

## **Planning Committee**

12 September 2017 - At a meeting of the Committee held at 10.30 a.m. at County Hall North, Horsham.

Present: Mr Acraman, Lt Cdr Atkins, Mr Barrett-Miles, Mr Crow (Chairman), Mr Jupp, Mrs Kitchen, Mr McDonald, Mr S. Oakley, Mr Patel, Mr Quinn and Mrs Russell

Apologies: Lt Col Barton, Mr Buckland, Mrs Duncton and Mr Wickremaratchi

Substitutes: Mr Acraman and Mr McDonald

## **Declarations of Interest**

40. In accordance with the County Council's Code of Conduct, Mrs Kitchen and Mr Jupp declared a personal interest, as Horsham District Councillors, in Item 4- planning application WSCC/029/17/WC.

41. In accordance the County Council's Constitution: Code of Practice on Probity and Protocol on Public Participation in Planning and Rights of Way Committees, the following members declared that they have been lobbied in relation to Item 4- planning application WSCC/029/17/WC: Lt Cdr Atkins, Mr Barrett-Miles, Mr Crow (Chairman), Mr Jupp, Mrs Kitchen, Mr McDonald, Mr S. Oakley, Mr Patel, Mr Quinn and Mrs Russell.

## **Minutes of Part of the meeting of the Committee held on 18 July 2017**

42. The Committee noted a correction to list of attendees recorded in the minutes; Mr Barratt-Miles had given his apologies for the Committee meeting on 18 July 2017.

43. Resolved – That the minutes of the meeting of the Committee held on 18 July 2017, as amended by the Committee, be agreed as a correct record.

## **Urgent Matters**

44. There were no urgent matters.

## **County Matter Mineral Application:**

**WSCC/029/17/WC**

**Amendment of condition no. 2 of planning permission WSCC/052/12/WC to allow for a further 12 months of continued operations to enable the completion of phase 3 testing and phase 4 restoration or retention. Woodbarn Farm, Adversane Lane, Broadford Bridge, Billingshurst, West Sussex, RH14 9ED**

45. The Committee considered a report, as amended by the Agenda Update Sheet, by the Head of Planning Services (copy appended to the signed minutes). The report was introduced by Chris Bartlett, Principal Planner, who provided a

presentation on the proposals, details of consultation and key issues in respect of the application. The following point of clarification was provided:

- Any potential future planning application to proceed to commercial production of oil at the site is not a consideration in relation to the current planning application.

46. Dr Roger Smith of CPRE Sussex spoke in objection to the application. The Environmental Statement and ecological surveys and appraisals used were those of the original application [WSCC/052/12/WC] and are out of date. The application inaccurately says that there are no 'protected areas' within 10km, but there are. The application form states there are no trees or hedges on land adjacent to the site; however the site is surrounded by woodland and lies within 1km of ancient and semi-natural woodland. No details are provided about chemicals to be used at the site, nor toxicological data. No assessment of the impact of extended operations on protected and priority species has been undertaken. Questioned whether Natural England was aware of such matters. Questioned whether surveys on protected species, including bats and breeding birds, have been properly undertaken.

47. Mr Jim Kelsey, local resident and representative of Keep Billingshurst Frack Free spoke in objection to the application. Objectives relating to water resources in the Draft Minerals Local Plan were quoted. Exploration at a shallower depth is noted in the Committee Report as being a 'commercial decision' but is material because the method of drilling is arguably experimental and increases the risk to water quality and contamination. Since the rig was disconnected, water levels nearby have dropped, despite three days of rain. A seemingly open fault means operations should be stopped. Chemicals used are said to be carcinogenic and others fatal to aquatic life. No evidence is provided about monitoring around the site. Testing of 40 local sites shows that salinity is gradually rising over the drilling zone and to the east and west. Concern was raised about water usage in one of the most water stressed areas of the country. The site is experimental, not exploratory. The question of monitoring the site was raised.

48. Sue Jameson, spoke for Broadford Bridge Action Group in objection to the application. Only one consultation has taken place, 5 years ago, but the whole project has changed. Concerns are not properly reflected. Regulatory conditions have not been monitored effectively. No updated surveys of road conditions, speeding and number of HGVs have been provided. Traffic monitoring by the Group shows a 63% increase (73 more) HGVs in one day. Vehicles are carrying hazardous substances, but it is unknown if there is an emergency plan. Speed limits in West Chiltington and Billingshurst have not been considered. Questioned whether a recent reported spillage, advised by UKOG as dirty water, was verified by Highways. A request by West Chiltington Parish Council for daylight operations was ignored. HGVs have caused damage to the B2133 and the junction of the A29 is deteriorating. Breaches of hours of operations have been reported. Drilling continued for 104 days not the 28 days stated by the company. Climate change has not been explored, despite national policy being referred to in the report. Impacts will be significant and not enough evidence has been gathered to assess the full impact.

49. Mr Nigel Moore of Zetland Group Ltd, agent for the applicant spoke in support of the application. The application is to extend the life of a temporary

planning consent for 12 months. No new or further work is planned and there are no material changes. The site operates in compliance with environmental and amenity protection measures. The proposal complies with the Draft Minerals Local Plan. The site represents the best environmental option for oil exploration, it is remote from natural and built heritage assets; transport effects would be imperceptible and the effects on amenity minimal: the extension will not change this. National and local policies encourage oil exploration because of the country's decreasing reserves and increasing reliance on oil and gas imports. The application passes planning tests and strikes the balances the need for energy with exploration.

50. Mr Matt Cartwright, Chief Operating Officer of Kimmeridge Oil Ltd, the applicant spoke in support of the application. The transfer of the business from Celtique means there has only been seven months of operational activity, which was Phase 1: site construction and Phase 2: drilling. Phase 3: flow testing and Phase 4: restoration will be as in the original application; the programme is not being altered and only an extension of time is being requested. All required approvals and mitigation methods are in place to protect the local community and surrounding countryside. The site has operated with minimal impact. There will either be a further application next year or the site will be restored and, if so, planting will need to take place in spring 2018. The Council's compliance officers have made two site visits with no concerns raised. There is regular contact with other regulators. Kimmeridge Oil has welcomed over 200 people to the site, and is committed to developing relationships with the community. The possibility of export by pipeline and rail are being explored. Noise is monitored 24 hours a day. The site uses a shrouded flare and non-toxic drilling fluids. The membrane and non-permeable shield at the site have been tested to ensure its integrity.

51. Mr Steven Sanderson, a petroleum geologist who is Executive Chairman of UKOG Ltd and Director of Kimmeridge Oil and Gas Ltd spoke in support of the application. The site employs many local residents. The company is committed to safeguarding the environment and uses a non-toxic, bio-degradable drilling fluid; ensuring wells are drilled to the same standard as public drinking water supply wells. Drilling has been completed safely, without incident and in full compliance with all permissions. A strong and compliant relationship with regulators has been demonstrated, particularly with the Environment Agency - six snap visits have shown the operation to be fully compliant in all areas. No statutory consultees have objected to the application. The company is proud of its public engagement; demonstrating that it is open and transparent and at the forefront of industry best practices and environmental safeguards. Oil is required to provide chemicals for industry, plastics and for transport. Well results prove this local oil discovery lies within a regionally extensive oil accumulation. Demand for imported oil will double in the next decade and this deposit is of national significance. It could bring substantial tax payments and revenue, including a proposed community royalty. This application only requests an extension of time to establish the commercial viability of the well.

52. Mrs Pat Arculus, local Member for Pulborough spoke on the application. The report states Mrs Arculus made no comment on the application but she has passed all questions and representations to Planning Officers. Mrs Arculus has also received lobbying material. There are mixed views on this application. The majority of residents wish to ensure that operations are carried out safely and

with the best environmental protections. Views also include: 'can't trust the oil industry' and 'environmentalists don't want any drilling at all'. There is a lot of confusion about the issues of need and national importance, as well as who makes the site safe. There are many agencies involved and all have own responsibilities, but it is not always clear who does what and who makes which decisions. The County Council is not responsible for every aspect of the safety of the site, but it must ensure that what it is responsible is monitored properly. All concerns received are genuine, but whether they are applicable to the application is a different argument. There will be different matters to address if there is a future application for production of oil. Any question about whether or not oil drilling should take place at all is a matter for government and planning policies. Some people have stated that the site is necessary and because the drilling has already taken place it makes sense to continue in order to see if the site is viable, as long as correct monitoring is in place. Regulators should be trusted to do their job properly. Clarification is sought on whether restoration would require an extension of time.

53. Planning Officers were invited to provide clarification on points raised in speakers' presentations, as follows:

**Programme of operations and time extension**

The applicant already has permission for Phase 3 and Phase 4. This application is only for an extension of time to complete these phases.

**Groundwater protection**

Policies in the Horsham District Local Plan and Draft Minerals Local Plan were taken into account. The Environment Agency was consulted and did not raise any objection to the application. The type of chemicals used is addressed through environmental permits, which is the responsibility of the Environment Agency.

**Pipeline for production**

This is not a consideration for this application.

**Ecological issues raised by CPRE**

The County Ecologist has looked at CPRE's issues and confirmed that additional surveys are not required unless there is a likelihood of protected species being present and impacted upon. National England has not raised any concerns. There are controls on emissions from the site, including noise, dust and lighting that would protect ecology. The remaining programme will not take place during the bird nesting season.

54. During the debate the Committee raised the points below, which did not require any clarification by Planning Officers:

**Implications of the application**

**Points made** – The application is only for extension of time to the permission that has already been granted. Otherwise, no material changes to the previous application are proposed. Planning permission for Phase 3 and Phase 4 is already in place, as are the relevant permits.

## **Visual Amenity**

**Point made** - The main visual impact has gone with the removal of the rig.

## **Impacts on residential amenity**

**Point made** – the majority of statutory consultees have not made any objections to the application.

## **Delays in the programme of operations**

**Point made** – The applicant has not helped themselves with the delays in operations due to the transfer of business.

55. During the debate the Committee raised the points below and clarification was provided by the Planning officers, where applicable:

## **Clarification regarding restoration**

**Point raised** –Clarification was sought about what might happen regarding restoration of the site without an extension of time being granted.

**Response** – The applicant is required to restore the site under previous conditions and they would be allowed to do so. It would not be in the interests of the environment or local people to prevent this.

## **Contradiction in report over testing start dates**

**Point raised** - There are conflicting dates noted in the report about when testing started, so clarification is sought on whether or not the 14 weeks [max.] has started, as noted in paragraph 3.2 of the report.

**Response** – Apologies, the report is incorrect. The applicant is required to notify the Planning Authority seven days before the start of each phase. For Phase 3: testing, this was received on 25 August 2017. It is understood that the applicant is currently in the process of setting up and that testing has not started at the time of the Committee meeting, but is imminent.

## **Environmental studies**

**Points raised** – One member sought clarification, as per the comments by the Dr Smith on behalf of CPRE, about whether the environmental studies referred to should be updated. Another member stated that CPRE had implied that the age of the studies is a reason for them to be updated, but there is not sufficient evidence of a change in circumstances to justify it.

**Response** –The need for additional studies has been considered. The County Ecologist has stated that it would not be proportionate to require repeat studies because there is no work to be undertaken outside the site, and emissions are controlled so impacts on the ecology would be insignificant.

## **Consultation on the application**

**Points raised** – Clarification is sought on the consultation undertaken for this application. Also, whether respondents in support of the application are local residents?

**Response** – Consultation on this application has taken place recently, following the submission of the application, including direct notification of members of the public who commented on the previous application as well as to those who raised concerns prior to this application. In addition, notices were erected around the site and placed in newspapers. It is the material points raised by respondents to the application that are taken into account, not the location of respondents.

### **Liaison with residents**

**Point raised** – Has any consideration been given to the setting up of a liaison group with local residents?

**Response** – This was not considered necessary for either the original or current application.

### **Impact on the water environment**

**Point raised** – Clarification was sought regarding potential pollution of the River Arun and the subsiding water levels, as noted by speaker, Mr Kelsey. It was separately suggested that any monitoring should take into account natural seasonal variations and fluctuations in groundwater conditions.

**Response** – Regulators are concerned with conditions at the surface of the site, which is the closest to the aquifer. Key to this is containing operations on site; there is an impermeable membrane and the whole site is lined to ensure run-off is contained within the site. In addition, the borehole is checked by Health and Safety Executive to ensure there are no leaks into water resources. The Environment Agency has responsibility for ensuring that the risk to groundwater is properly identified and mitigated. It has confirmed that it is satisfied with the proposal, as they were with the original application. The Environment Agency has also responded to any questions raised by interested parties during the application process.

### **Speed limit**

**Point raised** – Concerns raised about speed due to extra HGVs on the road should be brought to the attention of the Parish Council.

**Response** – The Highways Authority has been consulted and has not raised any concerns about speed. It was stated that a reduction in speed limited is not necessary to make the application acceptable.

### **Emergency Plan**

**Point raised** – Clarification is sought on the matters of an emergency plan for the site, in case of accident.

**Response** – This is not for the planning authority; it is the responsibility of the Health and Safety Executive.

### **Condition 6 - Hours of working – HGVs on site**

**Point raised** – Condition 6 covers HGVs entering and leaving. However, clarification is sought on whether HGVs stay overnight and, therefore, if engines are running outside hours of operations.

**Response** – There is an HGV waiting area on site. An approved Noise Management Plan addresses any impact on the amenity of neighbours.

### **Breach of Working Hours, including HGV movement outside hours**

**Point raised** – Planning Officers were asked to comment on the matter of reported working outside the hours of operation including HGV movements.

**Response** – Reported breaches are addressed under the enforcement of planning conditions. It should be noted that during Phase 2: drilling, conditions allowed the site to operate 24 hours per day.

### **Oil spillage**

**Point raised** – Clarification was sought regarding the matter of the oil spillage of the road as raised by speaker, Ms Jameson.

**Response** – It appears from the photos taken that this spillage is on the road. This area is outside of the application site and, therefore, not a material consideration to the decision. If the spillage was caused by an operator, it needs to be taken up with Highways.

### **Landscaping**

**Point raised** – It is noted that the Landscape Officer has highlighted the lack of development of the planting that is required on access track. What can be done to enhance and provide the function for which it was originally intended?

**Response** – This will be covered under condition 9 – Landscaping and Access Track Restoration, which includes a 5 year maintenance plan.

### **Lighting condition**

**Point raised** – A lighting condition would be beneficial to prevent any localised effect of lighting on adjacent wildlife, especially considering the close nature of the nearby belt of trees. If not specifically controlled by condition this can cause issues, so such a condition will ensure there is no adverse impact on adjacent wildlife.

**Response** – The need for inclusion of a Lighting condition in the original application took into account the 24 hour drilling operations. The current application is an extension of time for the testing and restoration phases. With the hours of operations being restricted to 7am to 7pm, it is not believed that a lighting condition required. There is unlikely to be any impact on bird breeding seasons and unlikely to be an impact on bats. However, an additional condition relating to lighting is acceptable to the Planning team should members be minded to include it. It should be noted that lighting cannot be completely restricted due to security staff being on site 24 hours a day. A condition could include a requirement to submit a lighting plan to the Planning Authority within one month, and lighting should be inward facing to minimise the impact on neighbouring wildlife.

56. Mr Oakley proposed that a standard condition be added requiring an additional Condition regarding Lighting to be included and final form of wording of the condition was delegated to the Head of Planning Services, but to this to state that a lighting scheme should be submitted to the Planning Authority within one month; lighting should be inward facing to minimise the effect on neighbouring wildlife. The proposal was seconded by Mr Barratt-Miles and was put to the Committee and approved by a majority.

57. The substantive recommendation, as amended by changes to conditions and informatives, as approved by delegated authority, was proposed by Mr Barratt-Miles and seconded by Lt Cdr Atkins, was put to the Committee and approved by a majority.

58. Resolved – That planning permission be granted subject to amended conditions and informatives, set out in Appendix 1 of the report, as agreed by the Committee.

59. The Committee adjourned at 12.03 to allow members of public wishing to leave to do so. The Committee reconvened at 12.06.

### **Update on Mineral, Waste and Regulation 3 Planning Applications**

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

### **Report of Delegated Action**

61. The Committee received and noted a report by the Strategic Planning, County Planning Manager (copy appended to the signed minutes) applications approved subject to conditions under the Town and Country Planning Act 1990 and Regulation 3 of the Town and Country Planning General Regulations 1992 since the Planning Committee meeting on 18 July 2017.

### **Date of Next Meeting**

62. The clerk of the Committee apologised for the incorrectly recorded date and location of the next meeting on the published agenda.

63. The next meeting of Planning Committee will be held on Tuesday 10 October 2017 at 10.30 a.m. at County Hall, Chichester.