and the proposals would not conflict with the County Council's obligations under 'The Conservation of Habitats and Species Regulations 2017 (as amended)'.
- 9.48 In coming to this opinion, it has been noted that the original development (for which extensions in time to complete are sought) benefitted from planning permission prior to the position statement, that all pre-commencement conditions have been discharged, and the development has long since been implemented with all drilling and active testing phases of the development completed. Therefore, water usage resulting from the existing permitted development forms an established baseline position. The remaining restoration phase of the development does not involve any activities that would be likely to result in water use from the public water supply, and none beyond the established baseline water use.
- 9.49 **Ecology:** The application site abuts woodland to the north, west and south, with ancient woodland 125m to the east. It is otherwise relatively distant from any ecological designations, none being within 1km of the site. The applications do not propose any further physical development or activities,



rather a delay to the restoration of the site. Although the site has been in place for several years, it has been in a dormant state for the majority of that time. The applications are supported by an updated ecological appraisal based on recent field surveys (October 2023), which confirms that the retention of the site has limited potential for impacts on surrounding habitats and species. Therefore, it is considered that the proposals have limited, if any, potential for any additional impact upon ecology.

- 9.50 **Highways:** The proposed extensions of time would not result in any increase in either vehicle movements or any change to access arrangements beyond those that have already been considered acceptable through previous permissions, only a further delay to when vehicular movements associated with restoration, would occur. All previous controls/conditions relating to access provision and construction traffic management would be taken forward. The Highway Authority raises no objection to the proposals. As a result, it is not considered that the proposed development would give rise to any unacceptable impact upon highway capacity or road safety.

## **10. Overall Conclusion and Recommendations**

- 10.1 The two planning applications propose a 24-month (two-year) extension of time to allow for retention of the well site and associated fencing, gates, and cabins at the hydrocarbon site at Broadford Bridge. The proposals would result in retention of the site in a dormant state until its final restoration to be required by 31 March 2026. This is to allow further off-site appraisal of the hydrocarbon resource to be carried out.
- 10.2 National and local policy supports oil and gas appraisal and justified extensions in time thereto, subject to any unacceptable impacts on the environment and communities being minimised and/or mitigated to an acceptable level.
- 10.3 It is considered that there is a justified need for the proposed extension in time sought to allow for further appraisal of the viability of the target hydrocarbon resource through analysis of other sites that may share commonality with target hydrocarbon discovery.
- 10.4 The proposals would result in the continued retention of a site of an industrial character not wholly in keeping with its countryside location for a further two-years, extending the period for which any impacts on landscape character would be experienced. However, the site is not within a protected landscape, it is enclosed and well-screened from public views, and is temporary in nature. Accordingly, the potential for any negative impact on landscape character is largely limited.
- 10.5 Many third-party objections highlight the need to ensure proposals for temporary minerals development are restored at the earliest opportunity in accordance with the JMLP, NPPF and PPG. However, there is a need for flexibility to take account of changing circumstances. In this specific case, it is considered that there have been mitigating factors including a change in ownership and legal challenges to the development of the other sites, which would provide valuable information about the identified resource.

- 10.6 Other than final plugging of the well and restoration towards the end of the two-year period sought (which have already been considered acceptable through previous permissions), no physical works are proposed. The only change would be in the delay to the restoration of the site, which would be subject to previously accepted conditional controls being carried over and updated (as appropriate) from the 2022 planning permissions.
- 10.7 In conclusion, the applications for an extension of time to enable further detailed evaluation/appraisal of the hydrocarbon resource are considered justified and would not give rise to unacceptable impacts on people or the environment.
- 10.8 Overall, it is considered that the proposed development accords with the statutory development plan when read as a whole. Furthermore, there are no material considerations in this case that indicate a decision other than in line with the statutory development plan. In favour of the proposal, the need for the development carries great weight. Against the scheme, the potential for adverse impacts on landscape character and a further delay to restoration of the site carry little weight. Therefore, on balance, it is considered that the benefits of the proposal outweigh the disbenefits and, as such, the proposed development constitutes sustainable development (as defined in paragraphs 7 and 8 of the NPPF).
- 10.9 Therefore, it is **recommended** that:
- (a) planning permission be granted for planning application WSCC/046/23 (well site) subject to the conditions and informatives set out at **Appendix 1**.
  - (b) planning permission be granted for planning application WSCC/047/23 (security fencing and cabins) subject to the conditions and informatives set out at **Appendix 2**.

## **Factors taken into account**

### **11. Consultations**

11.1 See Sections 7 and 8.

### **12. Resource Implications and Value for Money**

12.1 Not applicable.

### **13. Equality and Human Rights Assessment**

13.1 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposals would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposals were required to make them acceptable in this regard.

13.2 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the County Council from acting in a manner which is incompatible

with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

- 13.3 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. The applications have been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 13.4 The Committee should also be aware of Article 6, the focus of which (for the purpose of this committee) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision-making process as a whole, which includes the right of review by the High Court, complied with Article 6.

#### **14. Risk Management Implications**

- 14.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the determination of planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise. If this is not done, any decision could be susceptible to an application for Judicial Review.

#### **15. Crime and Disorder Reduction Assessment**

- 15.1 Not applicable.

#### **16. Social Value and Sustainability Assessment**

- 16.1 Not applicable.

### **Michael Elkington**

Head of Planning Services

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### **Appendices**

Appendix 1 – Conditions and Informatives for WSCC/046/23 (well site)

Appendix 2 - Conditions and Informatives for WSCC/047/23 (security cabins and fencing)

Appendix 3 – Site Location Plan

Appendix 4 – Retention Mode

Appendix 5 – Restoration Layout Plan

Appendix 6 – Site Photos

**Background papers**

See Section 6.

## **Appendix 1: Conditions and Informatives for WSCC/046/23**

### **CONDITIONS**

#### **Time Limits**

1. This permission shall be for a limited period only expiring on 31 March 2026, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery, including foundations, hard standings shall have been removed from the site, and the site shall be restored in accordance with the approved restoration scheme (ref. Well Site Restoration Layout Plan – KOG-L-BB-PA-XX-09 Rev 3 and Landscape Proposals – 1377-3001 Rev 01).

*Reason: To secure the proper restoration of the site following the approved period for this temporary development.*

#### **Approved Operations Programme**

2. Only Phase 4 - Restoration/retention is permitted under this approval. Phase 1 – Construction, Phase 2 - Mobilisation and Drilling and Phase 3 – Testing shall not be carried out or revised in the lifetime of this approval. For the avoidance of doubt, hydraulic fracturing ('fracking') is not permitted under this permission.

Prior to any plugging and abandonment of the well, details of all plant (including the rig), equipment and lighting, and a plan detailing their layout on the site, shall be submitted to and approved in writing by the County Planning Authority.

*Reason: To ensure the development is carried out as proposed.*

3. The development hereby approved shall not take place other than in accordance with the approved particulars and drawings:
  - Environmental Statement dated July 2012 - where relevant to Phase 4 (Restoration/Retention);
  - Site Location Plan 26059 P1 – KOG-L-BB-PA-XX-13 Rev 2;
  - Site of Application – KOG-L-BB-PA-XX-02 Rev 3;
  - Existing Site Entrance Layout Plan - KOG-L-BB-PA-XX-03 Rev 3;
  - Existing Access Track 2 Layout Plan - KOG-L-BB-PA-XX-04 Rev 3;
  - Existing Site Entrance Layout Plan - KOG-L-BB-PA-XX-05 Rev 3;
  - Existing Well Site Retention Mode Layout Plan - UKOG-BB-PA-XX-06 Rev 3;
  - Existing Well Site Retention Mode Sections - KOG-L-BB-PA-XX-07 Rev 3;
  - Well Site Parking Layout Plan - KOG-L-BB-PA-XX-08 Rev 3;
  - Cellar Construction Details – KOG-L-BB-PA-XX-12 Rev 3; and
  - Well Site Restoration Layout Plan – KOG-L-BB-PA-XX-09 Rev 3,except as modified by condition hereafter.

Reason: *To ensure the development is carried out as proposed.*

4. Prior written notification of the date of commencement of Restoration hereby approved (Phase 4a) shall be sent to the Minerals Planning Authority not less than seven days before commencement of the Phase.

Reason: *To inform the Minerals Planning Authority of potential disruptive periods in the interests of amenity.*

5. A copy of this decision notice together with the approved plans and any schemes and/or details subsequently approved pursuant to this permission shall be kept at the site office at all times during any active phase of the development and the terms and contents thereof shall be made known to supervising staff on the site.

Reason: *To ensure the site operatives are conversant with the terms of the planning permission.*

### **Hours of Working**

6. Work at the site, including HGVs entering and leaving the site, shall only be undertaken between the hours of 0700 and 1900 Mondays to Fridays and 0800 to 1300 on Saturdays. No work shall occur on Sundays, Bank Holidays and Public Holidays.

Reason: *To protect the amenities of occupiers of nearby residential properties.*

### **Noise**

7. All phases of the development hereby permitted shall be carried out in full accordance with the Noise Management Plan (ref KOG-L-BB-DOC-XX-06 and dated 21 August 2014) which shall be adhered to during any active phase of the development and which, for the avoidance of doubt, will include noise monitoring during restoration. Should monitoring indicate that the noise limits (as specified in Table 5-1 of the Noise Management Plan) are being exceeded, details of further mitigation and a timetable for its implementation will be submitted to the Minerals Planning Authority for approval with seven days of any such exceedance.

Reason: *In the interests of the amenities of the residents of the locality; to ensure that noise from the site does not exceed those envisaged.*

### **Landscaping and Access Track Restoration**

8. No development shall be carried out unless in full accordance with the following documents which shall be adhered to in full and where relevant, form part of the overall restoration of the site:
  - Tree Protection Plans (Sheets 1-3) – KOG-L-BB-DOC-XX-01;
  - Tree Protection Plan Methodology – KOG-L-BB-DOC-XX-02;
  - Methodology for the removal and reinstatement of the access track and no-dig surfacing at the access off Adversane Lane – KOG-L-BB-DOC-XX-03; and the

- Landscape Proposals – 1377-3001 Rev 01;

Reason: *To ensure the satisfactory restoration of the site.*

9. A scheme of aftercare specifying the steps to be taken to manage all restored land and planting shall be submitted for the written approval of the Minerals Planning Authority prior to the commencement of restoration. Thereafter the approved strategy shall be implemented in full.

Reason: *To ensure effective restoration and after-use of the in the interests of the landscape and biodiversity of the area.*

### **Access/Highways**

10. The vehicular access and visibility splays, shown on drawing KOG-PA-XX-05 Rev 3, shall be retained and maintained throughout the duration of the permission.

Reason: *In the interests of highway safety.*

11. The development shall be undertaken in full accordance with the Construction Traffic Management Plan document (ref 9Y0895/R00001/304121/PBor – Rev 2 - dated 14 August 2014).

Reason: *In the interests of highway safety and the amenities of the area.*

### **Fire Fighting**

12. A fire water tank with a capacity of 54,000 litres as shown on approved plan UKOG-BB-PA-XX-06 Rev 3 shall be provided on site, in the approved position and available for immediate use during any active phase of the development and which, for the avoidance of doubt, will include site restoration.

Reason: *In the interests of fire safety.*

### **Groundwater Protection/Drainage**

13. The approved groundwater protection/drainage scheme to dispose of foul and surface water (ref: Supplementary Information for condition 22 – Groundwater Protection/Drainage) and accompanying drawings 'Surface Water Distribution at Site Entrance Plan - KOG-PA-XX-10 Rev 2' and 'Site Ditch Construction Details – KOG-PA-XX-11 Rev 2' shall be adhered to and retained throughout the duration of the permission.

Within three months of the date of this permission, a detailed scheme of surface water monitoring shall be submitted to and approved in writing by the County Planning Authority. The scheme shall include details of the method and frequency of monitoring surface water retained on site, triggers and methods for its removal offsite (to include provision for notification of the County Planning Authority), and record keeping. Thereafter, the approved Scheme shall be adhered to in full and records of all monitoring/removal of surface water from the site, shall be provided to the County Council upon request.

Reason: *To protect the water environment and ensure flood risk is adequately addressed and not increased on site or elsewhere.*

14. The approved Construction Method Statement (ref: Information for Condition 23 – Groundwater Protection/Drainage) and accompanying drawings 'Cellar Construction Detail - KOGL-BB-PA-XX-12 Rev 3' and 'Site Ditch Construction Details - KOGL-BB-PA-XX-11 Rev 3' shall be adhered to in full and retained throughout the duration of the permission.

Reason: *To protect the water environment.*

## **INFORMATIVES**

- A. In accordance with the National Planning Policy Framework, the Mineral Planning Authority has approached the determination of this application in a positive and creative way, and has worked proactively with the applicant by:
- Seeking clarification during the application process;
  - Discussing issues of concern, including those raised by third parties; and
  - Working with consultees.

As a result, the Mineral Planning Authority has been able to recommend the grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.

- B. The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to: deliberately capture, disturb, injure, or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stage of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence.
- C. This development may require an environmental permit, a variation of an existing permit or an exception from an environmental permit from the Environment Agency. Further information can be found on the gov.uk website –

<https://www.gov.uk/topic/environmental-management/environmental-permits>

The Applicant must ensure that the operations at the site are in accordance with the Environmental Permitting (England and Wales) Regulations 2016. The Applicant is advised to contact the Environment Agency National Customer Contact Centre on 03708 506 506 (Monday to Friday 8am to 6pm) or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk) to obtain advice about environmental permitting matters.



## **Appendix 2: Conditions and Informatives for WSCC/047/23**

### **CONDITIONS**

#### **Time Limits**

1. This permission shall be for a limited period only expiring on 31 March 2026, by which date the fencing, gates and structures hereby approved shall be removed from the site, and the site restored in accordance with the approved restoration scheme (ref. Well Site Restoration Layout Plan – KOG-LL-BB-PA-XX-09 Rev 3 and Landscape Proposals – 1377-3001 Rev 01).

*Reason: To secure the proper restoration of the site following the approved period for this temporary development.*

#### **Approved Plans/Documents**

2. The proposed development shall not take place other than in accordance with the approved drawings:
  - Site Location Plan – KOG-LL-BB-PA-YY-01 Rev 3;
  - Site of Application - KOG-LL-BB-PA-YY-02 Rev 3;
  - Existing Compound Fence & Cabins Layout Plan - KOG-LL-BB-PA-YY-03 Rev 3;
  - Existing Fencing Sections - KOG-LL-BB-PA-YY-04 Rev 3;
  - Existing Well Site Security Cabins Sections - KOG-LL-BB-PA-YY-05 Rev 3;
  - Existing Gates and Entrance Cabin Layout Plan - KOG-LL-BB-PA-YY-06 Rev 3;
  - Existing Entrance Gates – Sections – UKOG-BB-PA-YY-07 Rev 4;
  - Existing Entrance Security Cabins – Layout, Plan and Sections - KOG-LL-BB-PA-YY-08 Rev 3; and
  - Well Site Restoration Layout Plan – KOG-LL-BB-PA-XX-09 Rev 3.

*Reason: To ensure the development is carried out as proposed.*

### **INFORMATIVES**

- A. In accordance with the National Planning Policy Framework, the Mineral Planning Authority has approached the determination of this application in a positive and creative way, and has worked proactively with the applicant by:
  - Seeking clarification during the application process;
  - Discussing issues of concern, including those raised by third parties; and
  - Working with consultees.

As a result, the Mineral Planning Authority has been able to recommend the grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.