

Planning Committee

29 April 2014 – At a meeting of the Committee held at 10.30 a.m. at County Hall North, Horsham.

Present:

Mr Barrett-Miles, Mrs Brunsdon (Chairman), Mr Crow, Mrs Hall, Mr Hunt*, Mrs Kitchen, Mr McAra, Mrs Mockridge, Mrs Mullins, Mr S. Oakley, Mr Parsons, Mr R. Rogers and Mr Wickremaratchi.

Apologies: Mr J. Rogers provided his apologies. *Mr Hunt acted as substitute.

Declarations of Interest

1. There were no declarations of interest at this stage. Please see minute 37 below.

Minutes

2. Resolved – That the minutes of the meeting of the Committee held on 4 March 2014 be agreed as a correct record and that they be signed by the Chairman.

Minerals Planning Application (County Matter)

WSCC/005/14/BA

Temporary permission for exploration and appraisal 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 at Lower Stumble Exploration Site, London Road, Balcombe, West Sussex, RH17 6JH.

3. The Committee received a report from the Strategic Planning Manager (copy appended to the signed minutes).

4. Jane Moseley, Principal Planner, introduced the report and highlighted the key issues. It was emphasised that the application concerned flow testing. The Committee was informed of a late challenge that had been received before the meeting which requested the deferral of the application due to an excessive reliance in the report on the Environment Agency (EA) and Health and Safety Executive (HSE). It was explained that the reliance was appropriate to avoid duplication of responsibilities and that EA had considered issues of relevance in the application and had raised no concerns.

5. The Committee was informed of the following updates to Conditions in the report:

- an agenda update report (copy appended to the signed version of the minutes) contained updated Conditions 10, 12 and 13 and an additional Condition (19) relating to the submission of final details of the workover rig; and

- a verbal update to Condition 2 was presented to the committee to replace the word *cease* with *be complete*.

6. Kevin Bottomley, Balcombe Parish Council spoke in opposition to the application. Mr Bottomley queried the lorry route for HGVs accessing the site which caused lorries to pass through Balcombe. Consideration of a lorry route to the South of the site was recommended which would avoid movements passing through the village. Concern was expressed that an Environmental Impact Assessment (EIA) had not been undertaken and without a full EIA the application should be refused. A ballot of local public opinion had shown that 60% of local residents opposed the application but this was not considered in the report. The impacts of the application upon village life were adverse and unacceptable.

7. Sue Taylor, Frack Free Balcombe Residents' Association spoke in opposition to the application. The Committee was urged to defer the application on the grounds that there had not been adequate consideration of the risk of water and air pollution. Planning officers have relied solely on advice from EA and HSE however both have been deficient in the discharge of their responsibilities at Balcombe. The sites environmental permit states proper well construction was required to protect ground water. HSE did not visit the site during well construction therefore neither the HSE nor the planning authority can be assured of the integrity of the well. The distance of 10 metres between the Cuadrilla well and Balcombe-1 was a concern; the old well had not been inspected since 1987, its integrity and the risk posed by its proximity were unknown. Well integrity failures of proximate wells at Singleton oil field in the 1990s had resulted in two incidents of pollution which had been cited by an academic study. The risk to groundwater of drilling through geological faults in the Balcombe area was also raised. Concerns were expressed regarding the position of the application site and South East Water pumping stations on the same aquifer. The high level of methane in the aquifer required investigation to determine if this was the result of the drilling of Balcombe-1. The EA have acknowledged the connection between the tributary of the River Ouse (close to the wellhead) and the Ardingly reservoir. The purpose of South East Water requesting a planning condition required explanation and the EA permit was not adequate to protect air quality as it imposed no limits on emissions from the gas flare.

8. Louisa Delpy, Balcombe resident spoke in opposition to the application. There was concern regarding the adequacy of the conditions to protect the environment and the residents of Balcombe; the conditions were not sufficiently defined or fixed to ensure that monitoring and enforcement would be effective. In particular it was felt that the noise monitoring condition needed to be strengthened with a quicker monitoring mechanism and reporting to be undertaken on a continuous basis. The condition relating to HGV movements required finalisation before the application was determined. The Notice of Motion approved by County Council in October 2013 required that the conditions were adequate to meet, monitor and enforce conditions and that there was consultation with the local community and community benefits be secured. The application and planning process had not adhered to these elements of the Motion.

9. Charles Metcalfe, Frack Free Balcombe Residents' Association, spoke in opposition to the application. The Committee was urged to defer the application as the conditions were felt to be weak and with an emphasis on mitigation rather than effective prevention. The applicant had previously breached conditions at the site in Balcombe and other sites nationally. Problems at Balcombe had been compounded

by the failure of West Sussex County Council and regulatory bodies to enforce conditions. Previously Balcombe residents had paid for noise monitoring equipment to prove noise levels were being breached. A poll by Balcombe Parish Council of villagers showed that Cuadrilla had no social licence in the village; their operations risked the industrialisation of the countryside. Approval of the application would lead to an increase in exploration sites nationally and increase the danger of climate change. The planning report had not satisfactorily addressed the risks of the application, particularly over water and air pollution. The EA and HSE had been deficient in assessments of the water and air pollution impacts of the application and approval would likely result in legal challenge. The Planning Committee was informed that as councillors with responsibility for public health they must be convinced that the application did not jeopardise public health, as historic data suggested, and if not convinced they should not vote in favour. As a good neighbour, Cuadrilla should be made to enter into a legal agreement with WSCC, to oblige the company to comply with the conditions imposed by the planners.

10. Rod Jago, Local Resident spoke in support of the application. There had been no environmental damage from previous drilling operations and noise from the site was not audible in the centre of Balcombe. If the well was put into production there would be very little disturbance with limited tanker movements. Independent monitoring of the site by properly appointed bodies was urged. There was a financial and economic benefit to the nation associated with such drilling operations which would help to reduce dependency on foreign suppliers. The Committee was urged to approve the application.

11. Nigel Gould, Planning Consultant, Arup spoke in support of the application. It was confirmed that hydraulic fracturing did not form part of the application and the approval of the committee was sought based on the evidence outlined in the report. The application would enable the completion of work at the site and would take three stages including: the use of test equipment to record the flow in the bore hole; assessment of the results of testing including well pressures; and demobilisation and restoration of the site. The pressure would be tested for 60 days with very little activity on site and the flare would only operate when the flow test was in progress. The conditions attached to the application complied with paragraph 206 of the National Planning Policy Framework (NPPF) and the applicant would operate within the conditions imposed. There would not be a significant impact upon bats and noise monitoring of the site would be undertaken in liaison with the County Council.

12. Mr Acraman, the local member, spoke on the application. The Lower Stumble application did not concern hydraulic fracturing and the current application was for exploration not extraction. Safety concerns with hydraulic fracturing ensured his opposition to any proposals or applications involving fracking. Concerns regarding the national requirement for oil and gas and dependence on energy from foreign countries were not arguments that established the need for a site at Balcombe. The HGV movements associated with the application were a concern particularly with a route passing by the village school. Liaison between the applicant and the police had not been effective previously and there had not been sufficient monitoring of lorry movements by the County Council. The applicant had a history of breaching planning conditions and it was important that the conditions attached to the application were rigorously enforced. The absence of an EIA was not satisfactory and the ability of the County Council to monitor environmental impacts was doubted without sufficient resources. The report made assumptions about the

ability of the EA and HSE to carry out their responsibilities to an adequate level; the committee needed to be assured that this would be the case. The Balcombe-1 drill hole was a concern and was felt to be too close to the proposed bore hole. The financial status of the applicant was also questioned and the likely consequences if the applicant were to enter liquidation. It was recommended that the application be deferred as the conditions were not adequate and there had not been sufficient research conducted into the application, in particular the absence of an EIA.

13. The following points of clarification were provided to the committee arising from the speakers' addresses:

- The requirement for an EIA was considered during the initial screening opinion and again during the writing of the report. There was not felt to be justification within the EIA regulations or in government guidance for an EIA. Environmental issues and impacts of relevance to the application were considered in studies submitted with the application which informed the officer recommendation.
- There was a reliance on the technical ability of EA and HSE and it must be assumed that such agencies were discharging their duties effectively. The NPPF sets out the responsibilities of the County Council and government agencies. The consideration of the impact of the flare on air quality and the requirements of the well-casing were the responsibility of agencies with the necessary technical expertise.
- During the production of the report the issues raised in representations were considered but the number of representations was not a material consideration.
- There was sufficient information in the application to enable a decision by the committee. Conditions requiring the submission of further information were not grounds to defer consideration of the application.
- Condition 14 required the continuous monitoring of noise and the applicant would employ a traffic lights system to identify the incidence and severity of adverse noise impacts. It was acknowledged that there had been problems with noise under the previous permission and to address such problems noise specialists had been engaged by the County Council to monitor levels from the site.
- To respond to concerns regarding the solvency of applicants it was confirmed that planning permission was linked to the land rather than the applicant and officers must assume that there will be compliance with the imposed conditions.
- The Balcombe-1 well was considered by the HSE in relation to the well drilled in 2013. It was not in the interests of the applicant that any interrelation existed between Balcombe-1 and the new well.

14. The Committee considered those points below:

- Whether the applicant could have been required to undertake an EIA. *The requirement for an EIA was considered during assessment of the application. The applicant could appeal any request to undertake an EIA if they considered it was not justified.*
- The advantage of deferring the application and requesting further information. The additional information that could be gained and its value was queried. *The County Council considered the information was adequate to*

make a decision. The EA was satisfied with the proposal and had issued Environmental Permits.

- Clarification of the time frame for the application was requested. *The exploration was for 6 months which would have to be undertaken 3 years from the date of approval.*
- The location of Balcombe-1 in relation to the bore hole in the present application.
- It was felt that the traffic route South of the site to the A23 was over-complicated and unnecessary. The committee asked what consideration had been undertaken of the alternative lorry route to the South of Balcombe. *The route to the north of the site was the most direct and short way to reach the strategic network – the A23. There was no evidence that the roads to the South of Balcombe were not suitable for HGVs and an alternative route for the site could be established.*
- Limited public consultation between the local community and the applicant following the protests in 2013. *The applicant was encouraged but not required to engage with the local community but the committee could agree a condition for the establishment of a liaison group.*
- It was felt that condition 10 regulating the movement of HGVs should specify precise timings that lorries were prohibited from passing the Church of England Primary School in Balcombe.
- The monitoring of noise levels from the site should be undertaken on a continuous basis; conditions 12 and 13 needed to be amended to incorporate mention of continuous monitoring. A comparison was requested of the noise of passing trains and noise emanating from the site. *Train noises had been recorded at 78dB at the site and the noise from the site was limited in the conditions, operations at the site during the day are predicted to produce maximum noise levels of 37dB and 31dB during the night.*
- The financial status of the applicant and whether a bond could be sought to require the restoration of the site. *The financial status of the applicant was not a material planning consideration. The use of a bond was not supported by planning guidance. A number of enforcement mechanisms were available to the local planning authority including powers of entry to ensure the site was safe.*
- The objections heard by the committee were based on arguments against planning policy. The committee was required to determine the application with regard to planning policy and other material planning considerations. It was felt that the application accorded with these considerations.
- The application was for temporary permission of 6 months and there were no significant concerns with the site. Significant grounds for approval existed and it was not feasible to present a compelling case for refusal based on planning considerations.
- The impact of the flare and plume on the local Area of Outstanding Natural Beauty was queried and what monitoring and recording measures would be in place. *It was confirmed that the flare would only be required for a week before the well was enclosed and that there would be no visible plume.*
- The mechanism for the monitoring and recording of light impacts was raised. *Lighting was limited in the conditions to a spill of 1 lux from the site to protect the local bat population.*

15. The Chairman used her powers under Standing Order 11 to require a member of the public to leave the meeting following interruptions to the proceedings. The meeting adjourned at 12.10 p.m.

16. The meeting reconvened at 12.25 p.m. and the Committee considered the issues below:

- The transportation and storage of hydrochloric acid was a concern. The remediation of the impermeable membrane as required in the conditions was queried. *Transportation of hazardous substances is not a planning matter. The acid would be stored in containers on the membrane to prevent the pollution of the site. Condition 6 had been produced in consultation with the EA and there was a requirement for the remediation of the membrane which could include its replacement.*
- The HGV movements in the report were queried and whether the number of movements per day could be restricted. *HGV movements were regulated by Condition 10 in the report. The number of HGV movements associated with the site would not be excessive and a limit on the number of movements might prolong the period of development.*
- The Committee queried if there was a likelihood of further wells being drilled at the site. *One well was proposed in the application and no further wells were part of the current application.*
- The number of people resident on site was queried and what facilities would be in place. *Foul drainage would exist for onsite operatives. A surface water drainage scheme was also required before the development could proceed.*
- The period of written notice of 14 days before the commencement of development was contained in Condition 5. It was queried whether this provided sufficient notice. *The notice period usually required was 7 days.*
- The Committee requested clarification of highways issues with the application including an explanation of any constraints of a lorry route to the South, what provisions existed to remediate any highway damage caused by HGVs and if a legal agreement could be entered into with the applicant to require highway repairs. *A route to the South was possible and could be considered in the Conditions. A Section 59 agreement could be imposed to require the applicant to make good damage to the highway. However due to the relatively small number of lorry movements associated with the development this had not been required. An informative could be added requiring consideration of a Section 59 agreement.*

17. An amendment to Condition 10 was proposed to include reference to the consideration of an alternative lorry route to the south of the site. The amendment was proposed by Simon Oakley and seconded by Lionel Parsons.

18. An amendment to Condition 9 was proposed to add criteria for the continuous monitoring and recording of the light levels at the site for the reason of protecting the local ecology and bat population. The amendment was proposed by Simon Oakley and seconded by Jeremy Hunt.

19. An amendment to Conditions 12 and 13 was proposed to add wording for the 'continuous monitoring and recording of noise' to ensure consistency with the noise monitoring arrangements contained in Condition 14. The amendment was proposed by Simon Oakley and seconded by Trixie Hall.

20. An amendment was proposed to incorporate an informative that required the consideration of a Section 59 agreement between the highways authority and the

applicant into the conditions and informatives. The amendment was proposed by Simon Oakley and seconded by Sujan Wickremaratchi.

21. The Committee continued to consider the issues below:

- The impact of pollution from flaring. *The impacts of the flaring were assessed as part of the EA Permit. The EA confirmed that specific emission limits were not required because the flaring would not breach air quality objectives.*
- Clarification of the groundwater source protection zone. *The Lower Stumble site was not within a source protection zone which protects the locations of drinking water abstraction.*
- The presence of protected and endangered species in the locality of the site. *There were a number of protected and endangered species in the area but the only expected impact was of the lighting on the local bat population. The lighting condition and the proposed amendment would address the issue.*
- The desirability of a liaison group was discussed to provide a forum to include the applicant, the local community and Development Control. *It was explained that due to the short period of the application a liaison group was not considered practical but one could be established if required.*
- The restrictions on HGV movements past the Balcombe Church of England Primary School were not felt to be sufficiently specific and it was felt that timings should be incorporated into Condition 10. The Committee requested detail of what action could be taken in the event that HGVs contravened the proposed timings. *It was suggested that the timings to be incorporated into the Condition to limit lorry movements past the school could be 30 minutes before the start of the school day to 15 minutes after the start of the school day and 15 minutes before the end of the school day to 30 minutes after the end of the school day. It was confirmed that if the proposed timings were incorporated into the conditions and there was a breach of the condition, enforcement action could be undertaken.*
- The Committee queried the security measures at the site and responsibility for environmental problems. *The site operator was responsible for security on the site and environmental issues arising from the development would need to be addressed by the applicant. The County Council undertook work with partners to develop contingency plans for emergency response.*

22. An amendment was proposed to Condition 10 to include specific times to limit the movements of lorries past the Balcombe Church of England Primary School. Lorries should not be permitted to pass the school 30 minutes before the start of the school day to 15 minutes after the start of the school day and 15 minutes before the end of the school day to 30 minutes after the end of the school day. The amendment was proposed by Heidi Brunsdon and seconded by Andrew Barrett-Miles.

23. An amendment to Condition 10 to restrict the number of lorry movements per day to 24 was proposed and then withdrawn following confirmation of the maximum lorry movements of 34 per day. To restrict the number of lorry movements to the proposed number could prolong the period of development.

24. An amendment was proposed to add a condition for the establishment of a local liaison group. The amendment was proposed by Janet Mockridge and seconded by Mr Wickremaratchi.

25. The Committee moved to the vote.
26. The proposed amendment to Condition 9 to add criteria for the continuous monitoring and recording of the light levels at the site for the reason of protecting the local ecology and bat population was agreed by a clear majority of the committee.
27. The proposed amendment to Condition 10 to include reference to the consideration of an alternative lorry route to the south of the site was agreed by a clear majority of the committee.
28. The proposed amendment to Conditions 12 and 13 to add wording for the 'continuous monitoring and recording of noise' to ensure consistency with the noise monitoring arrangements contained in Condition 14 was agreed by a clear majority of the committee.
29. The proposed amendment to incorporate an informative requiring the consideration of a Section 59 agreement between the highways authority and the applicant into the conditions and informatives was agreed by a clear majority of the committee.
30. The proposed amendment to Condition 10 to incorporate specific timings to prohibit the movement of HGVs past the Balcombe Church of England Primary School 30 minutes before the start of the school day to 15 minutes after the start of the school day and 15 minutes before the end of the school day to 30 minutes after the end of the school day was agreed by a clear majority of the committee.
31. The proposed amendment to add a condition to establish a local liaison group was agreed by a majority of the committee.
32. Mrs Mockridge proposed the substantive recommendation which Mr Barrett-Miles seconded.
33. The substantive recommendation incorporating the amendments below was agreed by a clear majority of the committee.
 - amendments to conditions 10, 12 and 13 and the new condition 19 in the agenda update sheet;
 - amendment to Condition 2 in minute 5 above; and
 - amendments to Conditions 9, 10, 12 and 13, the additional condition for a local liaison group and the new informative concerning a Section 59 agreement contained in minutes 26 – 31 above.
34. Resolved – That Planning permission is granted, subject to conditions and informatives set out at Appendix 1 and the following:
 - amendments to conditions 10, 12 and 13 and the new condition 19 in the agenda update sheet;
 - amendment to Condition 2 in minute 5 above; and
 - amendments to Conditions 9, 10, 12 and 13, the additional condition for a local liaison group and the new informative concerning a Section 59 agreement contained in minutes 26 – 31 above.

35. The meeting adjourned at 1.25 p.m.
36. The meeting reconvened at 2.05 p.m.

Declarations of Interest

37. Liz Kitchen declared a personal interest in the application concerning Burlands Farm as an elected member of Horsham District Council.

Waste Planning Application (County Matter)

WSCC/006/14/RS

Temporary erection of a soil recycling facility processing a maximum of 50,000 tonnes of inert waste (revision of application WSCC/029/13/RS), for 12 months to enable business continuity during on-going search for an alternative permanent site at Burlands Farm, Charlwood Road, Ifield, Crawley, West Sussex, RH11 0JZ.

38. The Committee received a report from the Strategic Planning Manager (copy appended to the signed version of the minutes).
39. Chris Bartlett, Planning Officer introduced the report and set out the key issues. An application concerning the site had been refused 6 months before the latest application. The current application was for temporary permission and had reduced the amount of waste to be processed on site and the number of lorry movements associated with the operation. The application had established the need for the site with the movement of waste up the waste hierarchy. The location of the site was contrary to the West Sussex Waste Local Plan, the Horsham District Council Local Plan and the National Planning policy Framework (NPPF). The Highways Authority objected to the development with regards to an unacceptably adverse impact of lorry movements on the local road network. The Environmental Health Officer at Horsham District Council and at Crawley Borough Council had raised concerns with the site on the basis of noise. West Sussex County Councils' Landscape Architect raised concerns regarding the adverse impact of the development upon the landscape character of the local area. The application had been recommended for refusal.
40. Ann Marsh, local resident, spoke in opposition to the application. Mrs Marsh owned a hotel which employed local people from the area. The garden and rooms at the hotel adjoined the application site and the sounds of the concrete crushing operation would have an adverse impact upon the business. The committee was urged to refuse the application due to adverse impacts on a local business and for the additional reasons set out in the report.
41. Ann Upton, local resident, spoke in opposition to the application. The application should be refused for the same issues which had informed the refusal of the preceding application. The concrete crusher and operation would be too close to residential properties and the impact upon residential amenity would be unacceptable. There was concern regarding the impact of HGV movements on the local highway network and the HGV movements in the report did not take account of the additional journeys to the site of operators and buyers. Other sites that were located in more suitable locations were available.

42. Nick Page, PJ Brown Ltd, spoke in support of the application. The need for the site had been established particularly with the closure of the Holmbush Farm site. The noise and dust impact of the site would be similar to mobile concrete crushers and screens on hire from the applicant at building sites which had been used without problems. The Holmbush Farm site had operated for 15 years with no complaints. The demobilisation and reinstatement of the site would occur within a period of weeks. The yard at Burlands Farm had been used as a lorry depot and had a very good safety record with a large number of lorry movements, the application would only generate an extra 10 lorries a day which was not significant. Screening was used to reduce visual impact and bunds and attenuation panels would mitigate noise impacts. Over 25 years the site had no noise or dust problems.

43. Brenda Smith, the adjoining local member spoke on the application. Local residents of the site had posed convincing reasons for refusal and were supported in their opposition to the application by Mrs Smith and 2 other Crawley Borough councillors. There did not appear to be material difference between the current application and the former application except that temporary permission was sought. There was no monitoring of how many vehicles were using the local highway network and the road was not considered safe as a main route between Horsham and Crawley. The site was based in a rural area which was not an appropriate site for the proposed operation. The presence of bunds and other noise attenuation devices demonstrated that there would be significant noise emanating from the site. There were concerns that the temporary permission would be extended which would prolong the adverse impacts of noise, dust and vehicle movements.

44. The following clarification was provided to the committee arising from the speakers' addresses:

- The consideration of alternative sites had been included in the application but this was limited. There had been no assessment of allocated sites.

45. The Committee considered the following issues:

- There was very little difference between the current application and the application previously considered by the committee concerning the site. The reasons for refusal of the previous application were valid in respect of the current application.
- There was concern with the highway network around the site. The road was not lit outside of the built up area and narrowed as it approached the site. There was no pavement and the road was used by cyclists and horse riders. The highway was not suitable for the proposed HGV movements and the objection of the highways authority to HGV movements through residential areas was significant. The foremost concerns of the committee related to highway safety issues.
- It was acknowledged that the need for the site had been established but the site was on greenfield land and not on an allocated site within the local plan. The location of the site did not accord with planning policy contained in the NPPF.

46. The recommendation to refuse the application was proposed and seconded and agreed by a clear majority of the committee. Mrs Mockridge proposed the recommendation and Mr Wickremaratchi seconded.

47. Resolved – That planning permission is refused for the reasons set out in Appendix 1 of the report.

Update on Mineral, Waste and Regulation 3 Planning Applications

48. The Committee received and noted a report by County Planning Manager, Strategic Planning (copy appended to the signed minutes). The report provided the latest position on current applications.

Report of Delegated Action

49. The Committee received and noted a report by the Director of Communities Commissioning and Head of Strategic Planning Manager (copy appended to the signed minutes) advising of the uses of delegated powers to grant permission for development proposals under the Town and Country Planning Act 1990 and Regulation 3 of the Town and Country Planning General Regulations 1992 since the Planning Committee meeting on 4 March 2014.

Date of Next Meeting

50. The Committee noted that the next meeting would take place on Tuesday 3 June 2014 at a venue to be confirmed.

The meeting ended at 2.45 p.m.

Chairman