

Planning Committee

2 March 2021

Minerals Planning Application (County Matter)

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

Application No: WSCC/045/20

Report by Head of Planning Services

Local Member: Mr Bill Acraman

Electoral division/s: Worth Forest

District: Mid Sussex

Summary

This report relates to an application to carry out a phased activity at an inactive hydrocarbon (oil/gas) site south of Balcombe, Mid Sussex to establish whether there are hydrocarbon reserves that could be viably extracted in the future. It follows various permissions for oil/gas exploration operations at the site since 1986. The site is located on the north-eastern side of the B2036 (London Road), 800 metres south of Balcombe, within the High Weald Area of Outstanding Natural Beauty (AONB).

Initially, the operator intends to remove previously used drilling fluids from the wellbore, after which oil may begin to flow. If oil is present, the operator proposes installing a new impermeable well-pad membrane before carrying out an Extended Well Test (EWT) over a period of 12 months. Should oil not be seen after removal of the drilling fluids, activities would cease, and the site would be restored.

Should hydrocarbons be seen to be viable after review of the data produced from the EWT, the borehole would be temporarily suspended while a new planning application was prepared seeking commercial production. If the reserves were considered to be unviable, the site would be restored.

The 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, along with other material considerations.

It should be noted that there are key differences between this and the previous application (WSCC/071/19) that was recommended for refusal and which subsequently withdrawn by the applicant. The duration of the operations has been

shortened from three years and it is now proposed to install a new impermeable membrane. The applicant has also submitted additional documents, including a Socio-Economic Report, information on recent permissions and planning appeals, and information on the potential for developing elsewhere.

There have been no objections from statutory consultees, but Balcombe Parish Council has raised objections to the proposed development due to concerns about the need for the development; impact upon landscape, highways, amenity, public health, water environment, ecology, and safety; cost for the council; policy compliance; previous recommendation for refusal; and lack of community engagement.

There have been 815 representations from third parties, 805 of those objecting, 4 no objections and 6 making comments about the development.

Consideration of Key Issues

The main material considerations in relation to this application are:

- the need for the development;
- whether it is 'major development' and, if it is, whether there are exceptional circumstances and it is in the public interest to permit it;
- whether there are alternative sites;
- the impact on highway capacity and road safety;
- the impact on amenity and public health;
- the impact on the water environment;
- the impact on landscape and visual amenity; and
- the impact on ecology.

Need for the Development

The NPPF gives 'great weight' to the benefits of mineral extraction, including to the economy and highlights that minerals can only be worked where they are found. PPG: Minerals notes that energy supplies should come from a variety of sources and that oil and gas will continue to form part of the national energy supply. The latest national energy policy indicates that the oil and gas industry has a critical role in maintaining the country's energy security and economy. On balance, therefore, it is concluded that there is a need for the development to contribute to national energy security and supply.

Major Development?

It is considered that the application is for 'major development' within the AONB. Therefore, an assessment has been undertaken in accordance with Policies M7(a) and M13(c) of the Joint Minerals Local Plan. It is considered that there is a national need for the development and there would be a benefit to the local economy. Although there are alternative sources of local and national supply, the operator is constrained by the extent of the PEDL area. Furthermore, the cost of developing a new well outside the AONB, which may not be successful, weighs in favour of the continued use of the existing well site. Although there are some adverse impacts, these could be satisfactorily mitigated through planning conditions. Taking all these factors into account, the overall assessment is that there are exceptional circumstances and the development is in the public interest.

Alternative Sites?

The proposed development is located within the High Weald Area of Outstanding Natural Beauty (AONB). However, with much of the Petroleum Exploration and Development Licence (PEDL) area also within the AONB, it is considered the use of the site would represent an 'acceptable environmental option' when compared with developing a new site within the licenced area as the operator could utilise the existing borehole and associated data and infrastructure.

Impact on Highway Capacity and Road Safety

The proposed development would result in increased HGV movements on the B2036 and other roads throughout the course of the development. However, the increase in HGV traffic would not be significant in highways terms and would not result in an unacceptable impact on highway safety, or a severe impact on the road network. WSCC Highways raise no objection to the proposal, concluding that the increase in vehicle movements is not sufficient to materially impact on the operation of the highway network in safety or capacity terms, subject to the imposition of a condition requiring the submission and approval of a Traffic Management Plan.

Impact on Amenity and Public Health

The development has the potential to adversely affect residential amenity and health, primarily through increased noise and emissions to air. In terms of noise, there is a potential for the flare and plant on site to result in noise disturbance. However, it is considered that this could be adequately controlled by conditions requiring monitoring, and remediation if levels are exceeded. The development has the potential to result in impacts on air quality through the use of a flare, and an increase in vehicles travelling to and from the site. However, emissions from the flare would be controlled through the Environmental Permit for the site. The potential impact of increased vehicle numbers is not considered to be significant as numbers are relatively low, and for a temporary period.

Impact on the Water Environment

One of the key issues raised in objections to the proposal is the potential impact on the water environment. The risk to surface water would be minimised by carrying out activities on an impermeable membrane with a sealed drainage system. With regard to groundwater, it must be assumed that the well is constructed and operated to the appropriate standards. It is, therefore, concluded that the development does not pose a risk to the water environment, either at the surface or groundwater, and that the proposal accords with criteria (a)(iii) and (a)(v) of Policy M7a of the JMLP.

Impact on Landscape

There is the potential for impact on the character of the area, particularly by virtue of the flare being on site until the completion of the well test, and the disturbance created by an industrial-style operation being undertaken in a countryside location. However, on balance, it is not considered that these impacts are unacceptable and, therefore, the proposal accords with Policy M12 of the JMLP.

Impact on Ecology

The proposed development is adjacent to ancient woodland, and there are a number of Sites of Special Scientific Interest (SSSIs) in the local area, though relatively distant from the site, each being more than 2,000 metres away. A key concern

relates to the potential impact on bats. However, WSCC's Ecology Officers have raised no objection, subject to conditions to control lighting on the site, and bat monitoring. It is therefore considered that the proposal is acceptable in terms of its potential impact on ecology.

Overall Conclusion

This application seeks an extended well test for hydrocarbon development for up to 12 months, in addition to other short-term activities, at an existing site within the High Weald AONB.

The NPPF gives 'great weight' to the benefits of mineral extraction and national guidance notes that energy supplies should come from a variety of sources, including oil and gas. On balance, and taking account of the latest national energy policy, it is concluded that there is a need for the development to contribute to national energy security and supply.

With regard to the acceptability of the development in this sensitive location, it is considered that the application is for 'major development'. Therefore, following an assessment in accordance with Policies M7 and M13 of the JMLP, it has been concluded that there are exceptional circumstances and it is in the public interest for the application to be permitted.

As above, it is considered that there is a national need for the development and, furthermore, there would be a benefit to the local economy. Although there are alternative sources of local and national supply, the operator is constrained by the extent of the PEDL area and it is considered the use of the site would represent an 'acceptable environmental option' when compared with developing a new site within the licenced area, which would be more expensive and with no guarantee of success.

The extended well test and associated activities have the potential to result in adverse impacts on the highway, local communities, landscape character and the local environment, issues that have been raised in the large number of objections to the application. Balcombe Parish Council has objected to the application, but no other statutory consultees have objected, subject to the imposition of conditions and having regard to relevant policy and guidance.

It is concluded that the number of vehicles required to carry out the development is not significant enough to raise concerns regarding highway capacity or road safety. Emissions from the development would be controlled through the planning regime as well as through the Environmental Permitting and health and safety regimes which would ensure that water quality would not be compromised and that emissions to air would be acceptable.

The High Weald AONB has the highest level of protection, with the NPPF directing authorities to give 'great weight' to conserving its landscape and scenic beauty, in addition to giving 'great weight' to the extraction of minerals. On balance, it is considered that the impact of the proposed development on the AONB, and the character of the area in general, would not be unacceptable.

Overall, although the proposed development would have some adverse impacts, it is considered that they could be satisfactorily mitigated through the imposition of appropriate planning conditions.

On balance, in light of the above assessment and taking account of the changes to the proposed development (in particular the shorter duration of the operations proposed

compared with the previous application), the additional information submitted by the applicant, and changes to national energy policy, the revised application is considered to accord with the policies in the development plan (in particular, Policies M7 and M13 of the JMLP) and, therefore, it is acceptable.

Recommendation

It is recommended that planning permission is granted subject to the conditions and informatives set out at Appendix 1.

1. Introduction

- 1.1 This report relates to an application to carry out a phased activity at an inactive hydrocarbon (oil/gas) site south of Balcombe, Mid Sussex to establish whether there are hydrocarbon reserves that could be viably extracted in the future. It follows various permissions for oil/gas exploration operations at the site since 1986.
- 1.2 Initially, the operator intends to remove previously used drilling fluids from the well, after which oil may begin to flow. If oil is present, the operator would install a new impermeable well-pad membrane before carrying out an Extended Well Test (EWT) over a period of 12 months. Should oil not be found after removal of the drilling fluids, activities would cease, and the site would be restored.
- 1.3 Should hydrocarbons be seen to be viable after review of the data produced from the EWT, the borehole would be temporarily suspended while a new planning application was prepared seeking commercial production. If the reserves were considered to be unviable, the site would be restored.

2. Site and Description

- 2.1 The application site is located on the north-eastern side of the B2036 (London Road), 800m south of Balcombe (see **Appendix 2: Site Location Plan**). It is on the Balcombe Estate which also owns land to the east and west of the site. It is located in an area of woodland comprising a conifer plantation, native and non-native planting, as well as Lower Meadham Wood and Lower Stumble Wood, both of which are Ancient Woodlands.
- 2.2 The site extends to some 0.73 hectares: 0.58 hectares for the above ground works (surface pad and access road linking to London Road), with the lateral borehole comprising the remaining 0.15 hectares (see **Appendix 3: Existing Site Plan**).
- 2.3 The pad is a roughly rectangular area of hardstanding with the borehole in its approximate centre and is enclosed with a 2m security fence.
- 2.4 A site access road of 150 metres in length extends between the north-eastern corner of the pad and the eastern side of the B2036. The access road is sealed, with agricultural-style gates at the highway access.
- 2.5 The lateral extension of the well (i.e. a horizontal borehole) is 820 metres in depth, and extends 520 metres from the pad in a south-westerly direction.

- 2.6 The pad is enclosed on three sides by woodland, and on the fourth, to the south-east, by the access road, beyond which is woodland. The London-Brighton railway line lies 45 metres east of the site on an elevated bank.
- 2.7 The site is 350 metres south-east of Kemp's Farm, the nearest residential property, and 800 metres from the southern edge of Balcombe village.
- 2.8 The site is located within the High Weald Area of Outstanding Natural Beauty (AONB).
- 2.9 It is not within an area subject to ecological, heritage or other designations, and is not in an area identified as being at increased risk of flooding. It is not within a groundwater Source Protection Zone (SPZ). The site is one kilometre from the Ardingly Reservoir, and there are small streams in the locality of the site, including 15 metres east of the access road.
- 2.10 The nearest Public Right of Way (footpath number 13Ba) is 300 metres north of the site, running from London Road east under the railway corridor.

3. Relevant Planning History

- 3.1 The site was first used for exploratory drilling in 1986–1987 under a planning permission (ref. BA/10/86) which allowed the construction of a hardstanding in association with exploratory drilling. The well was drilled, and the pad was subsequently retained for use by the Balcombe Estate for forestry product storage (ref. BA/38/87).
- 3.2 A temporary, three-year permission (ref. WSCC/027/10/BA) was subsequently granted by West Sussex County Council in 2010, to *"upgrade existing stoned platform and drill and exploratory borehole for gas and oil exploration"*.
- 3.3 The permission allowed flow testing and monitoring, and was subject to 21 conditions, with condition no. 2 of the permission stating:

"This permission shall be for a limited period only expiring 3 years from the date of commencement of site construction, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery, including foundations, hard standings shall be removed from the site, and the site shall be restored in accordance with the approved restoration scheme."
- 3.4 The County Council was advised that construction works would commence on 28 September 2010, at which time the applicant carried out preparatory site works sufficient to implement the permission. No further operations took place at the site under this permission until July 2013 when drilling commenced, after initial site preparations and mobilisation of equipment. Drilling began at the site on 29 July 2013 and was completed by 24 September 2013, with equipment removed by 28 September 2013.
- 3.5 Two applications were submitted in July 2013 seeking additional time to carry out the drilling and testing programme (ref. WSCC/061/13/BA) and to vary the approved flare to be used under the 2010 permission (ref. WSCC/063/13/BA). These applications were withdrawn on 2 September 2013.

- 3.6 A temporary, six month planning permission (ref. WSCC/005/14/BA) was granted by the Planning Committee on 2 May 2014, allowing exploration and appraisal at the site, comprising the flow testing and monitoring of the existing hydrocarbon lateral borehole, along with site security fencing, the provision of an enclosed testing flare, and site restoration. The permission was not implemented by the operator and lapsed on the 2 May 2017.
- 3.7 A temporary planning permission (ref. WSCC/040/17/BA) was approved on 10 January 2018 for a seven-day well test. This permission allowed flow testing, monitoring of the borehole, security fencing, an enclosed flare and site restoration. The Council was informed that the test had commenced on 24 September 2018 and was completed on 2 October 2018, with the site then being de-mobilised.
- 3.8 The most recent planning application (WSCC/071/19), which was withdrawn, sought a two-stage activity of pumping the previously used drilling fluid and then a 3-year EWT. The application was recommended for refusal for the following reason:

'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).'

- 3.9 The key differences between the current application and planning application WSCC/071/19 are identified in paragraph 4.25.

4. The Proposal

- 4.1 The applicant is seeking temporary planning permission to carry out a phased operation, namely pumping out old drilling fluids, installing a new well-pad membrane and undertaking a 12-month Extended Well Test.
- 4.2 The overall purpose of these works is to establish whether the well has sufficient hydrocarbons, with sufficient flow, to make production economically viable. If appraisal indicates production from the well would be viable, the applicant has indicated that a new planning application would be submitted for future production. If oil does not flow from the borehole, works on site would cease and the well would be shut down.
- 4.3 The applicant has stated that the proposal does not involve hydraulic fracturing. In addition, if the operator wished to 'frack' the site in the future (although this is unlikely given the geology), a separate planning permission would need to be sought.
- 4.4 In terms of the physical equipment on site, ancillary site infrastructure to be installed during both stages includes modular buildings, a bunded area around the well head, and the retention of a fence around the pad's perimeter. Modular buildings would be located around the periphery of the drill pad,

containing staff accommodation and facilities, offices, and storage. There would be a parking area along the north-eastern boundary and skips for waste within the site (see **Appendix 4: Proposed Site Plan**).

- 4.5 A crane of up to 40m in height would be used for up to ten days, at the beginning and end of Stages 1 and 2 to mobilise/demobilise equipment.
- 4.6 An enclosed flare of 13.8 metres in height would be installed in the south-eastern corner of the site to burn off any natural gas found in the well. The flare would be on site for the duration of the extended well test.
- 4.7 Otherwise the stages of the operations and equipment involved are as set out below.

Removal of fluids

- 4.8 This activity would require the use of a linear rod pump, or equivalent pump jack/nodding donkey, various tanks for fluid storage, and associated pipe work and equipment. A welfare unit and security unit would also be located on the site. Acoustic barriers of 2m in height would be installed around the operational area, if required.
- 4.9 Once the site has been set up, the pumping of the well would commence, with the fluids produced being collected in the on-site storage tanks. Pumping would continue until the drilling fluids are reduced and oil flows from the borehole (if it does). At this point, the well would be suspended before Stage 2 begins.
- 4.10 The operator anticipates that this stage would take approximately seven days, with a worst-case scenario being four weeks.
- 4.11 If oil does not flow from the borehole, works on site would cease, the well would be sealed, and the site would be restored (see below).

Pad membrane works

- 4.12 The applicant states that to meet with current onshore oil and gas standards, a site wide impermeable membrane would be installed. The application explains that "*the purpose of the membrane is to isolate surface activity from the risk of spills and contamination from the extended well test.*"
- 4.13 The objective of the impermeable sub-base is to provide full containment of the wellsite. In essence, in the unlikely event of a significant spillage from site, it would prevent contaminated surface water and/or pollutants from entering the ground.

Extended Well Test

- 4.14 If oil flows, the operation would move on to the EWT. The existing equipment, including the nodding donkey/linear pump, would remain on site, and additional tanks and equipment would be brought on site, including the enclosed flare. It is the hope of the applicant that the hydrocarbon would flow naturally, but should flow not be sustained, contingency plans have been included in the EWT and include the use of a nitrogen lift, an acid wash, and/or an inflatable bridge plug.

- 4.15 If the testing determines that hydrocarbons are commercially viable, the equipment would be cleared from the site and the well secured (i.e. the condition the site is currently in) while a new planning application is prepared for production.
- 4.16 If no reserves are found, the well would be sealed and the site restored (see below).

Well Sealing and Restoration

- 4.17 Should it be determined that the hydrocarbons found are not commercially viable, the well would be sealed and secured, a process also known as 'plugging and abandonment'. This would typically involve the sealing of the borehole with cement, providing a barrier, thereby preventing any unintended release of fluids. Sub-surface wastes would be removed in accordance with an Environmental Permit relating to the management of mining waste.
- 4.18 The works would be undertaken in accordance with procedures agreed with the relevant regulatory bodies: the Health and Safety Executive (HSE); the Environment Agency; and the Oil and Gas Authority (OGA).
- 4.19 Once the well has been sealed, the site would be cleared of plant and equipment, tanks, and waste, and restored to its previous use as a hardstanding for forestry use. It is anticipated these works would take four days.
- 4.20 Restoration would then take place and would involve planting 50% of the area covered by the current concrete pad with deciduous woodland.

Vehicle Movements

- 4.21 The submission summarises the approximate timescales and HGV movements associated with each stage of the proposal. This indicates that the most intensive period of HGV movements would be during the mobilisation/de-mobilisation activities. During these periods, there would be up to 16 two-way movements each day (approximately 8 HGVs travelling to/from the site).

Hours of Operation

- 4.22 The applicant has sought different working hours, dependent upon the stage of operations. During site preparation (set-up), de-mobilising, installation of the membrane and restoration works, the applicant has stated that hours of operation would be between 07:00 and 19:00 hours on Monday to Friday, and 08:00 and 13:00 hours on Saturdays, with no operations on Sundays, Public or Bank Holidays.
- 4.23 The pumping of the drilling fluids, the EWT operation (including flaring operations) and the plugging and abandonment work would be required to be undertaken 24 hours each day. However, HGV movements for all operations at the site (with the exception of undertaking urgent works in emergency situations) would be limited to between 07:30 and 18:30 hours on Monday to Friday, and 08:00 and 13:00 hours on Saturdays, with no movement on Sundays, Public or Bank Holidays.

Environmental Permit

- 4.24 The currently proposed testing programme would be subject to an Environmental Permit granted by the Environment Agency in relation to the management of mining waste (including flare emissions) and naturally occurring radioactive substances.

Difference/Changes

- 4.25 There are differences between this and the previous application (WSCC/071/19) that was recommended for refusal and which was subsequently withdrawn by the applicant. Most significantly, the duration of the operations has been shortened to a twelve-month testing period, compared with the three-year extended well test previously proposed, and it is now proposed to install a new impermeable membrane to accord with current guidelines. The applicant has also submitted additional documents, including a Socio-Economic Report highlighting the potential benefits of the development to the local economy. They have also highlighted recent permissions of similar sites and planning appeals and researched the potential for developing elsewhere, demonstrating why this site is more favourable than others. Section 9 of this report considers these alterations in further detail.

5 Environmental Impact Assessment (EIA)

- 5.1 The need for EIA was considered in relation to this application in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations').
- 5.2 The development does not fall within Schedule 1 of the EIA Regulations which sets out development for which EIA is always required.
- 5.3 It does, however, fall within Schedule 2, where EIA is required if the local authority considers the development is likely to have significant effects on the environment. It falls within Schedule 2 because the site is within a defined 'sensitive area', namely an Area of Outstanding Natural Beauty, and the development sought is a 'surface industrial installation for the extraction of petroleum and natural gas' which exceeds the stated threshold of more than 0.5 hectares in area (Schedule 2, Part 2(e)).
- 5.4 Consideration must be therefore given as to whether the development has the potential to result in 'significant environmental effects' and therefore requires EIA.
- 5.5 The Annex to Planning Policy Guidance: Environmental Impact Assessment (15 March 2019) sets out indicative thresholds when considering whether EIA is necessary. 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. The present proposal would not fall within either of these criteria.
- 5.6 The key issues to consider are noted in the Annex as the scale of development, emissions to air, discharges to water, risk of accidents and arrangements for transporting the fuel.

- 5.7 The scale of the present development and emissions associated with it are not considered to be significant, particularly as the use would be temporary. The risk of accidents is not considered to be significant, and significant amounts of fuel would not require transportation. No potentially significant impacts, within the meaning of the EIA Regulations, have therefore been identified when considering the key issues.
- 5.8 Taking into account the EIA Regulations 2017, as expanded upon by the above considerations, it was considered in an EIA Screening Opinion dated 24 July 2020 that the proposals would not have the potential for significant effects on the environment within the meaning of the EIA Regulations. Therefore, EIA was not considered necessary.

6. Policy and Legal Context

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 ('the NPPF')).
- 6.2 For the purposes of the application, the statutory development plan comprises the West Sussex Joint Minerals Local Plan (2018), the Mid Sussex District Plan (2014-2031), and Balcombe Parish Neighbourhood Plan (2016-2031).
- 6.3 The key policies in the development plan that are material to the determination of the application are summarised below. In addition, reference is made to relevant national planning policy guidance, emerging planning policies and other policies that guide the decision-making process and which are material to the determination of the application.

West Sussex Joint Minerals Local Plan (JMLP) (2018)

- 6.4 The JMLP was adopted in July 2018 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.
- 6.5 Policy M7a and M13 of the JMLP are of greatest relevance to the present application, relating as they do to 'hydrocarbon development not involving hydraulic fracturing' and development in the High Weald Area of Outstanding Natural Beauty respectively.
- 6.6 Clause (a) of Policy M7a, relating to the exploration/appraisal phases of hydrocarbon development, not involving hydraulic fracturing, states:

"Exploration and Appraisal

(a) Proposals for exploration and appraisal for oil and gas, not involving hydraulic fracturing, including extensions to existing sites will be permitted provided that:

- (i) With regard to development proposals deemed to be major, the site is located outside the South Downs National Park, High Weald AONB or Chichester Harbour AONB unless it has been demonstrated that there are exceptional circumstances and*

that it is in the public interest, and in accordance with Policy M13;

- (ii) the site selected represents an acceptable environmental option in comparison to other deliverable alternative sites from which the target reservoir can be accessed, taking into account impacts from on-site activities and off-site activities including HGV movements;*
- (iii) any unacceptable impacts including (but not limited to) noise, dust, visual intrusion, transport, and lighting, on both the natural, historic and built environment and local community, including air quality and the water environment, can be minimised, and/or mitigated, to an acceptable level;*
- (iv) restoration and aftercare of the site to a high quality standard would take place in accordance with Policy M24 whether or not oil or gas is found;*
- (v) no unacceptable impacts would arise from the on-site storage or treatment of hazardous substances and/or contaminated fluids above or below ground."*

6.7 Policy M12 relates to character, stating:

"Proposals for mineral development will be permitted provided that:

- (a) they would not have an unacceptable impact on the character, distinctiveness, sense of place of the different areas of the County, the special qualities of the South Downs National Park, and the setting and character of the Chichester Harbour and High Weald Areas of Outstanding Natural Beauty and the setting of protected landscapes;*
- (b) they would not have an unacceptable impact on the separate identity of settlements and distinctive character of towns and villages (including specific areas or neighbourhoods) and development would not lead to their actual or perceived coalescence; and*
- (c) they reflect and, where possible, reinforce the distinctive attributes of the main character areas (including the retention of important features or characteristics).*

6.8 Policy M13 relates to protected landscape, of which clause (a) states:

- "(a) Proposals for mineral development within protected landscapes (the High Weald Area of Outstanding Natural Beauty) will not be permitted unless...*
- i. the site is allocated for that purpose in the adopted plan; or*
 - ii. the proposal is for a small-scale development to meet local needs that can be accommodated without undermining the objectives of the designation; or*
 - iii. The proposal is for major development that accords with part (c) of this Policy."*

6.9 Part (c) of policy M13 reads:

"Proposals for major mineral development within protected landscapes will not be permitted unless there are exceptional circumstances and where it is in the public interest as informed by an assessment of:

- i. *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- ii. *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for the mineral in some other way; and*
- iii. *any potential detrimental impact on the environment, landscape, and recreational opportunities, and the extent to which identified impacts can be satisfactorily mitigated."*

6.10 The other 'development management' policies of relevance to the proposal are as follows:

- 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 – supports development which would not result in increased flood risk on 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 turning 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;
- Policy M25: Community Engagement - supports site liaison groups, where necessary, to address issues arising from site operations.

Mid Sussex District Plan (2014)

6.11 The Mid Sussex District Plan (2014) was adopted in March 2018 and covers the period up to 2031. Policies DP12 and DP16 are of particular relevance, seeking to protect the countryside and the AONB.

6.12 Policy DP12: 'Protection and enhancement of countryside states:

"The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map,

provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:

- *it is necessary for the purposes of agriculture; or*
- *it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.*

Agricultural land of Grade 3a and above will be protected from non-agricultural development proposals. Where significant development of agricultural land is demonstrated to be necessary, detailed field surveys should be undertaken and proposals should seek to use areas of poorer quality land in preference to that of higher quality.

The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character

Built-up area boundaries are subject to review by Neighbourhood Plans or through a Site Allocations Development Plan Document, produced by the District Council.

Economically viable mineral reserves within the district will be safeguarded"

- 6.13 Policy DP16: High Weald Area of Outstanding Natural Beauty seeks to protect valued landscapes. It states that:

"Development within the High Weald Area of Outstanding Natural Beauty (AONB), as shown on the Policies Maps, will only be permitted where it conserves or enhances natural beauty and has regard to the High Weald AONB Management Plan, in particular;

- *the identified landscape features or components of natural beauty and to their setting;*
- *the traditional interaction of people with nature, and appropriate land management;*
- *character and local distinctiveness, settlement pattern, sense of place and setting of the AONB; and*
- *the conservation of wildlife and cultural heritage.*

Small scale proposals which support the economy and social well-being of the AONB that are compatible with the conservation and enhancement of natural beauty will be supported.

Development on land that contributes to the setting of the AONB will only be permitted where it does not detract from the visual qualities and essential characteristics of the AONB, and in particular should not adversely affect the views into and out of the AONB by virtue of its location or design"

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

- Policy DP1: Sustainable Development in Mid Sussex
- Policy DP21: Transport

- Policy DP29: Noise, Air and Light pollution
- Policy DP37: Trees, Woodland and Hedgerows
- Policy DP38: Biodiversity
- Policy DP39: Sustainable Design and Construction
- Policy DP41: Flood Risk and Drainage
- Policy DP42: Water Infrastructure and the Water Environment

Balcombe Parish Neighbourhood Plan

- 6.15 The Balcombe Parish Neighbourhood Plan was 'made' in September 2016 and forms part of the 'Development Plan'. Neighbourhood Plans cannot consider issues related to minerals development, including oil and gas.
- 6.16 Policy 3: Design is of greatest relevance, seeking to avoid significant detrimental effect on the landscape and natural beauty of the High Weald AONB.

National Planning Policy Framework (February 2019)

- 6.17 The NPPF sets out the government's planning policies for England and outlines 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. One of its stated intentions is to guide decision-makers as to what matters are material to the decision-making process. At the heart of the NPPF is a presumption in favour of sustainable development.
- 6.18 The paragraphs in the NPPF of greatest relevance to the present proposal are:
- Paragraph 11 – Presumption in favour of sustainable development, and approving development that accords with the development plan;
 - Paragraph 38 – Positive decision making;
 - Paragraph 47 – Determining applications in accordance with the development plan;
 - Paragraph 54 – 56 – Use of planning conditions;
 - Paragraph 108 – Impacts on transport networks and securing safe and suitable access;
 - Paragraph 127 – Development should be of high quality and sympathetic to the local character and history;
 - Paragraph 163 – Development should not increase flood risk elsewhere;
 - Paragraph 170 – Development to contribute to and enhance the natural and local environment including the countryside, providing net gains for biodiversity, and preventing unacceptable pollution;
 - Paragraph 172 – Great weight given to conserving and enhancing Areas of Outstanding Natural Beauty;
 - Paragraph 175 – Development should normally be refused if it cannot avoid, mitigate or compensate for significant harm to biodiversity, or result in the loss or deterioration of irreplaceable habitats;

- Paragraph 180 – Ensuring new development appropriate for location taking into account impact of pollution on health and the environment;
- Paragraph 203 – Supply of minerals; highlights that minerals can only be worked where they are found, and the importance of making best use of them to secure their long-term conservation;
- Paragraph 205 - Giving great weight to the benefits of mineral extraction and ensuring that there are no unacceptable adverse impacts on the natural and historic environment, human health, or aviation safety, and taking into account cumulative impacts; and
- Paragraph 209 – Distinguish and plan positively for exploration, appraisal and production of hydrocarbons (oil/gas)(further details in Section 9 below).

6.19 With regard to the final bullet relating to paragraph 209, this was updated in July 2018 with the addition of the following wording

"209. Minerals Planning Authorities should:

- a) *Recognise the benefits of on-shore oil and gas development, including unconventional hydrocarbons, for the security of energy supplies and supporting the transition to a low carbon economy; and put in place policies to facilitate their exploration and extraction."*

6.20 However, the insertion of the paragraph was challenged through Judicial Review on various grounds, with the Court determining that new evidence regarding the climate change impacts of shale gas extraction had not been properly considered; therefore consultation on the revision was not properly undertaken. For this reason, from February 2019 the paragraph was removed from the NPPF, a position that was confirmed in a Written Ministerial Statement issued on 23 May 2019.

Planning Policy Guidance

6.21 Planning Practice Guides (PPGs) were first published in March 2014 to accompany the NPPF. As with the NPPF, these are a material consideration in considering planning applications.

PPG: Minerals

6.22 PPG: Minerals (March 2014) sets out the Government's approach to planning for mineral extraction in both plan-making and the planning application process.

6.23 Paragraph 12 sets out the relationship between planning and other regulatory regimes noting that *"the planning system controls development and the use of land in the public interest"* including ensuring development is appropriate for its location and an acceptable use of land.

6.24 It notes 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."*

- 6.25 Paragraph 13 sets out the environmental issues minerals planning authorities should address including noise, air quality, lighting, visual impact, traffic, risk of contamination to land, geological structure, flood risk, impacts on protected landscapes, surface and in some cases ground water issues, and water abstraction.
- 6.26 Paragraph 14 sets out issues which are for other regulatory regimes to address. For hydrocarbon extraction, paragraphs 110 to 112 of the PPG sets out the key regulators in addition to the Mineral Planning Authority, namely:
- Oil and Gas Authority (formerly Department of Energy and Climate Change (DECC)): issues petroleum licences, gives consent to drill, responsibility for assessing risk of and monitoring seismic activity, grant consent for flaring or venting;
 - Environment Agency: protect water resources (including groundwater aquifers), ensure appropriate treatment of mining waste, emissions to air, and suitable treatment/management of naturally occurring radioactive materials (NORMs). Assess chemical content of fluids used in operations.
 - 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.
- 6.27 Paragraph 17 notes that the cumulative impact of mineral development can be a material consideration in determining planning applications.
- 6.28 Paragraphs 91 to 128 relate specifically to hydrocarbon extraction.
- 6.29 Paragraph 93 notes that planning permission is required for each phase of hydrocarbon extraction, while paragraph 94 notes that applications can cover more than one phase and paragraph 118 notes that both vertical and horizontal drilling can be included in one application.
- 6.30 Paragraph 100 explains that 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.*
- 6.31 Paragraph 124 states that Mineral Planning Authorities should take account of Government energy policy 'which makes it clear that energy supplies should come from a variety of sources' including onshore oil and gas. It also refers (and electronically links) to the Annual Energy Statement 2013 which notes, among other things, that the UK needs to make the transition to low carbon in order to meet legally-binding carbon emission reduction targets (paragraph 1.2) and that levels of production from the UK continental shelf are declining so the UK will become increasingly reliant on imported energy (paragraph 1.3). The three stated priorities in delivering the UK's energy policies in the near term are:
- *"helping households and businesses take control of their energy bills and keep their costs down;*
 - *unlocking investment in the UK's energy infrastructure that will support economic growth; and*

- *playing a leading role in efforts to secure international action to reduce greenhouse gas emissions and tackle climate change.*" (paragraph 1.6).

6.32 Paragraph 3.69 states:

"With oil and gas remaining key elements of the energy system for years to come (especially for transport and heating), the Government is committed to maximising indigenous resources, onshore and offshore, where it is cost-effective and in line with safety and environmental regulations to help ensure security of supply."

Other PPGs

6.33 PPG: Air Quality notes that when deciding whether air quality is relevant to a planning application, considerations could include whether the development would (in summary): significantly affect traffic (through congestion, volumes, speed, or traffic composition on local roads); introducing new point sources of air pollution; give rise to potentially unacceptable impact (such as dust) during construction; or affect biodiversity (paragraph 5).

6.34 PPG: Noise notes that noise can override other planning concerns (paragraph 2), and that the acoustic environment should be taken account of in making decisions, including consideration of (in summary) whether a significant adverse effect is likely to occur; whether an adverse effect is likely to occur; and whether a good standard of amenity can be achieved (paragraph 3).

6.35 PPG: Climate Change notes that addressing climate change is one of the core land use planning principles the NPPF expects to underpin decision taking. Notes the Climate Change Act 2008 which requires the Government to assess regularly the risks to the UK of the current and predicted impact of climate change, to set out its climate change adaptation objectives and to set out its proposals and policies for meeting these objectives.

6.36 PPG: Natural Environment examines key issues in implementing policies to protect and enhance natural environment, including landscape. Local planning authorities should have regard to designated areas and have regard to management plans for AONBs (paragraph 39). Paragraph 40 notes:

"Management plans for National Parks, the Broads and Areas of Outstanding Natural Beauty do not form part of the statutory development plan, but they help to set out the strategic context for development. They provide evidence of the value and special qualities of these areas, provide a basis for cross-organisational work to support the purposes of their designation and show how management activities contribute to their protection, enhancement and enjoyment. They may contain information which is relevant when preparing plan policies, or which is a material consideration when assessing planning applications"

High Weald Area of Outstanding Natural Beauty: Management Plan 2019 - 2024

6.37 The High Weald AONB Management Plan (2019 – 2024) is a statutory document which formulates the relevant local authorities' policy for the management of the AONB so is a material consideration for this proposal. In the High Weald,

as it covers numerous administrative boundaries, the management plan is delivered through a partnership of 15 local authorities.

6.38 The Management Plan states that they are strategies:

"for looking after these beautiful places in the interests of both people and nature. They are formulated to coordinate policy, investment and action in these nationally-important landscapes in order to achieve the legal purpose of 'conserving and enhancing natural beauty' for the benefit of current and future generations."

7. Consultations

7.1 The following summarises the responses of statutory consultees to the application.

7.2 **Mid Sussex District Council (Planning & Environmental Health comments):** Asks that in determining the application WSCC is satisfied with the effects on the AONB; and if permission is granted, that conditions should secure a Construction Management Plan that could include hours of work and numbers of HGVs/routing/deliveries to avoid school drop-off and pick-up times. It also requests conditions mitigating noise (as suggested in the submitted Noise Management Plan) are included. If staff reside on the site, it states that appropriate accommodation should be provided. It urges WSCC to ensure residents are protected from noise impacts, air quality, odour and groundwater and to apply and enforce the conditions of the application.

7.3 **Balcombe Parish Council:** Objects on various grounds including; the need for the development, impact upon landscape, highways, amenity and public health and the water environment; cost for the council; that it does not comply with West Sussex Joint Minerals Local Plan; that the previous application was recommended for refusal; ecology concerns; safety concerns; and a lack of community engagement.

7.4 **Environment Agency:** No objection. Notes that there is an Environmental Permitting Process.

7.5 **Natural England:** No objection.

7.6 **WSCC Drainage:** No comments to make.

7.7 **WSCC Ecology:** No objection subject to conditions for a lighting strategy and bat monitoring.

7.8 **WSCC Highways:** No objection subject to condition requiring the submission of a Traffic Management Plan. Given the temporary nature of the movement and limited increase on existing HGV traffic, it considers that the development would not have a material impact on the operation of the highway network.

7.9 **Southern Water:** Highlights measures to protect public sewers and advises consultations with the Environment Agency and the County Council's technical staff.

7.10 **High Weald AONB:** Highlights policies and guidance for the County Council to take into account in determining the application.

- 7.11 **Network Rail:** Has no comments to make, but advises discussion regarding the site's close proximity to rail infrastructure
- 7.12 **Sussex Police:** Crime prevention advice is provided, noting the benefits of secure perimeter fencing, lighting, and CCTV.

8. Representations

8.1 The application was publicised in accordance with Schedule 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, including the erection of six site notices around the application site and in the village of Balcombe. In response, 805 objections were received from third parties, 6 making comments and 4 no objections.

8.2 The main issues raised through objections include:

- Impacts of the flare on human health and the environment;
- That drilling at site will set a precedent that would promote oil exploration throughout the Weald;
- Adverse impact on local biodiversity;
- Greenhouse gas emissions from the flare, vehicles and produced fuel will contribute to climate change;
- Adverse impact upon the amenity of Balcombe residents;
- Detriment to air quality will damage the health of local residents;
- Groundwater contamination;
- Highways concerns including regarding the size of vehicles entering the site and the damage they could cause to roads;
- That Balcombe village voted in 2014 to oppose any exploration on the site;
- That vehicles passing by Balcombe Primary school would be a danger and detrimental to physical/mental health of residents;
- That the Council has "pledged to step up work to combat climate change";
- Objecting to fracking;
- Concerns regarding production and disposal of toxic waste;
- Heavy industry not being allowed in the AONB;
- Emissions (surface water runoff, gas, leakage) from the site which could have a detrimental affect on surrounding landscapes;
- The applicant not being economically sound;
- Use of acid to break rock is fracking, just not with high pressure fluids (technology and proposal needs checking);
- 24 hour operation being too impactful on residential amenity and road network;
- Earth tremors which could damage the footings of the viaduct/train-line;
- Approval undermining nationwide targets;
- There being no policy to support the application following the removal of Paragraph 209(a) from the NPPF.
- That trust in the technical expertise of Angus is low;

- The development completely changing the character of the village and surrounding area;
- The stress created to the village and that this will outweigh the small benefit the application will give to onshore hydrocarbon production; and
- The risk of community disruption, civil unrest and protests.

9. Consideration of Key Issues

9.1 The main material considerations in relation to this application are:

- the need for the development;
- whether it is 'major development' and, if it is, whether there are exceptional circumstances and it is in the public interest to permit it;
- whether there are alternative sites;
- the impact on highway capacity and road safety;
- the impact on amenity and public health;
- the impact on the water environment;
- the impact on landscape and visual amenity; and
- the impact on ecology.

Need for the Development

9.2 The JMLP seeks to make provision for oil and gas development, recognising the national commitment to maintain and enhance energy security in the UK, provided that there are no unacceptable impacts on the environment and local communities.

9.3 In considering the need for minerals in general, the NPPF notes that "*it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs*" and that "*...minerals are a finite natural resource, and can only be worked where they are found...*" (NPPF paragraph 203). Paragraph 205 requires that in determining planning applications, minerals planning authorities "*give great weight to the benefits of mineral extraction, including to the economy*", though this must be balanced against the weight given to environmental impacts of a development.

9.4 Paragraph 124 of PPG: Minerals which relates specifically to the demand for oil/gas, states:

"Mineral planning authorities should take account of Government energy policy, which makes it 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".

9.5 The Annual Energy Statement referred to in this paragraph notes that energy policy is underpinned by the need to reduce carbon emissions, and to ensure energy security (paragraph 1.1). It makes it clear that while renewable energy must form an increasing part of the national energy picture, oil and gas remain key elements of the energy system for years to come (paragraph 3.69). The Annual Energy Statement 2014 takes the same approach.

9.6 Broader energy policy is set out in the UK's Overarching National Policy Statement for Energy 2011 (EN-1) which relates to Nationally Significant Infrastructure Projects. However, case law confirms it is a material consideration when determining planning applications. At paragraphs 2.2.5 and 2.2.6 it states that:

"The UK economy is reliant on fossil fuels, and they are likely to play a significant role for some time to come. Most of our power stations are fuelled by coal and gas. The majority of homes have gas central heating, and on our roads, in the air and on the sea, our transport is almost wholly dependent on oil. However, the UK needs to wean itself off such a high carbon energy mix: to reduce greenhouse gas emissions, and to improve the security, availability and affordability of energy through diversification."

9.7 Weighed against this, it also states that *"some fossil fuels will still be needed during the transition to a low carbon economy"* (paragraph 2.2.23).

9.8 The Statutory Security of Supply Report 2020 by the Department for Business, Energy and Industrial Strategy, sets out technical statistics on the *"availability of electricity and gas for meeting the reasonable demands of consumers in Great Britain"*. It indicates that the production of oil/gas increased by 1.9% compared with 2018, with indigenous production at its highest level since 2010.

9.9 An up-to-date picture of the Government's energy policy is provided by Energy White Paper: 'Powering our Net Zero Future' (December 2020), which sets out the Government's policies and commitments regarding UK energy strategies whilst striving for net-zero emissions by 2050. The White Paper is clear 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"*.

9.10 The Energy White Paper is the latest and most up-to-date guidance and is a key material consideration. Therefore, it is concluded that although there are alternative sources of supply, both indigenous and imported, there is a clear need for onshore oil and gas development to contribute to national energy security.

9.11 The NPPF gives 'great weight' to the benefits of mineral extraction, including to the economy and highlights that minerals can only be worked where they are found. PPG: Minerals notes that energy supplies should come from a variety of sources and that oil and gas will continue to form part of the national energy supply. The latest national energy policy indicates that the oil and gas industry has a critical role in maintaining the country's energy security and economy. On balance, therefore, it is concluded that there is a need for the development to contribute to national energy security and supply.

Major Development?

9.12 Policy M7a of the JMLP states, in relation to oil/gas development in AONBs/South Downs National Park:

"(a) Proposals for exploration and appraisal for oil and gas, not involving hydraulic fracturing, including extensions to existing sites will be permitted provided that:

(i) With regard to development proposals deemed to be major, the site is located outside the South Downs National Park, High Weald AONB

or Chichester Harbour AONB unless it has been demonstrated that there are exceptional circumstances and that it is in the public interest, and in accordance with Policy M13 [protected landscapes]."

- 9.13 This reflects paragraph 172 of the NPPF, relating to development in AONBs/National Parks, which states that *"planning permission for major development should be refused other than in exceptional circumstances, and where it can be demonstrated to be in the public interest"*.
- 9.14 With the site being in the High Weald AONB, it is necessary to first consider whether the proposal is deemed to be 'major' development.
- 9.15 Footnote 55 of the NPPF provides guidance on this matter, noting that determination of whether something is a 'major development' is *"a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined."*
- 9.16 Policy M13(a)(ii) of the JMLP provides additional clarity, noting that proposals for mineral development in the AONB will not be permitted unless:
- "ii. the proposal is for a small-scale development to meet local needs that can be accommodated without undermining the objectives of the designation;*
- 9.17 This confirms that 'small scale' development is considered to be that which meets local needs. The extraction of hydrocarbons is undertaken to meet a national rather than local need, so the present proposal cannot be considered to 'small scale' development.
- 9.18 In addition, supporting paragraph 8.3.9 of the JMLP states that *"small scale developments potentially include ancillary developments such as weighbridges, offices, haul roads, and other minor amendments to existing planning permissions"*. The proposed use would not be ancillary in nature or a minor amendment to an existing permission, so is not considered to fall within these guidelines.
- 9.19 It is of note that the 2014 and 2017 applications were both considered to be 'major development', despite being for a shorter period of time, with less activity. The extended well test proposed in this application would last for up to twelve months, potentially with activity over much of the duration. Given these factors, and the site's location outside of the defined built-up boundary, it is concluded that the proposal is 'major development' for the purposes of Policies M7a and M13 of the JMLP and paragraph 172 of the NPPF.
- 9.20 Having determined that the proposal is 'major development', the proposal needs to be assessed against part (c) of Policy M13 relating to major development in protected landscapes which states:
- "Proposals for major minerals development will not be permitted within protected landscapes unless there are exceptional circumstance and where it is in the public interest by assessment of:*
- i) *The need for the development, including terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*

- ii) *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for the mineral in some other way; and*
- iii) *any potential detrimental impact on the environment, landscape, and recreational opportunities, and the extent to which identified impacts can be satisfactorily mitigated."*

- 9.21 Policy M13 reflects the fact that a 'high bar' is set by national policy for major development in protected landscapes, which requires an assessment of whether there are exceptional circumstances, and the development is in the public interest. This assessment is informed by a consideration of the matters set out in the three sub-paragraphs of Policy M13(c).
- 9.22 The first part of sub-paragraph (i) is discussed in paragraphs 9.2–9.11 of this report. In essence, it is concluded that there is a role for hydrocarbon exploration to help maintain the country's energy security.
- 9.23 With regard to the second part of sub-paragraph (i), this asks whether there would be a direct impact upon the local economy by either permitting or refusing the development. To address this requirement, the application submission contains a Socio-Economic Report that considers the impact of permitting the development on the local economy.
- 9.24 At 6.3 of the Socio-Economic Report, it indicates that, if approved and implemented, the development has the potential to put some £1.7 million into the local economy. Having queried this figure, it has now been refined down to £815,000 potentially locally sourced. Although significantly lower, it still indicates that there would be a positive impact upon the local economy should the development be carried out.
- 9.25 With regard to sub-paragraph (ii), it is important to consider the particular constraints on the development of oil reserves compared to the extraction of other minerals (that would be considered under Policy M13). As identified in paragraph 9.32, operators can only explore within the area of their PEDL and, therefore, there is limited 'scope' for them to develop elsewhere. Furthermore, the presence of hydrocarbons may not be uniform across the PEDL area. In this specific case, the applicant has stated that no other sites in the PEDL area have evidence of the presence of hydrocarbons and there is also an element of technical closure, that is, the target hydrocarbons may not be present in the whole PEDL area.
- 9.26 There is also a need under sub-paragraph (ii) to consider the 'cost' of developing a new site within the PEDL area but outside the AONB. This cost would be considerable compared to the cost of using an existing, already drilled, well site that accesses the target hydrocarbons. Furthermore, there is no guarantee that a new exploration site would find a viable hydrocarbon resource.
- 9.27 With regard to 'meeting the need for the mineral in some other way', it is acknowledged that oil reserves have been found elsewhere in the County, and beyond, outside the AONB. There are also alternative sources of indigenous and imported hydrocarbon supply that could meet the national need for hydrocarbons. Nevertheless, should proven hydrocarbons be found viable at this site, it would still help to contribute to the national need for oil and gas.

- 9.28 Furthermore, given the decline in North Sea oil reserves and the volatility of the international oil market, the potential to develop on-shore oil reserves has been seen as increasingly important nationally in order to provide greater diversity and security of supply. For this reason, the exploration of on-shore sources, which are potentially of strategic significance, is important with regard to diversity and security in the national supply chain.
- 9.29 With regard to sub-paragraph (iii), the development would be temporary, after which the site would be restored (or retained while an application for further works is prepared). As addressed elsewhere in Section 9 of this report, while there would be some adverse impacts on the environment, landscape, and recreational opportunities, it is considered that they could be satisfactorily mitigated.
- 9.30 In summary, in relation to the assessment required under Policies M7(a) and M13(c), it is considered that there is a national need for the development and there would be a benefit to the local economy. Although there are alternative sources of local and national supply, the operator is constrained by the extent of the PEDL area. Furthermore, the cost of developing a new well outside the AONB, which may not be successful, weighs in favour of the continued use of the existing well site. Although there are some adverse impacts, these could be satisfactorily mitigated through planning conditions. Taking all these factors into account, the overall assessment is that there are exceptional circumstances and the development is in the public interest.

Alternative Sites?

- 9.31 The need to consider alternative sites for hydrocarbons (and thereby the need for this particular site to be used) is set out in Policy M7(a)(ii):
- "the site selected represents an acceptable environmental option in comparison to other deliverable alternative sites from which the target reservoir can be accessed, taking into account impacts from on-site activities and off-site activities including HGV movements."*
- 9.32 For oil and gas, options for consideration of alternative sites are limited to those that can 'tap' into the identified reserve. As operators can only explore within the area of their PEDL, it is considered reasonable to limit evaluation of alternative sites to a single PEDL area.
- 9.33 The application site is within PEDL Block 244, the area of which defines the 'search area' for the purposes of this application. There are currently two hydrocarbon sites in the PEDL area: the application site (including Balcombe-1, the original well drilled in 1987) and Bolney-1, a gas site 3.7 miles south of the site. The latter was drilled in 1963 but has not been in operation for many years. Balcombe-1, within the drill pad of the application site, was drilled in 1987, with a new borehole (Balcombe-2) drilled in 2013, with recent permissions allowing exploration and appraisal.
- 9.34 By using this site, the operator could make use of existing, site-specific geological data, and utilise the borehole drilled in 2013 and the associated infrastructure on site. As the drilling of a borehole has some of the most significant impacts of the oil exploration process, it is considered use of the current site would be beneficial in reducing costs and impacts on people and the environment when compared with an alternative, new site. Further, the PEDL

area is almost entirely within the AONB, so it is likely that alternative sites that could access the target reservoir would also need to be located within the AONB.

- 9.35 The site is, therefore, considered to represent an acceptable environmental option, when compared against other potentially deliverable, alternative sites from which the target reservoir can be accessed, in accordance with Policy M7a (a)(ii). For the avoidance of doubt, this conclusion solely relates to comparing the use of the site with the creation of a new site in the PEDL area, which is considered likely to result in greater environmental harm.
- 9.36 The proposed development is located with the High Weald AONB. However, with much of the PEDL area also within the AONB, it is considered the use of the site would represent an 'acceptable environmental option' when compared with developing a new site within the licenced area as the operator could utilise the existing borehole and associated data and infrastructure.

Highway Capacity and Road Safety

- 9.37 One of the key issues raised in objections to the application has been the impact of HGVs on the road network, in particular as they travel through Balcombe village.
- 9.38 As already noted, the application site is located on the western side of the B2036 (London Road). It has an existing upgraded bellmouth and access road that have been used for previous hydrocarbon operations, including the drilling in 2013.
- 9.39 Table 1 of the Traffic Report 2020 (reproduced below) gives an approximation of HGV movements over the period of operations. Although such movements are difficult to estimate, it indicates that the most intensive period of HGV movements would be during the mobilisation/de-mobilisation activities. During these periods, there would be up to 16 two-way movements each day (approximately eight HGVs travelling to/from the site).

Phase	Activity	Approximate Timescales (weeks)	Estimated HGVs over period (two way movements)	Maximum daily HGVs (two way movements)	Average HGVs per week (two way movements)
1	Mobilisation / equipment set up	1	56	16	56
1	Pumping (removal of drilling fluid)	2	40	4	20
1	Demobilisation of equipment	1	56	14	56
2	Mobilisation of civil engineering	1	34	14	34
2	Earthworks and membrane installation	7	112	4	16
2	Demobilisation of civil engineering	1	34	8	34

Phase	Activity	Approximate Timescales (weeks)	Estimated HGVs over period (two way movements)	Maximum daily HGVs (two way movements)	Average HGVs per week (two way movements)
3	Mobilisation of well test equipment	1	56	16	56
3	Mechanically lift well / natural flow	53	424	2	8
3	Contingency N2 lift	2	72	12	36
3	Contingency treatment (acid wash)	2	65	12	34
3	Contingency install (install plug)	2	60	12	30
3	Demobilisation of well test equipment	1	56	16	56
4	Plug and decommission well	4	168	12	42
4	Restoration	8	352	10	44

9.40 WSCC Highways Officers have reviewed the technical documents in support of the application and raise no objection to the proposal, stating:

“given the temporary nature of the movements and the limited average increase on existing HGV traffic for the duration of the flow test, it is not considered that the proposal will have a material impact on the operation of the network”.

9.41 WSCC Highways Officers also note that the site access is acceptable, stating that although the Safety Audit carried out in 2010 has not been updated, the trip generation is not sufficient to warrant a new Audit being undertaken.

9.42 It has been suggested in a number of representations that HGVs should be routed to/from the south of the site, via Whitemans Green, to avoid Balcombe village to the north, in particular the local school. However, previous development has been routed to the north on the B2036, through Balcombe village, linking to Junction 10A of the M23, 7 kilometres north of the site. The comparable route to the south would be 7.6 kilometres long. In highways terms, the route north is preferable as it is more direct. Both routes would travel past residential properties and other sensitive uses, but the disturbance is considered to be minimal, given the numbers of HGVs involved.

9.43 To address concerns regarding impacts on Balcombe CofE Primary School, Highways Officers have recommended the imposition of a condition requiring a Traffic Management Plan that would restrict the timing of HGV movements.

9.44 Concerns have been raised about the transport of hazardous waste through the village, including past the school. However, it should be noted that the safe carriage of hazardous waste is not a matter for the planning system, but is covered by other regulations (the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009, regulated by the Health and Safety Executive)).

- 9.45 The NPPF is clear in that, "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". Therefore, subject to a Traffic Management Plan, Highways Officers raise no objection to the development, noting that the development would not have a material impact on the operation of the highway network in safety or capacity terms.
- 9.46 Overall, it is considered that the development is acceptable in terms of its impact on the highway network, subject to the imposition of a condition requiring a Traffic Management Plan.
- 9.47 The proposed development would result in increased HGV movements on the B2036 and other roads throughout the course of the development. However, the increase in HGV traffic would not be significant in highways terms and would not result in an unacceptable impact on highway safety, or a severe impact on the road network. WSCC Highways Officers raise no objection to the proposal, concluding that the increase in vehicle movements is not sufficient to materially impact on the operation of the highway network in safety or capacity terms, subject to the imposition of a condition requiring the submission and approval of a Traffic Management Plan.

Impact on Amenity and Public Health

- 9.48 A key concern raised in objections is the potential impact of the development on public health and the amenity of local people.
- 9.49 The nearest dwelling to the site is a Kemps Farm, 350 metres north and the nearest residential street, Oldlands Avenue, is 780 metres north.
- 9.50 The site sits at a lower topographical level (around 59 metres above ordnance datum (AOD)) than the village (generally rising to the north and east from 100 metres AOD) and the railway line. Ancient Woodland and farmed woodland separate the site from Kemps Farm. Both the site and Kemps Farm abut the B2036 to the west and are close to the railway corridor to the east.
- 9.51 The key potential impacts on amenity and public health resulting from the proposed development are likely to be increased noise and reduced air quality.

Noise

- 9.52 The development has the potential to result in increased noise at residential properties through the use of plant such as the nodding donkey/linear pump rod, wheeled mobile crane and the generators, in addition to vehicle movements to, from, and within the site.
- 9.53 The flaring of gas can be a noisy operation, depending on how much gas is produced, but it can be controlled, as required, by 'throttling back the flow'. In addition, the flare is confirmed to be enclosed, helping to minimise noise impacts. Although the flare would be a 24 hour operation, working measures can help to minimise noise. It is, therefore, considered that noise impacts from the flare are controllable.

- 9.54 Calculations submitted as part of the Noise Mitigation Plan indicate that the noise impact from the remainder of the plant and equipment including generators would not be significant.
- 9.55 A condition could be included to secure a Noise Mitigation Plan, as used during 2018 operations, which would require the applicant to provide details of 'instantaneous mitigation measures' such as throttling back the gas flow, and in extreme cases, ceasing operations until appropriate action is taken (unless it is unsafe to do so). Noise monitoring could also be undertaken continuously during operations by the applicant, with results submitted to the County Council on a weekly basis, but also on request. In the event that noise emissions do cause a problem, a condition could be used requiring submission of a Noise Management Plan to identify the mitigation measures to be put in place and the timescale for doing so.
- 9.56 Mid Sussex District Council have raised no objection subject to the submitted Noise Management Plan being adhered to and the suggested conditions in Appendix B.
- 9.57 Under these circumstances and given the controls that the proposed conditions could give, it is not considered that the proposal would result in adverse noise impacts on residential amenity.
- 9.58 The site set-up operations and demobilisation, as well as most of the plugging and abandonment works would be undertaken during the day (from 07.00–19.00 Monday to Friday, and 08.00 to 13.00 on Saturdays), with HGV movements being between 07.30–18.30 Monday to Friday, and 08.00 to 13.00 on Saturdays. With conditions setting a limit for noise emissions from the site, and a condition controlling the hours of HGV movements, it is considered that the potential for noise impacts could be limited satisfactorily.
- 9.59 Working hours for different operations period have been stated by the applicant. However, many of these could be undertaken as 'permitted development', without restriction on hours of operation. It would not be appropriate, therefore, to impose a planning condition restricting these hours as it would not meet the legal tests for a planning condition. However, the operator would still be subject to the 'nuisance' requirements regulated by Environmental Health officers, which would ensure impacts are not detrimental to human health.

Air Quality

- 9.60 Concern has been raised in third party objections about the potential impact of the flare on air quality and human health.
- 9.61 The flare would be on site for the duration of the flow testing and pressure monitoring to dispose of natural gas, a by-product of oil exploration which is not always viable to use.
- 9.62 PPG: Minerals (paragraph 112) is clear that the flaring or venting of gas is subject to DECC (now the Oil & Gas Authority) controls and is regulated by the Environment Agency, with Minerals Planning Authorities needing to consider only "*how issues of noise and visual impact will be addressed*". It is clear, therefore, that the potential impact of the flaring of gas on air quality is not a matter for the County Council.

- 9.63 However, in leaving this issue to other regimes, PPG: Minerals also makes it clear that the Minerals Planning Authority must be satisfied that the issues can or will be addressed by taking advice from the relevant regulatory body (paragraph 112). The Environment Agency has commented on the application and has raised no objection. In addition, the Environment Agency has highlighted to the applicant that the proposal may require an additional or variation to the existing Environmental Permit.
- 9.64 The development also has the potential to result in impacts on air quality through increased traffic on the road to and from the site. However, the levels of vehicles associated are not considered to be significant enough to reduce air quality, particularly given the temporary nature of the vehicle movements and the small increase over existing HGV numbers already on the local highway network.
- 9.65 Taking the above into account, it is concluded that the potential impact of the development on air quality is satisfactory, particularly given the controls in place through the Environmental Permitting regime.
- 9.66 The development has the potential to adversely affect residential amenity and health, primarily through increased noise and emissions to air. In terms of noise, there is a potential for the flare and plant on site to result in noise disturbance. However, it is considered that this could be adequately controlled by conditions requiring monitoring, and remediation if levels are exceeded. The development has the potential to result in impacts on air quality through the flare, and an increase in vehicles travelling to and from the site. However, emissions from the flare are controlled by the Environmental Permit that applies to the operations. The potential impact of increased vehicle numbers is not considered to be significant as numbers are relatively low, and for temporary periods.

Impacts on the Water Environment

- 9.67 One of the key issues raised in objections to the proposal is the potential impact on the water environment. PPG: Minerals notes that "*surface, and in some cases ground water issues*", should be addressed by minerals planning authorities as well as flood risk and water (paragraph 13). The impact on the water environment is, therefore, a material planning consideration.
- 9.68 The site is not within a groundwater Source Protection Zone (SPZ), with the nearest of these 2.3 km north-west of the site, without an abstraction licence to pump water (though 20m³ can be abstracted without such a licence). Previous applications have confirmed that there are no licenced groundwater abstractions within 3km of the site. There are, however, small streams as close as 15 metres from the site access road.
- 9.69 The site lies on Wadhurst Clay which is 47 metres thick and classified as 'unproductive strata' because it is identified as being generally unable to provide usable water supplies and unlikely to have surface water and wetland dependent upon them. The clay also acts as a natural barrier to the migration of either groundwater or gases between permeable strata.
- 9.70 Below the clay are the Ashdown Beds of 212 metres' thickness, a 'Secondary Aquifer' formed of fine-grained silty sandstone and mudstone. Again, previous applications have noted that this contains naturally high levels of methane, but

that due to geology and well construction this does not pose a risk to groundwater. Below the Ashdown Beds is another layer of Kimmeridge Clay, below which are the hydrocarbon-bearing Micrite Beds into which the lateral well extends.

- 9.71 In considering the potential impacts on the water environment, it is important to note that the County Council must assume that other, non-planning regimes operate effectively (PPG: Minerals, paragraph 112). In relation to water, this means assuming that the construction, design and operation of the borehole have been undertaken appropriately, in accordance with Health and Safety Executive (HSE) requirements. It also means assuming that the Environment Agency will ensure that surface equipment operates satisfactorily, and that mining waste and NORMs are appropriately managed.
- 9.72 Nonetheless, as already noted, paragraph 112 of PPG: Minerals notes that before granting permission the County Council will need to be satisfied that the issues dealt with under other regimes can be adequately addressed 'by taking advice from the relevant regulatory body'. The County Council has consulted with the Environment Agency and HSE, neither of which has objected.
- 9.73 The main risks to the water environment are due to run-off from the surface of the site. For any development, it is important to ensure that fluids, particularly where they are potentially polluting, are managed within the site. For this development, impacts on water quality would be mitigated by ensuring potentially polluting activities are undertaken on an impermeable surface with sealed drainage system. A condition could be added requiring the submission and approval of a Construction Method Statement detailing: the inspection of the existing containment measures; remediation or replacement of the containment measures; containment construction and quality assurance and future inspection and maintenance. Fuel tanks and chemicals stored outside of the impermeable area would have their own bunded containers, as is common practice in industry and agriculture.
- 9.74 It is considered these mechanisms would ensure that surface water is protected.
- 9.75 Details of surface and foul water drainage are matters which could be required by conditions and which would ensure that the site does not increase the risk of flooding off-site, and that foul waste is managed appropriately.
- 9.76 The main risks to groundwater are through failure of the well casing, leaking of chemicals and hydrocarbons, and through migration of liquid from the borehole. All of these matters are addressed through regulation by the Environment Agency and HSE. The Environment Agency has considered the site's location in terms of a range of issues including geology and hydrogeology, and protected sites and species. The HSE consider the potential interaction with nearby wells, as well as geological strata and the fluid within them.
- 9.77 Concerns have been raised regarding the use of hydrochloric acid in the 'acidisation' process. However, this is regarded as standard procedure in the cleaning of boreholes for not just oil and gas development but also more generally for many drinking water boreholes.
- 9.78 Taking the above into account, it is considered that subject to the imposition of appropriate conditions the development does not pose a risk to the water

environment. Therefore, it accords with criterion (a)(iii) of Policy M7a of the JMLP, which seeks to, among other things, minimise impacts on the water environment, and criterion (a)(v) which requires that *"no unacceptable impacts arise from the on-site storage or treatment of hazardous substances and/or contaminated fluids above or below ground"*.

- 9.79 Although the potential impact of the development on the water environment is a material consideration, PPG: Minerals, paragraph 12 notes that mineral planning authorities must assume that non-planning regimes operate effectively. This means assuming that the well is constructed and operated appropriately, that surface equipment operates satisfactorily, and that waste and NORMs are appropriately managed in accordance with other regulatory regimes. The Environment Agency and Health and Safety Executive are the regulatory agencies for these matters.
- 9.80 The risk to surface water would be minimised by carrying out activities on an impermeable membrane with a sealed drainage system. With regards to groundwater, it must be assumed that the well is constructed and operated to the appropriate standards. It is, therefore, concluded that the development does not pose a risk to the water environment, either at the surface or groundwater.

Impact on Landscape and Visual Amenity

- 9.81 Policy M12 of the JMLP seeks to protect the character, distinctiveness and sense of place of different areas of the County and, in this particular case, to protect the setting and character of the High Weald Area of Outstanding Natural Beauty (AONB), which has the highest status of protection and wherein 'great weight' must be given to conserving and enhancing the landscape and scenic beauty, while also giving weight to the benefits of minerals extraction.
- 9.82 The physical development would involve the use of a 40m crane (which would be on-site for up to ten days), a flare measuring 13.8 metres in height (which would be on-site for the duration of the Extended Well Test), and site infrastructure including portacabins, tankers, pumps and generators. The site is currently enclosed with a two-metre high security fence, which would be retained. As already noted, the operation of the site would involve the movement of HGVs to/from the site, as well as on-site works involving the movement and operation of various types of equipment.
- 9.83 The applicant has submitted 'viewpoint photographs' indicating the potential impact of the development, albeit the workover rig shown would not be used, and photographs were taken in spring, rather than winter when the 'worst case scenario' would be apparent with trees/plants not in leaf (see **Appendix 5: Viewpoint Photo**).
- 9.84 The photographs indicate that the crane, pump and flare, and the upper parts of the security fence would be visible from London Road at the site entrance, and from an agricultural entrance north of this. Some views would also be possible from the Public Right of Way some 300m to the north (footpath 13Ba).
- 9.85 There is the potential for impact on the character of the area and visual amenity, particularly by virtue of the flare being on site until the completion of the well test, and the disturbance created by an industrial-style operation being undertaken in a countryside location. However, on balance, it is not considered

that these impacts are unacceptable and, therefore, the proposal accords with Policy M12 of the JMLP.

Impact on Ecology

- 9.86 The application site abuts Ancient Woodland to the north and south, as well as beyond the railway corridor to the east and beyond the B2036 to the west. It is otherwise relatively distant from any ecological designations, being located 800 metres south-east of the Rowhill Copse Local Nature Reserve and 1,100 metres south-west of the Ardingly Reservoir Local Nature Reserve.
- 9.87 There are several Sites of Special Scientific Interest (SSSIs) within 5 kilometres of the site. Wakehurst and Chiddingly SSSI is 2,300 metres north-west of the site; Cow Wood and Harry's Wood SSSI is 3,200 metres west of the site; Worth Forest SSSI is 3,800 metres north of the site and Philpot's and Hook Quarry SSSI is 4,600 metres north-east of the site. Beyond this, Ashdown Forest Special Protection Area (SPA) is 8.9km east of the site.
- 9.88 WSCC's Ecology Officers reviewed the submitted ecological assessments and have raised no objection to the proposal, subject to conditions seeking a lighting strategy and bat monitoring. Natural England also raises no objection, providing Standing Advice (referred to in Natural England's consultee response) which forms an integral part of their assessment of the application.
- 9.89 Taking the above into account, it is considered that the impacts of the proposed development can be contained within the site to ensure that habitats and species are not adversely affected. The development thereby accords with criterion (a)(iii) of Policy M7a of the JMLP, which seeks to minimise unacceptable impacts on, among other things, the natural environment, and Policy M17 of the JMLP, which seeks to minimise harm to biodiversity.
- 9.90 The proposed development is adjacent to ancient woodland, and there are a number of Sites of Special Scientific Interest in the local area, though relatively distant from the site, each more than 2,000 metres away. A key concern relates to the potential impact on bats. However, WSCC's Ecology Officers have raised no objection, subject to conditions to control lighting on the site, and bat monitoring. It is therefore considered that the proposal is acceptable in terms of its potential impact on ecology.

10. Overall Conclusion and Recommendation

- 10.1 This application seeks an extended well test for hydrocarbon development for up to 12 months, in addition to other short-term activities, at an existing site within the High Weald AONB.
- 10.2 The NPPF gives 'great weight' to the benefits of mineral extraction and national guidance notes that energy supplies should come from a variety of sources, including oil and gas. On balance, and taking account of the latest national energy policy, it is concluded that there is a need for the development to contribute to national energy security and supply.
- 10.3 With regard to the acceptability of the development in this sensitive location, it is considered that the application is for 'major development'. Therefore, following an assessment in accordance with Policies M7 and M13 of the JMLP, it

has been concluded that there are exceptional circumstances and it is in the public interest for the application to be permitted.

- 10.4 As above, it considered that there is a national need for the development and, furthermore, there would be a benefit to the local economy. Although there are alternative sources of local and national supply, the operator is constrained by the extent of the PEDL area and it is considered the use of the site would represent an 'acceptable environmental option' when compared with developing a new site within the licenced area, which would be more expensive and with no guarantee of success.
- 10.5 The extended well test and associated activities have the potential to result in adverse impacts on the highway, local communities, landscape character and the local environment, issues that have been raised in the large number of objections to the application. Balcombe Parish Council has objected to the application, but no other statutory consultees have objected, subject to the imposition of conditions and having regard to relevant policy and guidance.
- 10.6 It is concluded that the number of vehicles required to carry out the development is not significant enough to raise concerns regarding highway capacity or road safety. Emissions from the development would be controlled through the planning regime as well as through the Environmental Permitting and health and safety regimes which would ensure that water quality would not be compromised and that emissions to air would be acceptable.
- 10.7 The High Weald AONB has the highest level of protection, with the NPPF directing authorities to give 'great weight' to conserving its landscape and scenic beauty, in addition to giving 'great weight' to the extraction of minerals. On balance, it is considered that the impact of the proposed development on the AONB, and the character of the area in general, would not be unacceptable.
- 10.8 Overall, although the proposed development would have some adverse impacts, it is considered that they could be satisfactorily mitigated through the imposition of appropriate planning conditions.
- 10.9 On balance, in light of the above assessment and taking account of the changes to the proposed development (in particular the shorter duration of the operations proposed compared with the previous application), the additional information submitted by the applicant, and changes to national energy policy, the revised application is considered to accord with the policies in the development plan (in particular, Policies M7 and M13 of the JMLP) and, therefore, it is acceptable.
- 10.10 It is, therefore, **recommended** that planning permission is granted subject to the conditions and informatives set out at Appendix 1.

11. Consultation

- 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 proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it 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. This application has 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 There are no implications.

16. Social Value and Sustainability Assessment

- 16.1 Not applicable.

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Appendices

Appendix 1 – Conditions and Informative

Appendix 2 – Site Location Plan

Appendix 3 – Existing Site Plan

Appendix 4 – Proposed Site Plan

Appendix 5 – Viewpoint Photo

Background Papers

See Section 6.

Appendix 1: Conditions and Informative

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

Time Limitations

2. The Extended Well Test (Phase 3) hereby approved shall be completed and cease within a period of twelve months from the date of commencement of development.

Reason: To ensure that the impacts are limited to the timeframe considered in granting the planning permission.

Notification of Works

3. Prior written notification of the date of commencement of each phase of works (removal of fluids, pad membrane works and the extended well test) hereby approved shall be sent to the Minerals Planning Authority not less than seven days and no more than 14 days before commencement of each Stage 1 Activity.

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

Completion of Works

4. Notification of the date of the completion of the extended well test hereby approved shall be sent to the Minerals Planning Authority not more than seven days following completion. Within twelve months of the completion of the extended well test, the operator shall restore the site in accordance with the scheme approved under Condition 5.

Reason: To secure the timely restoration of the site.

Approved Plans

5. The proposed development shall not take place other than in accordance with the approved drawings and documents:
 - Figure 1: Site Location Plan (Rev 01);
 - Figure 2: Existing Site Plan (Rev 01);
 - Proposed Site Plan (dwg HSF-BALCOME-SL-01);
 - Proposed Site Plan (dwg HSF-BALCOME-SL-02);
 - Figure 4a: Proposed Elevation – View from North West (Rev 03);
 - Retention Plan (dwg 32414-RSK-XX-XX-DR-L-1000; and
 - Restoration Planting Plan (dwg 32414/01/01 Rev-01)

save as varied by the conditions hereafter. For the avoidance of doubt, high pressure hydraulic fracturing shall not be undertaken as part of this development.

Reason: To secure a satisfactory development.

Decision Notice

6. 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 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.

Lighting Strategy

7. Development shall not begin until a Lighting Strategy, assessed by a suitably-qualified ecologist, has been submitted to and approved in writing by the Minerals Planning Authority. The Lighting Strategy shall include:
 - a) Re-assessment by suitably-qualified ecological consultant of the impact of the site's lighting regime on the surrounding vegetation at night within 7 days of its installation;
 - b) Measures for immediate remedial action should the assessment carried out at (a) indicate that light spill exceeds 1 lux; and
 - c) Within 14 days of the installation of site lighting, submission to the Minerals Planning Authority of a report detailing the impact of the lighting on the surrounding vegetation. The report shall detail lighting measurements (carried out in accordance with (a)), remediation undertaken and its impact, and the type and timescale of further remediation which may be required to ensure light spill onto adjacent vegetation is less than 1 lux.

The approved Lighting Strategy shall thereafter be implemented in full.

Reason: to protect the ecology of the area, particularly bats.

Traffic Management Plan

8. Development shall not begin, including any works of mobilisation, until a Traffic Management Plan has been submitted to and approved in writing by the Minerals Planning Authority. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:
 - the anticipated number, frequency and types of vehicles used during the development;
 - the method of access and routing of vehicles;
 - the parking of vehicles by site operatives and visitors;
 - the loading and unloading of plant, materials and waste;
 - the storage of plant and materials used in the development;

- the erection and maintenance of security hoarding (if relevant);
- the provision of works required to mitigate the impact of the development upon the public highway (including the provision of temporary Traffic Regulation Orders);
- details of public engagement both prior to and during the development;
- traffic management schemes such as restrictions on timings, associated signage etc.; and
- measures to ensure that HGV movements avoid school pick-up and drop-off times.

The approved Plan shall be implemented and adhered to throughout the development.

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

Hours of HGV Movements

9. With the exception of undertaking urgent works in emergency situations, the movement of all HGVs to/from the site shall only be undertaken between the hours of 07:30 and 18:30 Mondays to Fridays and 08:00 to 13:00 on Saturdays. No HGV movements shall occur on Sundays, Bank Holidays and Public Holidays.

Reason: To protect the amenity of local residents.

Noise Levels

10. The corrected* noise level for operational noise from the site shall not exceed 55dB(A) LAeq,5 minutes (free-field) between the hours of 07:00 – 19:00 Mondays to Fridays and 08:00 – 13:00 Saturdays; shall not exceed Background LA90,1 hour + 10dBA evenings (19:00-22:00) and weekends and shall not exceed 42dB(A) LAeq,5-minutes free-field at night (22:00-07:00). Noise levels shall be determined at the nearest residential premises.

* A 5dB correction shall be added to the LAeq noise level to provide a corrected noise level if one or more of the following features occur:

- the noise contains a distinguishable, discrete, continuous note (whine, hiss, screech, hum, etc.)
- the noise contains distinct impulses (bangs, clicks, clatters or thumps)
- the noise is irregular enough to attract attention

Reason: In the interests of residential amenity.

Noise Monitoring

11. Noise levels shall be monitored at Kemps Farm at weekly intervals from the date of the commencement of development. The results of the monitoring shall include LA90 and LAeq noise levels, the prevailing weather conditions, details and calibration of the equipment used for measurement and comments on other sources of noise which affect the noise climate. The monitoring shall be carried

out for at least 2 separate durations during the working day and the results shall be submitted to the Minerals Planning Authority within 3 days of the monitoring being carried out. If the results indicate that the noise levels exceed those set out in Condition 10 the mitigation detailed in Condition 12 shall be implemented within 48 hours.

Reason: *To minimise the impact on residents and the environment.*

Noise Management Plan

12. Prior to the commencement of development, the applicant shall submit to, and have approved in writing by the Minerals Planning Authority a Noise Management Plan. The Plan shall identify:
- Details of initial noise tests for each item of noise-emitting plant on site to establish whether noise emissions are compliant with condition 10;
 - If not compliant, details of what mitigation would be introduced and timescales for implementation;
 - Details of instantaneous mitigation methods for each item of noise-emitting equipment (e.g. throttling back gas flow for the flare, stopping works where safe to do so) and any longer term mitigation;
 - Detail of continuous monitoring procedure to monitor noise limits;
 - Procedures for addressing any complaints received.

Once approved, the Noise Management Plan shall be implemented in full throughout the course of the development.

Reason: *To minimise the impact on residents and the environment.*

Reversing Alarms

13. Vehicles within the operator's control, including those required to visit the site under contract that are required to emit reversing warning noise, shall use only white noise/broadband alarms rather than single tone alarms.

Reason: *To protect the amenities of local residents.*

Bat Monitoring

14. Prior to the commencement of development or any preparatory works a bat monitoring strategy shall be submitted to the Minerals Planning Authority for approval. The monitoring strategy will be expected to start within 7 days of this permission being implemented and will continue through the lifetime of the permission and for one year after site closure. All approved details shall be implemented in full unless otherwise approved in writing by the Minerals Planning Authority. All identified adverse impacts on bats shall be reported to the relevant site operators and the Minerals Planning Authority and ameliorated immediately. Annual reports and a final report (one year after permitted operations cease) shall be produced and submitted to the Minerals Planning Authority.

Reason: *to assess the impact of the development on bat activity.*

INFORMATIVES

- A. The Minerals Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.