

22 July 2014

**County Matter Mineral Application accompanied by an Environmental Statement**

The installation of a well and associated infrastructure, including access road and soil bunds, for the drilling of a vertical borehole and contingent horizontal borehole from the same well for the exploration, testing and evaluation of hydrocarbons for a temporary period of three years.

Land south of Boxal Bridge, Northup Field, Wisborough Green, West Sussex, RH14 0DD

Application No: WSCC/083/13/KD

Report by Director of Communities Commissioning and Strategic Planning Manager

Local Member: Mrs Janet Duncton

District: Chichester

**Executive Summary**

This report concerns an application for the creation of a temporary exploratory hydrocarbon (oil/gas) site on land south of Boxal Bridge, Northup Field, between Wisborough Green and Kirdford. A three year permission is sought to allow the exploration, testing and evaluation of hydrocarbons, as well as associated development including the creation of an access track within the site, new soil bunds, and the restoration of the site upon completion.

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.

The main policies of relevance to this application are policies 1, 10, 16, 17, 19, 20, 22, 26, 27, 47, 48, 52, 53, 56 and 60 of the West Sussex Minerals Local Plan (2003); policies RE1, RE4, RE7, RE8, RE12, TR6 and BE6 of the Chichester Local Plan (first review)(1999), paragraphs 14, 17, 28, 32, 109, 118, 120, 123, 125, 128, 131-135, 142, 144, 147, and 203–206 of the National Planning Policy Framework (2012), Policies 25, 39.45, 47 and 48 of the Chichester Local Plan: Key Policies Pre-Submission Document (2014), and policies SDNP.2, EM.1, EM.2, CP.1 and DS.2 of the Kirdford Parish Neighbourhood Development Plan (2014).

The Highway Authority has objected to the proposal due to concerns over highway safety, and because the applicant has not demonstrated there would be no impact on highway capacity. No other statutory consultees have raised objections. Wisborough Green Parish Council, Kirdford Parish Council and Loxwood Parish Council have objected to the proposal, as has the Sussex Wildlife Trust.

There have been 2,471 objections from third parties and 18 representations in support.

## **Consideration of Key Issues**

The main material planning considerations are whether:

- there is a need for the development;
- the development is acceptable in terms of highway capacity and road safety;
- the development is acceptable in terms of impact upon the landscape;
- the development is acceptable in terms of impact on amenity and public health;
- the development is acceptable in terms of impact on the water environment;
- the development is acceptable in terms of impacts upon ecology; and
- the development would have an acceptable impact on the character of the area.

### ***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 oil and gas will continue to form part of the national energy supply, and gives a clear steer from Government that there is a continuing need for indigenous oil and gas. The West Sussex Minerals Local Plan (2003) notes that planning permission for oil and gas exploration will normally be granted, subject to environmental considerations and the development being the 'best option' in the area of search. Determining whether a proposal is the 'best option' feeds into consideration of whether there is a need for this development on this site in particular, or whether an alternative site would be preferable. For oil and gas sites the 'area of search' is considered to be the Petroleum Exploration and Development Licence (PEDL) area which in this case is rural with scattered settlements. The applicant's alternative site assessment considered a range of constraints, as well as the geology of the PEDL area before deciding upon the application site. The assessment is considered to be robust and proportionate and, therefore, the site is considered to represent the 'best option'.

### ***Impact on Highway Capacity and Road Safety***

The proposed development would result in periods of intensive HGV movements, including during construction with up to 40 HGV movements each day (20 HGVs travelling to/from the site), and mobilisation/demobilisation and restoration with up to 20–24 HGV movements (10–12 HGVs travelling to/from the site). Alternative routes between the site and A272 have been explored, and WSCC Highways are satisfied that the route through Wisborough Green is preferable in highways terms due to fundamental safety concerns associated with the alternative routes. However, WSCC Highways has objected to the development due to concerns over highway capacity and road safety which have not been addressed by the applicant. The applicant has failed to show that adequate visibility would be available at the site access; has failed to show that two-way vehicle movements would be possible at the site access, and have failed to provide measures to prevent access congestion; has failed to show that vehicles could execute turns onto Kirdford Road within land either in their control or within the highway; and has provided swept path assessments which demonstrate that vehicles could not use Kirdford Road or turn onto the A272 safely. Furthermore, the applicant has provided inaccurate 'existing' (baseline) HGV movements and an inaccurate assessment of HGVs likely to result from the development, resulting in an unrealistic and inaccurate appraisal of impact on the road network; this means that it is not possible for the Highway

Authority to be satisfied that the increase in HGV movements would not have a detrimental impact on highway capacity and road safety. For these reasons the development is not considered to be acceptable in terms of its impact on the highway network.

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

The proposed development would be of an industrial nature within a rural setting. However, it would be well-screened from public views, and any visible impacts, primarily relating to the 45 metre rig, would be temporary. Further, views of the site from the South Downs National Park to the south would be interrupted by the existing large electricity pylons, and from Kirdford Road, the site would be set against the pylons in the background. WSCC's Landscape Officer raises no objections to the proposal, subject to the imposition of conditions. Therefore, it is considered that the proposal would not result in significant visual impacts and that it is acceptable in landscape terms.

### ***Impact on Amenity and Public Health***

The proposed development has the potential to result in impacts on amenity and public health through noise, visual intrusion, and air emissions resulting from operations on the site, and from vehicles travelling to/from it. Noise levels would be below limits set in the relevant Government guidance, albeit that there would potentially be a 19dB increase in night-time noise during the mobilisation/demobilisation and drilling phases which total, at worst, 30 weeks. Although this is of concern, noise levels would be below limits set, and the disturbance is likely to be noticeable but minimal. However, the applicant has not accurately quantified the increase in HGV movements likely to result from the development so it is unclear what noise would result. Insufficient information has been provided to demonstrate that residential amenity would not be significantly affected by the increased noise resulting from additional HGV movements so the development is not considered acceptable in this regard. The development would result in emissions to air from exhaust from plant and vehicles, and the flaring of gas. However, the increased exhaust emissions would not be significant, and would be within national limits. Emissions from flaring, as well as fugitive gas emissions would be managed through the Environmental Permitting process. Neither the Environment Agency or Chichester District Council's Environmental Health Officer have raised objections to the proposal.

### ***Impact on the Water Environment***

The development site is not located in an area at risk of flooding, and is over an unproductive aquifer where permeability is low, with the Environment Agency noting that the risk to groundwater would be negligible. PPG: Minerals, paragraph 112 notes that mineral planning authorities must assume that non-planning regimes operate effectively, albeit while needing to be satisfied that this is the case. This means assuming that other regimes will ensure that the well is constructed and operated appropriately, that surface equipment operates satisfactorily, and that waste and NORMs are appropriately managed. The Environment Agency note that the main risk to the water environment is to surface water, which would be minimised through containment of the site and drainage system. This would also prevent increased flood risk as water from the site would be collected and either reused on site or tankered off. Overall it is concluded that the development would be carried out in a way that would ensure that ground water and surface water are

protected, and that flood risk is not increased. Therefore, subject to the imposition of conditions, the development is considered to be acceptable in terms of its impact on the water environment.

### ***Impact on Ecology***

The proposed development has the potential to result in impacts on ecology through the use of lighting, primarily through pollution of waterways and through disturbance of a nearby badger sett. The applicant has submitted information demonstrating that lighting would be controlled to minimise light spill to an acceptable level so that WSCC's Ecologists and Natural England are satisfied there would be no adverse impact on bats or through doing so, the integrity of the Mens or Ebernoe Common Special Areas of Conservation (SACs). There would be a buffer between the site operations and the nearby badger sett which WSCC's Ecologist is satisfied will minimise disturbance. The site and operations would be contained so there would be no impact on Boxal Brook or its associated ecology. Subject to the imposition of conditions, therefore, the development is considered to be acceptable in terms of ecological impact.

### ***Impact on the Character of the Area***

The development has the potential to result in impacts on the character of the village of Wisborough Green through HGVs travelling to and from the operational site. The proposed route would travel through the Wisborough Green Conservation Area, including two sides of the village green. The green is considered to be a central part of village life and the character of the village, including the Conservation Area. It is considered that the number and frequency of HGVs travelling past the green would be out of keeping with the character of the village and detrimental to its rural character, including the historic nature of the Conservation Area.

### **Conclusion**

The proposed use of a piece of agricultural land between Wisborough Green and Kirdford for temporary hydrocarbon exploration has the potential to adversely affect the environment and people in the area. There is, however, considered to be a need for the production of indigenous oil/gas, and the applicant has provided a robust assessment demonstrating why this site was favoured over alternatives.

The site is well-screened from public vantage points such that the impact on the surrounding landscape, including South Downs National Park, would not be significant. The development would result in increased noise for dwellings nearby, particularly at night, but this would not be at levels that exceed relevant guidelines, and conditions could be added to ensure best practices are followed to minimise impacts. The applicant has not accurately assessed the number of HGVs likely to result from the development. It is therefore unclear what impact of the additional HGVs would have on residential amenity through increased noise. No other impacts are considered to be of concern in relation to public health and amenity. The Environment Agency and other relevant consultees are satisfied that the development would not be adverse in relation to the water environment, particularly with measures put in place to contain surface water run-off within the site. Impacts on ecology would not be significant, taking into account measures to minimise light spill to acceptable levels, to maintain a buffer from known badger setts, and to contain surface water within the site.

The applicant has failed to demonstrate that the HGVs necessary to bring forward the development could be safely managed within the highway network; this includes the use of the site access and movements at the Duran Road/A272 junction. Furthermore, the HGV route through the Wisborough Green Conservation Area, including past the village green, is considered to be detrimental to the character of the area. Accordingly, it is considered that the proposed development has the potential to result in unacceptable adverse impacts on the highway network, local amenity, and on the character of the area.

### **Recommendation**

That planning permission be refused for the reasons set out in Appendix 1.

## **1. Introduction**

- 1.1 Temporary planning permission is sought for the creation of an exploratory hydrocarbon (oil/gas) site on land south of Boxal Bridge, Northup Field, between Wisborough Green and Kirdford. A three year permission is sought to allow the exploration, testing and evaluation of hydrocarbons, as well as associated development including the creation of an access track within the site, new soil bunds, and the restoration of the site upon completion.
- 1.2 For the avoidance of doubt, the application does not seek to carry out hydraulic fracturing (fracking). A new planning application would be required for this activity.

## **2. Site and Description**

- 2.1 The application site comprises some 1.65 hectares of agricultural land forming part of Hookhurst Farm, located between Wisborough Green and Kirdford (see **Appendix 2: Site Location Plan**). The site is located in the eastern extent of Kirdford Parish, within some 50 metres of its boundary with Wisborough Green Parish which extends along Boxal Brook.
- 2.2 The site has an existing farm access from the southern side of Kirdford Road that would be retained, and a new internal road created linking to the proposed well pad and compound.
- 2.3 The site is currently used for intensive cereal growing and the remainder of the farmholding, surrounding the site to the west, south, and south-east, would remain in this use. The land is crossed by a row of large electricity pylons beyond which is the South Downs National Park some 600 metres to the south. The site slopes gently upwards from the road so that its southern extent sits some four metres higher than the roadside.
- 2.4 An area of mature woodland known as Northup Copse abuts the site to the north. The wood is, in part, designated as Ancient and Semi-Natural Woodland and, with land north of Kirdford Road, as the Dunhurst and Northup Copse Site of Nature Conservation Importance (SNCI) (see **Appendix 3: Environmental Constraints**).

- 2.5 The land slopes down slightly to the north to Boxal Brook which extends in a north-east/south-westerly direction under Kirdford Road. Also of ecological importance is the Mens Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) some 500 metres south of the site, and Ebernoe Common some 5km west of the site.
- 2.6 The site is accessed from Kirdford Road which connects the villages of Kirdford, some 1.8 kilometres to the west, and Wisborough Green, some 1.2 km to the south east. At Wisborough Green, the road becomes Durban Road and turns south to join the A272.
- 2.7 The nearest dwellings to the site are at Skiff Farm (and adjacent dwellings along Kirdford Road) some 520 metres north east; at Lower Sparr Farm some 560 metres north east; and Barkfold Manor, some 750 metres to the west. Chichester District's Environmental Health Officers note that there are three residential properties within 500 metres (though actual dwellings are at a greater distance), and 49 within 1,000 metres<sup>1</sup>.
- 2.8 The site is not within an area designated for landscape, ecological, historic or other reasons, and is not within groundwater source protection zone or an area considered to be at risk of flooding.
- 2.9 There are no public rights of way in the vicinity of the site, with the nearest being some 100 metres to the north (footpath 768) and some 625 metres west (bridleway 2851).

### 3. **Relevant Planning History**

- 3.1 The site has no planning history.

### 4. **The Proposal**

- 4.1 The applicant is seeking a temporary, three year planning permission for the construction of a well site compound and access road for the exploration and appraisal of hydrocarbons (oil and gas). For the avoidance of doubt, the applicant has not sought to carry out hydraulic fracturing ('fracking') as part of this development; if they wished to do so, a new application would be required.
- 4.2 The proposed development is made up of four phases namely construction, mobilisation/drilling, testing, and retention or restoration. The following text summarises the proposed operations and provides more detail about each phase.

#### ***Summary of Proposed Operations***

- 4.3 The construction phase would involve creating a new access road and well site compound before 'mobilising' a drilling rig to site and drilling a vertical well to 2,667 metres in depth (8,750 feet). If oil/gas is found, a short duration well test would be undertaken. If this is positive, a lateral (horizontal) well of some 800 metres in length would be drilled in a south-westerly direction, at a depth

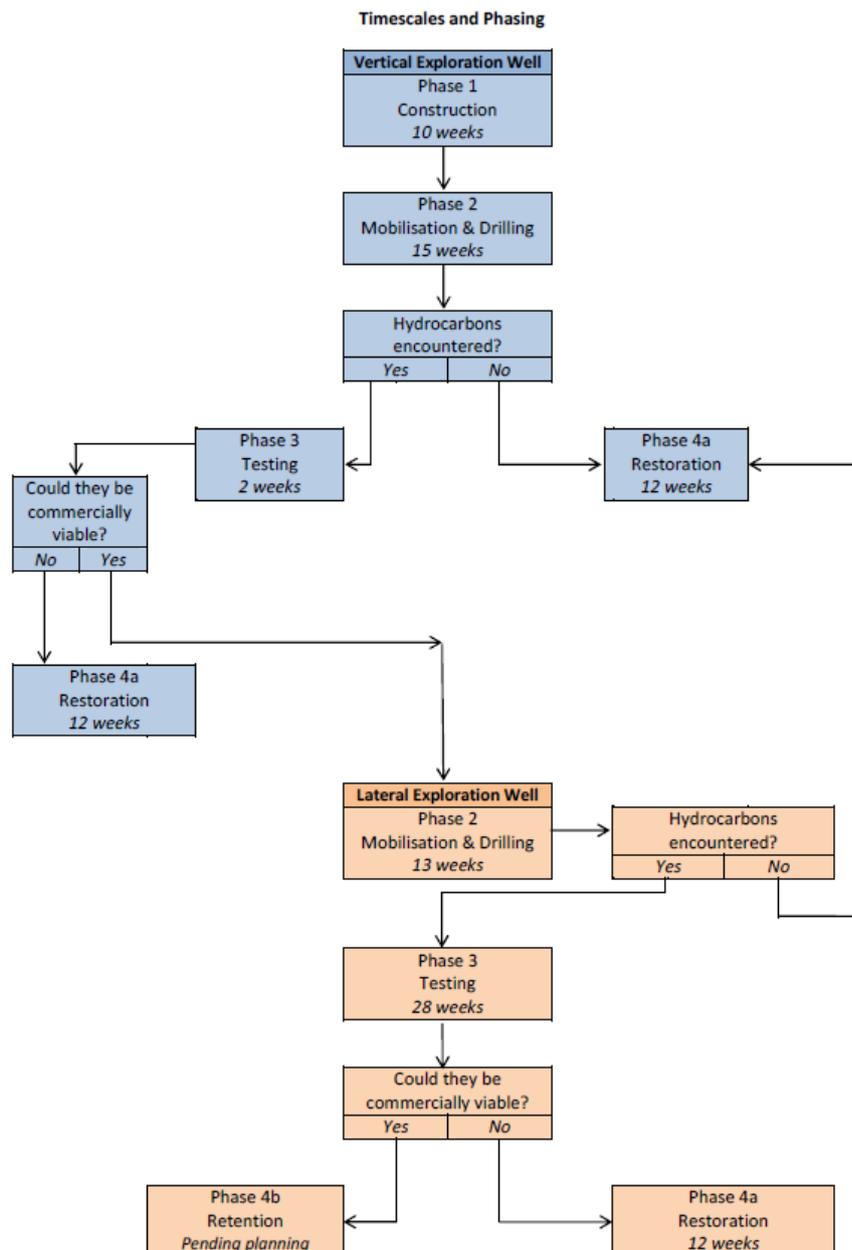
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<sup>1</sup> Report to Chichester District Council Planning Committee, 16 October 2013, Section 6.3, paragraph 1. ([http://www.chichester.gov.uk/utilities/action/act\\_download.cfm?mediaid=20247](http://www.chichester.gov.uk/utilities/action/act_download.cfm?mediaid=20247))

of 1,400 metres. An extended well test would then be undertaken to determine the commercial viability of oil/gas if found.

4.4 If the results are promising the well would be secured and retained while an application for production is submitted. If oil/gas is not commercially viable, the well would be capped and the site restored.

4.5 Although there are four phases of development, these are unlikely to happen in sequence as vertical drilling would be followed by short term testing. If the results of this are promising, horizontal drilling would be undertaken, followed by an extended well test. This is best explained in the following chart:



4.6 It should also be noted that the applicant has considered the 'worst case scenario' in relation to each element of the proposal, both in terms of the physical scale of equipment, including the drilling rig, and the time the operations are likely to take (see Table 1). If the 'worst case scenario' of the development is acceptable, then lesser scenarios which may in reality come forward (e.g. reduced rig height, shorter timescales) would also be acceptable.

**Table 1: Phases of Development**

		<b>Days</b>	<b>Total Days for Phase</b>	<b>Daily HGV Mvmts</b>	<b>Rig Height (m)</b>	<b>Hours</b>	<b>Drilled Depth (ft)</b>	<b>Drilled Depth (m)</b>
<b>Phase 1</b>	Construction	56	70 (10 weeks)	40	N/A	Standard Working Hours	20	6
	Mobilisation - Conductor Setting	1		40	17		20	6
	Drill and Set Conductor Pipe	12		40	17		200	61
	Demobilisation Conductor Setting	1		40	17		200	61
<b>Phase 2</b>	Main Rig Mobilisation	7	105 (15 weeks)	24	45	Site set-up: 8am – 8pm. 24 hour drilling.	8,750	2,667
	Drilling (vertical)	98 (14 weeks)		6	45			
<b>Phase 3</b>	Testing - short term - <u>Flare Onsite</u>	14	14 (2 weeks)	6	45	24 hours	8,750	2,667
<b>Phase 2 Lateral</b>	<i>Drilling (lateral)</i>	84 (12 weeks)	91 (13 weeks)	6	45	24 hours		
	<i>Main Rig Demobilisation</i>	7		24	45	24 hours		
<b>Phase 3 Lateral</b>	<i>Workover Rig Mobilisation</i>	7	196 (28 weeks)	20	35	24 hours		
	<i>Extended Well Test - <u>Flare Onsite</u></i>	182 (6 months)		4	35			
	<i>Workover Rig Demobilisation</i>	7		20	35			
<b>Phase 4</b>	Main/Workover Rig Mobilisation	7	84 (12 weeks)	20	45	Standard Working Hours		
	Restoration	70		20	45			
	Demobilisation Main/Workover Rig	7		20	45			
<b>Phase 4b</b>	Retention	365 (1 year)	365 (1 year)	0	N/A	N/A		

**Total** 925 days  
Approx. 2.5 years

 May Not Take Place

- 4.7 It is of note that although the 'worst case scenario' for the development totals some 30 weeks (2.5 years), a three-year permission is sought. This is because there may be 'pauses' between phases while, for example, equipment is sought, or off-site testing is undertaken.

***Phase 1: Construction of the Access and Well Site***

- 4.8 Phase 1 is expected to take ten weeks with intensive HGV movements to bring material and equipment to the site. During this time, the existing access would be upgraded, a new access road created within the site, and the well site compound created, including earth works to level the site and create bunds (see **Appendix 4: Proposed Site Layout - Construction Mode**).
- 4.9 The access would be widened to the east, existing tarmac at the site entrance would be upgraded, and a new internal road linking to the well compound created using crushed stone. Trees on either side of the entrance would be retained, though around 1.5 metres of hedgerow would be removed.
- 4.10 Two single-storey modular buildings would be installed at the western edge of the site to provide staff welfare facilities; staff parking would also be created.
- 4.11 The well site compound of some 96m in width (west-east) and 55m in length (north-south) would then be created. Topsoil and subsoil would be removed and stored in three metre high bunds along the site's northern and eastern boundaries, and the site would be flattened in a 'cut and fill' operation (i.e. taking material from the higher end (north) to the lower end (south)).
- 4.12 An impermeable geomembrane would be laid on the well site, and topped with crushed stone. This would fall to an interceptor ditch that would be created around the pad to collect run-off and contain any potential contaminants. Run-off would be collected and either used on site, or removed by tanker for disposal.
- 4.13 A wire mesh security fence to four metres in height would be installed around the pad, with a 1.2 metre high post and wire fence along the access road. Two, four metre high security gates would be installed at the access to the pad to create an 'air lock' to control unauthorised access. Various other pieces of equipment would be installed on the site including water storage tanks, refuse skips and a fire water supply.
- 4.14 A concrete 'cellar' would be created in roughly the site's centre within which casing and conductor pipes would be set to a depth of some 66 metres through which the borehole would be drilled. These works would be carried out using a 'conductor setting rig' and would take up to two weeks.
- 4.15 The applicant has proposed that construction works would be undertaken between 07:00 and 19:00 hours on Monday to Friday, and 08:00 and 13:00 hours on Saturdays.
- 4.16 This would be the most intensive phase for HGV movements, resulting in up to 40 each day (20 HGVs travelling to/from the site) over a period of up to 70 days. Over a 12-hour day, this would be an average of four HGV movements each hour (two HGVs travelling to/from the site).

## ***Phase 2: Mobilisation of the Drill Rig and Drilling Operations***

- 4.17 Phase 2 would involve a drilling rig being brought to site and installed, and drilling being undertaken.
- 4.18 The mobilisation of the main rig would take up to one week, resulting in up to 24 HGV movements (12 HGVs travelling to/from the site) and would be undertaken between 08:00 and 20:00 with equipment being brought to site and installed in a strict sequence. The applicant has indicated that no abnormal transport loads are anticipated.
- 4.19 The rig would have a maximum height of 45 metres and would be installed on site along with the associated infrastructure such as the pipe store, mud pumps, and additional staff accommodation (see **Appendix 5: Proposed Layout - Drilling Mode** and **Appendix 6: Elevations – Drilling Mode**).
- 4.20 Once the site is set up and rig installed, drilling would commence, and would take place 24 hours a day for up to 14 weeks. Drilling mud and cuttings returned to the surface, in addition to the contents of the surface water ditches would be collected in purpose-built tanks, and transported from the site by road for disposal at an authorised waste disposal facility. The applicant has indicated that the total water used for the drilling operation would be three million litres (3,000m<sup>3</sup>). In context, this would be 11 days' water usage for Wisborough Green (based on a population of 1,800 people using 152 litres each per day).
- 4.21 Due to the drilling phase being 24 hours a day, lighting would be required during the hours of darkness to ensure the health and safety of the rig crew. The lighting, which would be the minimum required, would be directed into the site and cowled to minimise light spill. In addition screening, possibly hessian, would be attached to fencing around the site to further limit light spill.
- 4.22 It is proposed to drill to 2,667 metres in vertical depth into the Kimmeridge limestone, with the Great Oolite as a secondary target reservoir. If hydrocarbons are discovered, short-term testing would be undertaken to establish the reserve available and how easily it can be extracted (see Phase 3).
- 4.23 The results of the tests would determine whether the operator wishes to go into production using the vertical well (i.e. retain the site while further permission is sought – see Phase 4b); leave the site (i.e. remove all equipment and restore the site – see Phase 4a); or carry out horizontal drilling.
- 4.24 If it is the latter, a rig would be installed over the course of a week and horizontal drilling undertaken for 12 weeks. The horizontal well would extend some 800 metres in a south-westerly direction, at a depth of 883m, drilling into the Upper Kimmeridge Limestone. The drilling rig would then be removed from site.

## ***Phase 3: Testing***

- 4.25 If hydrocarbons are discovered, a short duration well test would be undertaken over a period of up to two weeks to evaluate its flowrate and properties. Any

oil/gas found would be passed through a separator with the gas flared and oil stored and taken off site.

- 4.26 Equipment would be installed on the site at the start of the phase including storage tanks, an oil/gas separator, a beam pump/nodding donkey (or similar) and portacabins (see **Appendix 7: Proposed Layout – Short Term Testing Mode**).
- 4.27 It is also proposed to use a fully enclosed ‘clean enclosed burner’ to a maximum height of seven metres to flare the gas. The flare would be located along the eastern boundary of the site within bunds to one metre in height. It would only be in use between the hours of 08:00 and 20:00.
- 4.28 The testing would generally be undertaken during the day time, although there may be occasional night-time activity, and would result in up to six HGV movements each day (three HGVs travelling to/from the site).
- 4.29 If these tests prove promising extended well testing would be carried out over a period of up to 28 weeks, including two weeks of mobilisation and demobilisation during which HGV movements would increase to 24 each day (12 HGVs travelling to/from the site). A workover rig may need to be in place for some of this period.

#### ***Phase 4a: Restoration***

- 4.30 If no oil/gas is found after the vertical or horizontal drilling, or if, following testing, they are found not to be viable, the site would be restored over a period of up to 12 weeks. The well would be plugged and abandoned in accordance with industry practice, all equipment would be removed from the site, and the site would be recontoured and returned to agricultural use (see **Appendix 8: Restoration Plan**). The land would be left to regenerate naturally, and possibly replanted with trees if required.
- 4.31 The works would take place during usual working hours, with a part day Saturday and no work on Sunday

#### ***Phase 4b: Retention***

- 4.32 If the testing period proves positive, the site would be retained while the information gathered is considered. The well would be suspended and the site cleared of all structures, with a safety cage erected around the wellhead. The stone surfacing and membrane would remain in place, as would the bunding (see **Appendix 9: Site Plan – Retention Mode**).
- 4.33 It is proposed the site could be retained for a period of 6-24 months pending the submission and determination of a new planning application for production.

## **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 2011 (‘the EIA Regulations’).

- 5.2 The application can be considered to fall within either Part 2(d) or Part 2(e) of Schedule 2 to the EIA Regulations in that it relates to 'extractive industry – deep drillings' and 'surface installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale'.
- 5.3 The application was accompanied by an Environmental Statement prepared in accordance with the EIA Regulations and the County Council's EIA Scoping Opinion dated 5 July 2013.

## 6. **Policy**

- 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 paragraphs 2 and 196 of the National Planning Policy Framework ('the NPPF')). For the purposes of this application, the statutory development plan is considered to comprise the West Sussex Minerals Local Plan (2003), and the Chichester District Local Plan (1999).
- 6.2 The key policies in the development plan, which are material to the determination of the application, are summarised below. In addition, reference is made to the relevant parts of the NPPF and the accompanying Planning Practice Guidance (PPGs) and other local policies which guide the decision-making process and which are material to the determination of the application.

### ***West Sussex Minerals Local Plan (2003)***

- 6.3 The West Sussex Minerals Local Plan (2003) contains a number of policies that are relevant to this application. It accords with the approach taken in the NPPF and should be given significant weight when considering this application.
- 6.4 Policy 1 supports working practices which cause the least environmental harm, the incorporation of opportunities to conserve and enhance the environment, and appropriate afteruse.
- 6.5 Policy 10 notes that proposals which may 'irreversibly damage' statutorily designated sites of historic, architectural, natural or scientific interest will only be permitted if the damage can be prevented or the need for the mineral outweighs environmental objections.
- 6.6 Policies 16, 17 and 56 seek to safeguard the water environment, Policy 19 seeks to protect residential and other amenity, and Policies 20 and 22 seek appropriate restoration/reclamation at the earliest opportunity.
- 6.7 Policy 26 relates specifically to oil and gas development, noting it will be permitted where it is demonstrated to the satisfaction of the Planning Authority that it is the best option in comparison with other alternative sites, and that the proposal is acceptable in relation to the surrounding area. It notes that particular attention will be given to the impact on countryside, site access and vehicle routing, residential amenity, Public Rights of Way, and the water environment.

- 6.8 Policy 27 states that permission for hydrocarbon exploration *"will normally be granted subject to compliance with the issues addressed in Policy 26, having regard to the limited duration and area of the activity."*
- 6.9 Policy 47 notes that account will be taken of the numbers, type and routing of vehicles likely to be generated in relation to a minerals proposal, and that permission will be refused if the highway network is inadequate and any significant harm cannot be overcome. Policy 48 requires an appropriate access to the site is provided.
- 6.10 Policy 49 states that in determining an application for a new mineral working, account will be taken of the cumulative effect of minerals workings on the locality.
- 6.11 Policy 52 requires details of the siting and appearance of buildings and plant and their removal when no longer required.
- 6.12 Policy 53 requires adequate measures for the protection of hedgerows, trees and shrubs, and the provision of bunds and planting where required to screen workings.
- 6.13 Policy 60 notes that conditions will be imposed requiring that acceptable maximum levels of noise are not exceeded, while Policy 62 requires control over artificial lighting and Policy 63 requires conditions controlling hours of work.

***Chichester Local Plan (first review)(1999)***

- 6.14 The application site is outside of any 'settlement policy areas' shown on the Proposals Map so is defined, under Policy RE1, as the rural area. This policy seeks to restrict development to that complying with various other policies, of which Policy RE12: Rural Diversification, is of greatest relevance to the present application.
- 6.15 Policy RE12 supports proposals for rural diversification provided that, among other things, they are not damaging to nature conservation, will not be visually damaging or obtrusive within the landscape, do not unacceptably affect the amenities of local residents, and they result in a type and level of activity which would not be detrimental to the character of the surrounding area.
- 6.16 Policy RE4 seeks to protect Areas of Outstanding Natural Beauty (AONB) and in relation to the location of the application site would also apply to the South Downs National Park. It notes that any development which would be harmful to the visual quality or distinctive character of such areas would not be permitted except in compelling circumstances. It notes that development outside but near such areas would not be permitted *"...if it would be unduly prominent in or detract from views into or out of the Area of Outstanding Natural Beauty (particularly from roads, right of way or other public places), or would otherwise threaten public enjoyment of the Area of Outstanding Natural Beauty."*
- 6.17 Policy RE7 seeks to protect designated areas of nature conservation while Policy RE8 seeks to protect other areas or features important to nature conservation including ancient woodland and notes that the District Planning Authority *"will*

*refuse permission for development likely to damage, destroy or adversely affect these areas."*

- 6.18 Policy TR6 opposes development which would adversely affect highway safety or which would overload the highway network by the amount or type of traffic.
- 6.19 Policy BE6 seeks to preserve or enhance the special character of conservation areas.

### ***National Planning Policy Framework (2012)***

- 6.20 The NPPF sets out the Government's planning policies for England and outlines how these are expected to be applied. It 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.
- 6.21 Paragraph 142 sets out the importance of minerals to support sustainable economic growth, highlighting 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.
- 6.22 Paragraph 144 sets out matters to consider in determining applications for minerals development including (in summary): giving great weight to the benefits of mineral extraction, including to the economy; 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; ensure that unavoidable noise, dust and vibrations are mitigated; and providing for restoration at the earliest opportunity to the highest standard.
- 6.23 Paragraph 147 relates to on-shore oil and gas development and the need to *"clearly distinguish between the three phases of development (exploration, appraisal and production) and address constraints on production and processing within areas that are licensed for oil and gas exploration or production"*.
- 6.24 The other paragraphs in the NPPF of particular relevance to the application are: paragraph 14 (presumption in favour of sustainable development, and approving development that accords with the development plan); 17 (core planning principles); 28 (promoting a strong rural economy); 32 (consideration of sustainable transport opportunities, safe access, and improvements); 109 (conservation and enhancement of the natural and local environment); 118 (conservation and enhancement of biodiversity); 120 (ensuring new development appropriate for location taking into account impact of pollution on health and the environment); 123 (avoiding and mitigating the impact of noise and other adverse impacts on health and quality of life); 125 (limiting the impacts of light pollution on local amenity, nature and landscape); 128 (protecting archaeological heritage); 131 -135 (taking account of the conservation of heritage assets in decision making); and 203-206 (use of planning conditions).

## ***Planning Policy Guidance***

6.25 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*

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

6.27 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. Crucially, 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."*

6.28 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.

6.29 Paragraph 14 sets out issues which are for other regulatory regimes to address. For hydrocarbon extraction this links to paragraphs 110-112 which set out the key regulators in addition to the Mineral Planning Authority, namely:

- 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.

6.30 The related detail at paragraph 112 notes *"There exist a number of issues which are covered by other regulatory regimes and mineral planning authorities should assume that these regimes will operate effectively. Whilst these issues may be put before mineral planning authorities, they should not need to carry out their own assessment as they can rely on the assessment of other regulatory bodies. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body."*

6.31 Paragraph 17 notes that the cumulative impact of mineral development can be a material consideration in determining planning applications.

- 6.32 Paragraphs 91 to 128 relate specifically to hydrocarbon extraction.
- 6.33 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.
- 6.34 Paragraph 95 explains that the exploratory phase of hydrocarbon extraction *"seeks to acquire geological data to establish whether hydrocarbons are present. It may involve seismic surveys, exploratory drilling and, in the case of shale gas, hydraulic fracturing."*
- 6.35 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."*
- 6.36 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).
- 6.37 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*

- 6.38 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).

- 6.39 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).
- 6.40 PPG: Climate Change notes that addressing climate change is one of the core land use planning principles the NPPF expects to underpin decision taking.
- 6.41 PPG: Natural Environment notes that information on biodiversity impacts and opportunities should inform all stages of development (paragraph 6).

***Chichester Local Plan: Key Policies Pre-Submission Document (2014)***

- 6.42 The Chichester Local Plan: Key Policies 2014-2019 (the 'Draft Chichester Local Plan') was submitted to the Secretary of State for examination on 30 May 2014. Examination is anticipated over the summer of 2014, with adoption in autumn 2014. It is a material consideration which gains increasing weight for decision-making purposes as it progresses through the examination process and objections are resolved. The weight given to an individual policy depends on the extent to which amendments to it have been sought or objections raised.
- 6.43 Policy 25 (no amendments sought so some weight can be given) relates to development in the north of the plan area, supporting proposals which, among other things, conserve and enhance the rural character of the area, the quality of its landscape, and the natural and historic environment.
- 6.44 Policy 39 requires development to, among other things, provide for the access and transport demands they create; to not create or add to problems of safety, congestion, air pollution, or other damage to the environment; and to have safe and adequate means of access.
- 6.45 Policy 45 (amendment sought but not of relevance to this proposal so some weight can be given) supports development in the countryside which meets three criteria, namely being well related to existing buildings/settlements; complementary to and not prejudicing agricultural uses; and requiring a countryside setting, ensuring that they would have minimal impact on the landscape and rural character of the area.
- 6.46 Policy 47 (no amendment sought, other than to title so some weight can be given) relates to heritage and supports development which conserves and enhances the special interest and settings of conservation areas (among other heritage assets), respects distinctive local character, is in keeping with designed or natural landscapes, and maintains the individual identity of settlements.
- 6.47 Policy 48 (amendments sought so limited weight can be given) relates to the natural environment, supporting development only where, among other things, there is no adverse impact on the setting of the National Park, the tranquil and rural character of the area, and the local landscape character; public amenity is respected; and the integrity of predominantly open land between settlements is not diminished.

## ***Kirdford Parish Neighbourhood Development Plan (2014)***

- 6.48 Kirdford Parish Neighbourhood Development Plan ('Kirdford Neighbourhood Plan') was submitted in March 2014, and subject to a referendum in May 2014 with 95% of voters supporting it. Once it goes through the Committee process it will form part of the development plan, but until then can be given significant weight given its progress to date.
- 6.49 The Kirdford Neighbourhood Plan has an overarching presumption in favour of sustainable development which in the context of Kirdford is 'particularly relevant with regard to, among other things, *"a place that has character and identity with both connections to the past and a vision for the future"* (Policy SD.1)
- 6.50 Policy SDNP.2 notes, in summary, that for land that contributes to the setting of the National Park, development will only be permitted where it enhances and does not detract from its visual qualities and essential characteristics, or adversely affect views into and out of it.
- 6.51 Policy EM.1 seeks the minimisation and management of flood risk, while Policy EM.2 conservation and enhancement of designated or potential nature conservation sites.
- 6.52 Policy CP.1 supports the use of S106 legal agreements and community infrastructure levies (CIL) to secure community development.
- 6.53 Policy DS.2 requires high quality design which is 'domestic in scale and sensitive to their rural setting'.

## **7. Consultations**

- 7.1 Following initial consideration of the present application, the County Council issued a request for further information under Regulation 22 of the EIA Regulations. Additional consultation was undertaken in May–June 2014 following receipt of the further information requested.
- 7.2 The following provides a summary of responses to both periods of consultation. Some consultees did not respond to the later consultation and so it is assumed that their initial comments remain valid.
- 7.3 **Chichester District Council (Environmental Health matters only):** Expresses concerns about the effects of noise, listing matters which the County Council should satisfy itself with but notes it is happy to defer to the County Council's noise consultant in this regard. Raises objections in relation to contaminated land, air quality and construction management unless recommended conditions are added. Asks that the County Council considers whether the worst case scenario arising from the development would be acceptable.
- 7.4 **Environment Agency:** No objection subject to conditions relating to site drainage, a construction method statement relating to pollution prevention, and requiring a qualitative risk assessment of the water environment. Note that the site is on Weald Clay, an unproductive strata/aquifer so risk to water resources is low, subject to pollution prevention measures.

- 7.5 **Department of Energy and Climate Change (DECC):** notes that as a matter of policy, DECC does not comment on individual planning applications.
- 7.6 **Health and Safety Executive (HSE):** No comment.
- 7.7 **WSSC Ecology:** No objection subject to conditions requiring assessment of lighting by ecologist within seven days of lighting being installed; and bat monitoring. No appreciable light spillage expected from the immediate site compound, with the outer limits of the site compound predicted to be 0.1lux, well below what is considered to be the start of 'dark' for barbastelle bats. Level of light spill into the immediate surroundings therefore considered negligible. Drainage report satisfactory subject to final details requested by Environment Agency. No detrimental impacts on neighbouring badgers anticipated.
- 7.8 **Natural England:** No objection. Although the site is situated in a sensitive location, additional information regarding lighting has demonstrated that the development should not impact on the qualifying feature (Barbastelle bats) of the internationally-designated Mens Special Area of Conservation (SAC). Concurs with the conclusion of the County Council's Habitats Regulations Assessment that the proposal can be screened out from further consideration regarding the likelihood of significant effects. Agree with conditions sought by WSSC Ecologist.
- 7.9 **WSSC Noise:** No objection subject to imposition of conditions requiring the submission and approval of a Noise Management Plan, continuous noise monitoring, and setting acceptable noise levels.
- 7.10 **WSSC Highways:** Raise objection due to applicant not demonstrating that a safe and suitable access to the site can be achieved. Specifically, the applicant has not demonstrated that appropriate visibility at the site access on Kirdford Road can be achieved and that the approach roads can accommodate the additional traffic generated by the development. An accurate assessment of the traffic impact of the development has not been submitted.
- 7.11 **WSSC Flood Risk and Drainage:** No objection subject to conditions to secure surface and foul water drainage schemes.
- 7.12 **WSSC Tree Officer:** No objection subject to conditions ensuring tree protection, and provision of a landscaping scheme to mitigate impact of compound and provide long term benefits.
- 7.13 **WSSC Landscape:** No objection subject to conditions to protect existing trees and require submission of a landscape scheme. Notes that the proposed development has a negative impact, both visually and upon the landscape character. However the site is not prominent and the level of impact is low, localised and largely short-term.
- 7.14 **WSSC Archaeology:** No objection subject to condition securing heritage asset mitigation strategy and timetable.
- 7.15 **Kirdford Parish Council:** Strongly objects. Inappropriate location, particularly given radius horizontal exploration allows for pads to be located at distance

from the target. Insufficient appraisal of alternative sites, lack of evidence supporting calculation of impacts in Environmental Statement, impact on landscape, impact on highway safety and capacity, lack of robust consideration of socio-economic impacts. Endorses the conclusions of Professor Smythe regarding the geology of the area. Notes that vehicles turning left from the A272 towards the site would cross the central line.

- 7.16 **Wisborough Green Parish Council:** Objection. Inappropriate site location; impact on community life and local environment; impact on village green, particularly with applicant's stated intention to restrict parking around the green which is strongly opposed; significant increase in traffic with impacts on congestion, safety, parking, noise, and traditional village setting; disruption through noise, lighting and safety; alternative locations and transport solutions have not been properly considered; cumulative impacts related to future development; impact on wildlife and farm animals; prevailing wind from south-west will blow noise to village; impact on surface and ground water.
- 7.17 **South Downs National Park Authority** [adjoining authority]: No objection. Note that the County Council should be satisfied that the impact of introducing an industrial element to the National Park's setting is considered, as well as the possible impact on dark night skies and tranquillity. Ask that potential impact on bat populations using sites within the National Park and surrounding area is given substantial consideration but raise no objection if Natural England and the County Ecologist are satisfied regarding the potential impact on bats.
- 7.18 **Sussex Police:** No objection from a crime prevention viewpoint.
- 7.19 **Horsham District Council** [adjoining authority]: No objection.
- 7.20 **National Air Traffic Services:** No objection.
- 7.21 **Gatwick Airport:** Site is outside of the airport's physical safeguarding zone so would only be of concern if wind turbines were proposed as rotating blades can distort radar screens. Does not conflict with aerodrome safeguarding criteria.
- 7.22 **English Heritage:** No detailed advice appears to be required as no direct impacts on conservation areas, scheduled ancient monuments or highly designated heritage assets anticipated.
- 7.23 **WSCC Fire Service:** Advice provided regarding best practice for site layout regarding fire safety.
- 7.24 **Public Health England:** Note that oil/gas operations have the potential to cause pollution, *"currently available evidence indicates that the potential risks to public health from exposure to the emissions associated with such extraction are low if the operations are properly run and regulated."* Suggests that baseline environmental monitoring is needed for NO<sub>2</sub> and PM<sub>2.5</sub>; the environmental health department and Director of Public Health are consulted; and the potential for fugitive release of volatile organic compounds, waste management and flooding is considered.
- 7.25 **Sussex Wildlife Trust** [consulted regarding local nature conservation but also owns Northup Copse, adjoining the site]: Objection. Impacts on natural environment not adequately assessed, especially regarding species of European

interest; inadequate bat survey; incompatibility with Climate Change Act 2008; light spill significant concern regarding bats; studies indicate that bat boxes, proposed as enhancements, frequently remain unoccupied and of no value. Seek clarity regarding bat monitoring strategy.

7.26 **Loxwood Parish Council:** Objection due to potential for increased traffic, pollution, noise, light pollution, pollution of groundwater, impact on wildlife, particularly Barbastelle bats. Particularly concerned over increased volume of HGVs on rural roads such as Skiff Lane and the B2133 so request a routing agreement requiring HGVs take the shortest route to A272.

## 8. Representations

8.1 The application was publicised in accordance with Schedule 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 involving the erection of eight site notices located around the application site, an advertisement in the local newspaper and neighbour notification letters. Additional consultation was undertaken from May to June 2014 regarding further information received relating to the application.

8.2 In response, 2,471 objections were received from third parties, and 18 representations in support.

8.3 The main issues raised through objections include:

- Unsuitable site in terms of geology, rural setting and roads
- Inconsistent with precautionary principle;
- Impact on climate change – should be supporting renewable energy;
- Impact on bats, badgers and other wildlife;
- Small roads inappropriate for traffic;
- Impact on ancient woodland adjacent to site;
- Rural location inappropriate for industrial development;
- Lack of consideration of cumulative impact;
- Minerals Local Plan outdated – would be premature to determine application;
- BGS Study indicates gas unlikely to be found and difficult to extract. Oil reserve limited.
- Boxal Bridge is regularly flooded;
- No facilities nearby for dealing with NORMs;
- Borehole construction risks fragmentation of rock allowing migration of contaminants;
- Impact on communities without there being any benefits;
- Regulators (WSCC, EA and HSE) are not effective;
- Fracking will be required;
- Use of fracking unsafe, could reactivate faults and create pathways for contaminants;
- Contrary to planning policy;

- Use of water unacceptable in water-stressed Sussex;
- Loss of parking at village green;
- Impact of HGV emissions on air quality and health;
- Impacts of emissions (including flaring) on environment, air quality and health;
- Impact on livestock, horses and pets;
- Impacts of 24hr lighting and flare (including upon amenity/'dark skies' designation/bats);
- Environmental Statement misleading and methodology of supporting reports inaccurate;
- Impacts on heritage features (including listed buildings/Boxal Bridge/underlying archaeology);
- Applicant has insufficient finances/insurances;
- Impact of protestors upon the village, residential safety, police/public resources, and ecology;
- Impact upon local economy including tourism; and
- Impact on recreational activities (including walking/cycling/events on the village green).

8.4 The issues raised in support of the application primarily related to the need for local oil/gas production, particularly to avoid reliance on other nations.

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

9.1 The main planning matters to consider in relation to this application are whether:

- there is a need for the development;
- the development is acceptable in terms of highway capacity and road safety;
- the development is acceptable in terms of impact upon the landscape;
- the development is acceptable in terms of impact on amenity and public health;
- the development is acceptable in terms of impact on the water environment;
- the development is acceptable in terms of impacts upon ecology; and
- the development would have an acceptable impact on the character of the area.

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

9.2 In considering the need for oil/gas exploration, the NPPF notes that "*Minerals are essential to support sustainable economic growth and our quality of life*" and that "*...minerals are a finite natural resource, and can only be worked where they are found...*" (NPPF paragraph 142). Paragraph 144 requires that in determining planning applications local planning authorities "*give great weight to the benefits of mineral extraction, including to the economy*", though this

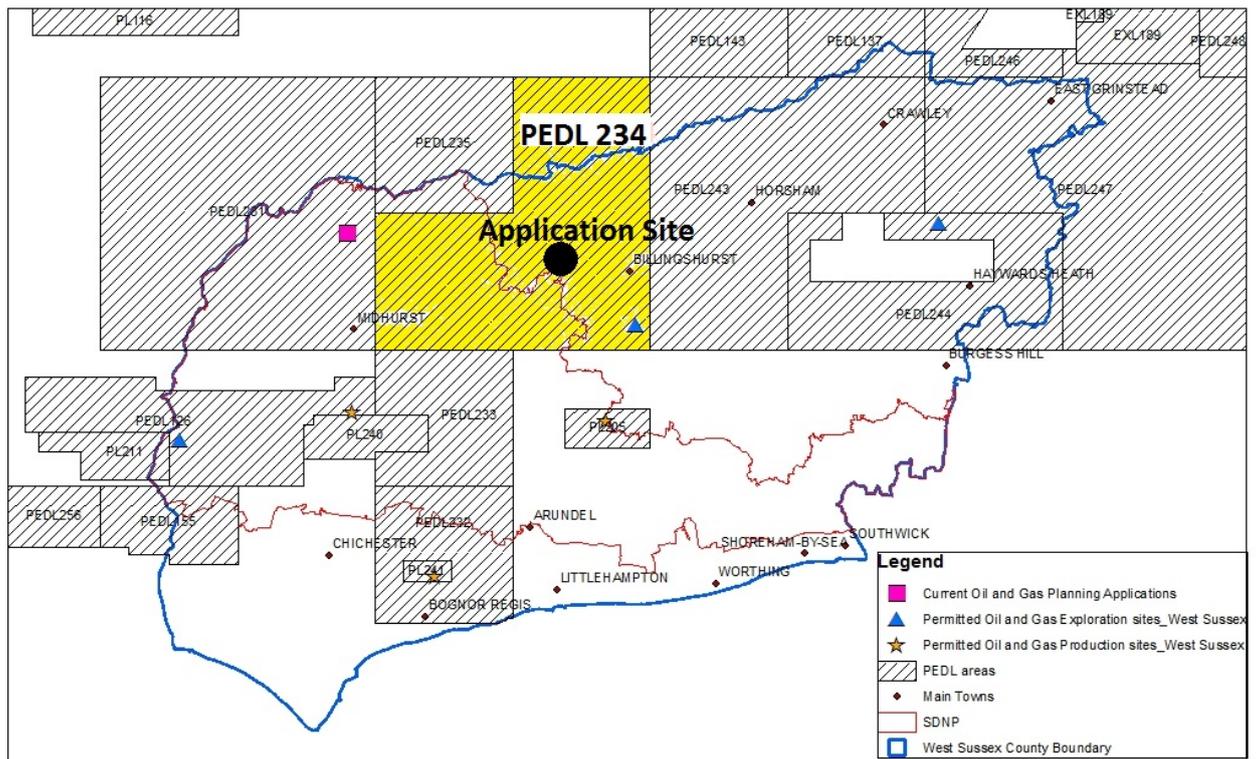
must be balanced against the weight given to environmental impacts of a development.

- 9.3 Paragraph 124 PPG: Minerals provides a clear steer that nationally, energy should come from a variety of sources, including oil and gas, giving the following response to the hypothetical question: *“Do mineral planning authorities need to assess demand for, or consider alternatives to oil and gas resources when determining planning applications? 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.”*
- 9.4 The Annual Energy Statement referred to in this paragraph notes that energy policy is underpinned by two key factors: 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).
- 9.5 One of the three key priorities outlined in the Annual Energy Statement is *‘unlocking investment in the UK’s energy infrastructure that will support economic growth’* (paragraph 1.6). Paragraph 3.69 of the Statement notes the Government is committed to maximising indigenous resources, subject to safety and environmental considerations.
- 9.6 The present proposal is considered to accord with the approach set in national guidance by investing in energy infrastructure to establish whether indigenous oil and gas reserves are available and worth exploiting.
- 9.7 At the local level, Policy 27 of the West Sussex Minerals Local Plan (MLP, 2003) states that permission for hydrocarbon exploration *“will normally be granted subject to compliance with the issues addressed in Policy 26, having regard to the limited duration and area of the activity.”* The preamble to this policy expands on this presumption in favour, noting that exploration can normally be undertaken quickly and relatively unobtrusively, and that allowing it would not give any commitment for further appraisal, development or actual working of the reserve (paragraph 5.9, MLP).
- 9.8 As noted above, Policy 27 is subject to consideration of Policy 26 which states that *“Proposals for oil and gas will be permitted where it is demonstrated to the satisfaction of the Planning Authority that it demonstrates the best option in comparison with other alternative sites within the area of search...”*, as well as requiring consideration of impacts on character and the environment which will be considered in separate sections below. Determining whether a proposal is the ‘best option’ feeds into consideration of whether there is a need for this development on this site in particular, or whether an alternative site would be preferable.
- 9.9 In terms of the consideration of alternative sites for oil and gas, they would be limited by geology to those that can tap into the identified reserve. Paragraph 147 of the NPPF states that minerals planning authorities should *“when planning for on-shore oil and gas development ... address constraints on production and processing within areas that are licensed for oil and gas*

exploration or production.” This makes it clear that any consideration of constraints should be limited to sites which are covered by a Petroleum Exploration and Development Licence (PEDL). As operators can only explore within the area they hold a PEDL for, it is considered reasonable to limit consideration of alternative sites to a single PEDL area, particularly as a key constraint for oil/gas exploration would be holding the PEDL licence.

9.10 The application site is within PEDL 234, a reverse-L shaped area of some 300 square kilometres, shown in Figure 1.

**Figure 1: Site Location within PEDL Area**



9.11 The area covered by the PEDL is generally rural with scattered, small settlements and, therefore, any oil/gas site tapping into this reserve is likely to be within the West Sussex countryside.

9.12 In geological terms, the area is known as the Central Weald Basin. The applicant’s geologists have reviewed historic and more recent seismic data of underground rock structures in the licence area and identified a large structure deep within the Central Weald Basin. Further analysis combined with data from existing wells at the edge of the weald basin, has identified a ‘target reservoir’ within which a search area of some 10 square kilometres was defined, based on geological formations targeted where the Central Weald Basin is at its greatest depth and maturity and which is most likely to yield oil/gas reserves. This was reviewed by the applicant’s drilling engineer and operations manager who considered the technical feasibility of drilling a well in the area concerned.

9.13 Within the search area, consideration was first given to environmental designations and allowing for a 400 metre ‘buffer zone’ from residential properties (see **Appendix 10, Alternative Site Search**). This produced 11 potential sites which were given more detailed consideration in terms of issues such as location on the road network, size, and more detailed environmental

considerations such as trees on site and local designations such as ancient woodland. Of the remaining three sites, only the application site was available following discussions with landowners.

- 9.14 County Council planning, environmental and highway officers were involved in the discussion of alternative sites so were able to feed into the analysis. It is considered that the alternative site assessment undertaken by the applicant was proportionate, robust and that the conclusions reached were sound.
- 9.15 Therefore, it is considered by officers that there is a need for continued exploration and appraisal to establish whether there are hydrocarbon resources present which can be utilised. It is also concluded that the site represents the best option within the search area, namely within the PEDL boundary.
- 9.16 *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 oil and gas will continue to form part of the national energy supply, and gives a clear steer from Government that there is a continuing need for indigenous oil and gas. The West Sussex Minerals Local Plan (2003) notes that planning permission for oil and gas exploration will normally be granted, subject to environmental considerations and the development being the 'best option' in the area of search. For oil and gas sites, the 'area of search' is considered to be the Petroleum Exploration and Development Licence (PEDL) area which in this case is rural with scattered settlements. The applicant's alternative site assessment considered a range of constraints, as well as the geology of the PEDL area before deciding upon the application site. The assessment is considered to be robust and proportionate and, therefore, the site is considered to represent the 'best option'.*

### **Impact on Highway Capacity and Road Safety**

- 9.17 The application site is located on the southern side of Kirdford Road, a single carriageway road extending west to Kirdford, and east to Wisborough Green. It is proposed that HGVs would travel to/from the site along this road which links, via Durbans Road, to the A272 which forms part of the County's Advisory Lorry Route. Table 2 sets out the HGV movements associated with the development

**Table 2: HGV Movements**

<b>Phase</b>	<b>Activity</b>	<b>Maximum HGV Movements/Day</b>	<b>Days</b>
<b>Phase 1</b>	Construction	40	56
	Mobilisation	40	1
	Drill and Set Conductor Pipe	40	12
	Demobilisation Conductor Setting	40	1
<b>Phase 2</b>	Main Rig Mobilisation	24	7
	Drilling (vertical)	6	98
<b>Phase 3</b>	Short Term Testing	6	14
<b>Phase 2 Lateral</b>	<i>Drilling (lateral)</i>	6	84
	Main Rig Demobilisation	24	7
<b>Phase 3 Lateral</b>	<i>Workover Rig Mobilisation</i>	20	7
	<i>Extended Well Test</i>	4	182

	<i>Workover Rig Demobilisation</i>	20	7
<b>Phase 4</b>	Main/Workover Rig Mobilisation	20	7
	Restoration	20	70
	Demobilisation Main/Workover Rig	20	7
<b>Phase 4b</b>	Retention	0	365

- 9.18 Table 2 shows that the most intensive phases would be during the mobilisation and construction period (Phase 1) when there would be 40 movements each day (20 HGVs travelling to/from the site) over a 10 week period.
- 9.19 There would also be intensive HGV movements during the mobilisation and demobilisation of the drilling and workover (testing) rigs, and during restoration when there would be between 20 and 24 HGV movements each day (10-12 HGVs travelling to/from the site) for up to six seven-day periods.
- 9.20 WSCC Highways have objected to the application on a number of grounds relating to the adequacy of the site access and the failure to demonstrate HGV numbers and types could be accommodated on the affected roads. These issues were raised in response to the original submission but remain outstanding after the submission of further information. The following expands on this.
- 9.21 The applicant has provided visibility splays demonstrating how far drivers would be able to see in each direction when sitting at the site access to satisfy safe stopping distances based on average vehicle speeds on the road. WSCC Highways note that to the west, the 136 metre visibility would not allow drivers to see vehicles coming towards the site which may be overtaking slower users and which would, therefore, be towards the right-hand side of the road. To the east, the visible distance indicated by the applicant would not allow drivers to see vehicles travelling on the left-hand side of the road at the required distance of 120 metres, so the true visibility is 90 – 100 metres which is not adequate. Therefore, the applicant is not considered to have demonstrated that visibility is available at the site access to provide the required stopping sight distances.
- 9.22 WSCC Highways have also raised concerns that the applicant has not demonstrated that the access could cater for two-way vehicle movement. This being the case, the use of the site may result in congestion at the point of access and an obstruction hazard on the highway. Further, the vehicle tracking provided does not demonstrate that vehicles can execute right-hand turns onto Kirdford Road within land either within the applicant's control or on the highway.
- 9.23 A key issue raised by WSCC Highways relates to the adequacy of the submitted survey of existing traffic. The submitted survey included vehicles over 1.5 tonnes in weight as HGVs whereas the Design Manual for Roads and Bridges (DMRB) only includes vehicles over 3.5 tonnes in weight. Although the vehicle count enabled the differentiation between vehicles by type (LGVs, HGVs, motorbikes etc.) the applicant's interpretation and conclusions included 4x4 vehicles, such as a Range Rover, as HGVs which serves to inflate 'baseline' figures for existing HGV movements. WSCC Highways has used the raw figures submitted as part of the Environmental Statement to conclude that the increase in HGV movements for 23 weeks of the development would be between 50%

and 64% over existing levels, rather than the 11-13% increase set out in the Environmental Statement.

- 9.24 Therefore, WSCC Highways does not consider that the traffic assessment undertaken is a realistic or accurate appraisal of the impact of the development, particularly in relation to HGV movements. Therefore, it is not possible for the Highway Authority to be satisfied that the increase in HGV movements resulting from the development would not have a detrimental impact on highway capacity and road safety.
- 9.25 The applicant has failed to demonstrate that traffic could turn on to or from the A272 safely. Swept path assessments have been provided for some routes, but not for vehicles turning left onto the A272 which WSCC Highways indicate would require a manoeuvre into the opposite lane. With one vehicle movement every six seconds along the A272, this would pose a risk to highway safety. In addition, vehicle tracking has not been provided between Wisborough Green and the site access.
- 9.26 For the reasons set out above, the proposed development is not considered to be acceptable in terms of its impact on highway capacity and road safety.

#### *Alternative Routes*

- 9.27 Two alternative routes to the site have been considered by the applicant, and by the County Council's Highways Officers. The routes considered were to the north via Skiff Lane and the B2133; and to the west, continuing along Kirdford Road until it links with the A283.
- 9.28 The approach taken by County Council, as the Highway Authority, is to minimise HGV travelling distance on local roads. The route proposed by the applicant is 2km from the A272, part of the County's Advisory Lorry Route. Both of the alternative routes are some 9km from either A- or B-roads. WSCC Highways have considered the alternative routes and concluded that the proposed route is more acceptable in policy terms, and have raised fundamental safety concerns over the alternative routes. Therefore, it is considered that the proposed route via Wisborough Green is more acceptable in highways terms.
- 9.29 *The proposed development would result in periods of intensive HGV movements, including during construction with up to 40 HGV movements each day (20 HGVs travelling to/from the site), and mobilisation/demobilisation and restoration with up to 20–24 HGV movements (10–12 HGVs travelling to/from the site). Alternative routes between the site and A272 have been explored, and WSCC Highways are satisfied that the route through Wisborough Green is preferable in highways terms due to fundamental safety concerns associated with the alternative routes. However, WSCC Highways has objected to the development due to concerns over highway capacity and road safety which have not been addressed by the applicant. The applicant has failed to show that adequate visibility would be available at the site access; has failed to show that two-way vehicle movements would be possible at the site access, and have failed to provide measures to prevent access congestion; has failed to show that vehicles could execute turns onto Kirdford Road within land either in their control or within the highway; and has provided swept path assessments which demonstrate that vehicles could not use Kirdford Road or turn onto the A272*

*safely. Furthermore, the applicant has provided inaccurate 'existing' (baseline) HGV movements and an inaccurate assessment of HGVs likely to result from the development, resulting in an unrealistic and inaccurate appraisal of impact on the road network; this means that it is not possible for the Highway Authority to be satisfied that the increase in HGV movements would not have a detrimental impact on highway capacity and road safety. For these reasons the development is not considered to be acceptable in terms of its impact on the highway network.*

### **Impact on the Landscape**

- 9.30 The application site is located on rolling agricultural land within a rural area characterised by open fields and woodlands, although there is a large expanse of electricity pylons extending in an east-west direction to the south of the site.
- 9.31 The key visible elements of the proposed well compound would comprise security fencing to four metres in height, single storey portacabins, containers and other plant, bunds of up to three metres in height, the site access, and at times, rigs of up to 45 metres in height. The site would also be lit at night during some operations, and would have HGVs and other vehicles travelling to/from the site and parking within it.
- 9.32 As a result, the development would clearly be industrial in nature with the potential to be detrimental to the landscape of the area. However, the site is enclosed to the north and east with mature woodland, and well-screened from Kirdford Road by mature trees and hedgerows. There are limited public views into the site, and any such views are likely to be transient, primarily as people travel along Kirdford Road.
- 9.33 The height of the drilling rig means that there may be glimpsed views from further afield, particularly as a rig would potentially be on site for the entire development except during site construction (56 days) and retention (one year). However, the rig would not be prominent and it would be a temporary feature.
- 9.34 Impacts on National Park must be given due consideration, having regard to the purposes of the South Downs National Park (section 11A of the National Parks and Access to the Countryside Act 1949) which are to conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for the understanding and enjoyment of their special qualities by the public. Views into and from the Park would be distant and interrupted by the large line of electricity pylons which lie between it and the site, as well as woodland. The South Downs National Park Authority has raised no objection to the proposal, but note that there may be views into the National Park from Kirdford Road. Such views would, however, be passing and interrupted by the electricity pylons.
- 9.35 Upon completion of the proposed operations, the site would be restored to agricultural use so there would be no long-term impact on the landscape.
- 9.36 WSCC's Landscape Officer has raised no objection to the proposal, subject to the imposition of conditions requiring protection of trees and the submission of a landscaping scheme.

9.37 *The proposed development would be of an industrial nature within a rural setting. However, it would be well-screened from public views, and any visible impacts, primarily relating to the 45 metre rig, would be temporary. Further, views of the site from the South Downs National Park to the south would be interrupted by the existing large electricity pylons, and from Kirdford Road, the site would be set against the pylons in the background. WSCC's Landscape Officer raises no objections to the proposal, subject to the imposition of conditions. Therefore, it is considered that the proposal would not result in significant visual impacts and that it is acceptable in landscape terms.*

### **Impact on Amenity and Public Health**

9.38 The proposed development has the potential to result in impacts on amenity and public health through operations on site and through HGVs travelling to/from it.

9.39 The site is located in a rural area which is generally quiet and tranquil. There are three residential properties within 500 metres of the site, though the nearest dwelling façade (as opposed to garden) is some 520 metres north-east. There are 49 residential properties within 1,000 metres of the site. Wisborough Green, through which HGVs would travel, has a population of some 1,800 people<sup>2</sup>.

9.40 The South Downs National Park is within 500 metres of the site so due regard must be given to its purposes, as set out in S62 of the Environment Act, which include opportunities for the understanding and enjoyment of the Park's special qualities by the public. However, the South Downs National Park Authority notes in its consultation response that *"due to a lack of public rights of way in the vicinity of the site, within the SDNP, it is considered that the proposed development is unlikely to threaten public enjoyment of the SDNP."*

### *Noise*

9.41 *Site Operations:* The proposed development would result in sometimes noisy, industrial-type operations being undertaken in a rural area. The existing (baseline) noise levels reflect this, measuring some 35dB  $L_{A90, 5min}$  during the day and 19dB  $L_{A90, 10min}$  during the night.

9.42 During the construction and restoration periods, noise at the nearest dwellings is predicted to reach 41dB  $L_{Aeq, 1hr}$  at worst. This is significantly below the levels required in PPG: Minerals (paragraph 22) which allows 70dB  $L_{Aeq, 1hr}$  for up to eight weeks of construction, and 55dB  $L_{Aeq, 1hr}$  for general operations. In addition, these noisiest operations would only take place during the day which would help to minimise disturbance to local residents.

9.43 During the 24 hour mobilisation/demobilisation/drilling phases, maximum noise levels would be 38dB  $L_{Aeq, T}$  where PPG: Minerals (Paragraph 21) considers 42dB to be an acceptable night time level. The predicted noise levels are below what is considered acceptable and, therefore, they are considered to accord with the relevant guidance. Putting this in context, 40dB is said to be the equivalent of a public library, an office, or a fridge humming 2m away.

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<sup>2</sup> <http://www.wisboroughgreen.org/>

- 9.44 However, the noise levels would exceed existing background levels during the night time by up to 19dB for up to 30 weeks. This is noted by Chichester District Council's Environmental Health Officer (EHO) who agrees that although standards would be met, British Standard BS4142 states that complaints are more likely where there is a difference of 10dB between existing background noise levels and proposed levels<sup>3</sup>.
- 9.45 With noise levels potentially increasing by 19dB at Skiff Farm, and by more than 10dB at Barkfold Manor and Lower Sparr Farm, the noise impact would not be unnoticeable. As a result, the EHO notes that the noise is acceptable but asks that the applicant demonstrate *"the best standard it can achieve, so far as is reasonably practicable, to reduce the overall noise impacts"*<sup>4</sup>. It is proposed that this could be secured through a Noise Management Plan requiring demonstration that best endeavours have been used to minimise noise emissions from site operations.
- 9.46 During the well testing phase there would be two weeks of disturbance likely to be similar to that experienced during the drilling phase. After this, noise levels would, at a worst case, be 16dB  $L_{Aeq, 5min}$ , significantly below background levels. The flare, which would increase levels to some 25dBA, would only operate between 8am and 8pm and, at this low noise level, would not be detrimental to residential amenity.
- 9.47 WSCC's Noise Consultant concludes that the operations would not result in significant noise emissions, and that the predicted noise emissions would not exceed the 42dB  $L_{Aeq, 5min}$  night time level or 55dB  $L_{Aeq, 5min}$  daytime level sought by the EHO. Therefore, it is concluded that noise emissions resulting from operations on the site would not be detrimental to residential amenity.
- 9.48 *Vehicle Movements:* The impact of vehicle movements, particularly HGVs would also result in noise impacts for residents living in the vicinity of Kirdford/Durbans Road and the A272. WSCC's Noise Consultant initially raised no objection on the basis of HGV movements. However, following concerns being raised by WSCC Highways Officers regarding the accuracy of existing HGV numbers and the likely increase resulting from the development, this conclusion has had to be revised. WSCC's Noise Consultant now notes that the Institute of Environmental Assessment (IEA) guidance requires an assessment of effects on the noise environment for increases in HGV traffic of more than 30%. As noted in paragraph 9.24 of this report the development would result in increased HGV movements for some periods of 50 – 64%. An assessment should therefore have been undertaken to determine whether the development would have an adverse impact on residential amenity through increased noise. In the absence of this, the County Council can only conclude that insufficient information has been provided to demonstrate that the increase in HGV movements would not result in adverse impacts on the residential amenity.
- 9.49 *Impact on Livestock:* Concern has been raised over the impact of the development on horses and cows which graze in fields near the site, including on the opposite site of Kirdford Road. There are no applicable standards relating to either agricultural animals or equine facilities, and although the concerns are understandable, officers are not aware of any evidence that the

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<sup>3</sup> Report to Chichester District Council Planning Committee, 16 October 2013, Section 6.3, paragraph 9 ([http://www.chichester.gov.uk/utilities/action/act\\_download.cfm?mediaid=20247](http://www.chichester.gov.uk/utilities/action/act_download.cfm?mediaid=20247))

<sup>4</sup> Ibid.

proposed use would adversely affect these animals or through doing so, the businesses associated.

- 9.50 Visual impacts associated with large vehicles on the highway network are difficult to quantify. Potential impacts could be considered to result from either visual obstruction (the blocking of views) or visual intrusion (an impact on the character of an area). In terms of visual obstruction, any blocking of views by passing HGVs would be transitory in nature and infrequent.
- 9.51 With regard to visual intrusion this is a subjective matter. Such impacts are generally given more weight in specific areas of scenic or landscape beauty, heritage importance, or where vehicle movements might not be expected or previously experienced (i.e. when considering new roads/accesses in the countryside). Although the site is in the countryside, Kirdford Road is used by HGVs and residents would expect to see, and experience, HGVs passing their properties. The Highway Authority estimate that the potential increase in HGVs would be between 50% and 64% over existing levels for 23 weeks (see paragraph 9.24). Although the increase in HGVs may be perceptible, given that many properties on the access route are set back from the road and behind fences or hedges, it is considered that such as change would have minor/negligible visual impacts on amenity.
- 9.52 *Although the site is in the countryside and the access route is through Wisborough Green, it is not considered that the proposed HGV movements would give rise to visual obstruction or intrusion that would have an unacceptable impact on amenity.*

#### *Air Quality*

- 9.53 Concern has been raised in representations over the potential impact of flaring emissions on air quality and health. The proposed operations have the potential to affect air quality primarily through exhaust emissions from plant (particularly generators) and vehicles, and the flaring of gas. Emissions to air also have the potential to affect ecological features; this is considered in the relevant section below.
- 9.54 Although there may be some dust emissions during the construction/restoration phases, they would be minor, temporary, and not particularly out of character for an agricultural site.
- 9.55 The potential impact of exhaust emissions is not considered to be significant given the distance between the site and the closest dwellings. The applicant has demonstrated that emissions from HGVs would be acceptable and well within relevant national standards, and the EHO raises no concerns in this regard.
- 9.56 The other potential impact on air quality is through flaring. Any natural gas which is found during the short-term testing and the extended well testing process if used would be diverted to a seven metre high, clean enclosed burner flare. The flare would be in use during the 14 day initial testing process and potentially for six months during the extended well test.
- 9.57 PPG: Minerals (paragraph 112) is clear that the flaring or venting of gas is subject to controls through the Department of Energy and Climate Change (DECC) controls and regulated by the Environment Agency with Minerals

Planning Authorities needing to consider only *"how issues of noise and visual impact will be addressed"*.

- 9.58 Therefore, the potential impact of the flaring of gas on air quality is not a matter for the County Council although it must be satisfied that the issues can or will be addressed, by taking advice from the relevant regulatory body (paragraph 112). In this regard, the Environment Agency has considered the proposal and raised no objection, subject to the imposition of conditions. The EHO has also raised no objections.
- 9.59 In direct response to issues raised in Public Health England's (PHE) representation, the Environment Agency also notes (letter dated 26 June 2014) that *"Air quality issues, including fugitive and during flaring of any gas encountered will be considered as part of the Mining Waste Permit determination. We will formally consult PHE as part of any permit application. Technical assessments and controls can be requested by the Environment Agency."* Accordingly, emissions from both flared and fugitive gas would be considered through the Environmental Permitting process.
- 9.60 *The proposed development has the potential to result in impacts on amenity and public health through noise, visual intrusion, and air emissions resulting from operations on the site, and from vehicles travelling to/from it. Noise levels would be below limits set in the relevant Government guidance, albeit that there would potentially be a 19dB increase in night-time noise during the mobilisation/demobilisation and drilling phases which total, at worst, 30 weeks. Although this is of concern, noise levels would be below limits set, and the disturbance is likely to be noticeable but minimal. However, the applicant has not accurately quantified the increase in HGV movements likely to result from the development so it is unclear what noise would result. Insufficient information has been provided to demonstrate that residential amenity would not be significantly affected by the increased noise resulting from additional HGV movements so the development is not considered acceptable in this regard. The development would result in emissions to air from exhaust from plant and vehicles, and the flaring of gas. However, the increased exhaust emissions would not be significant, and would be within national limits. Emissions from flaring, as well as fugitive gas emissions would be managed through the Environmental Permitting process. Neither the Environment Agency or Chichester District Council's Environmental Health Officer have raised objections to the proposal.*

### ***Impact on the Water Environment***

- 9.61 Many representations raise concerns over the potential for the development to adversely affect both surface and groundwater quality, and result in increased flood risk. 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.
- 9.62 The application site is not within an area identified as being at risk of flooding, and it is not within a groundwater source protection zone. From the proposed well pad, the land slopes generally towards Boxal Brook some 50 metres away. Typically, therefore, any run-off from the site would flow overland in this direction.

- 9.63 The key risks to the water environment are through run-off from the site carrying potential contaminants; through materials used in the drilling process (which would include hydrochloric acid, and oil-based mud below the Upper Kimmeridge Clay layer) leaking into the water environment; and through increased flood risk through sealing an area of farmland which was previously free-draining.
- 9.64 In considering the potential impacts on the water environment, the County Council must also 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 Naturally Occurring Radioactive Material (NORMs) are appropriately managed.
- 9.65 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'. In this regard, the County Council has consulted with the Environment Agency, HSE, WSCC's Drainage Officer and Southern Water, none of which have raised objections. There would need to be cogent reasons for departing from the advice from other statutory bodies. In this case there are no known reasons.
- 9.66 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. These matters are addressed through regulation by the Environment Agency and HSE under a number of regimes including, for the former, the Environmental Permitting Regulations (England and Wales) 2010 and the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996) for the latter.
- 9.67 The Environment Agency advises that the site lies on a sequence of Weald Clay some 300m thick, which is classified as an Unproductive Aquifer – i.e. it is a geological strata with low permeability with negligible significance for water supply or river base flow. Therefore, the Environment Agency considers that the development poses a negligible risk to groundwater. Due to the nature of the development, various pollution prevention measures relating to both ground and surface water could be secured by condition which would further reduce the risk to the water environment.
- 9.68 A number of representations have raised concerns over the potential for contaminants to be released through faults, with some noting that the area is 'heavily faulted'. Particular reference has been made to a response by Professor David Smythe which is endorsed by Kirdford Parish Council. However, Professor Smythe's response raises concerns related to fracking which does not form part of the present application, and to details of drilling and other matters which are beyond the scope of the County Council's remit. The geology and hydrogeology of the area has been considered by the Environment Agency which has raised no concerns, and HSE and DECC would consider further details before the operator can drill. Therefore, it is considered

that the matters raised are dealt with under regimes, not relevant to the present application, or have been considered by the Environment Agency which raises no concerns.

- 9.69 The Environment Agency notes that the main risk to the water environment from the development is through surface water. The applicant has outlined a number of measures in their submission that would be implemented to minimise the risk to the water environment. The pad would be underlain with an impermeable membrane draining to a ditch from where it would be reused or taken off site, to ensure that surface water run-off is contained. Potentially-contaminating material would be stored on the site in bunded areas.
- 9.70 The Environment Agency is satisfied with this approach, subject to various details being submitted by condition including site drainage plans; a construction method statement (including information relating to the storage of plants, materials, oils and chemicals, the construction of the site prevent pollution, and how drilling fluids would be used and stored on site); and a hydrogeological risk assessment.
- 9.71 It is considered that with these measures, surface water from the site would be contained and the surface water environment protected from potential pollution resulting from the development.
- 9.72 Finally, the development has the potential to increase flood risk as it would replace greenfield agricultural land with an area of impermeable surfacing. WSCC's Drainage Officer notes that there would be no surface water run-off from the site as it would all be contained and removed from site if need be. Therefore, no concerns are raised in terms of increased flood risk, subject to a condition requiring the submission and approval of a detailed drainage scheme.
- 9.73 *The development site is not located in an area at risk of flooding, and is over an unproductive aquifer where permeability is low, with the Environment Agency noting that the risk to groundwater would be negligible. PPG: Minerals, paragraph 112 notes that mineral planning authorities must assume that non-planning regimes operate effectively, albeit while needing to be satisfied that this is the case. This means assuming that other regimes will ensure that the well is constructed and operated appropriately, that surface equipment operates satisfactorily, and that waste and NORMs are appropriately managed. The Environment Agency note that the main risk to the water environment is to surface water, which would be minimised through containment of the site and drainage system. This would also prevent increased flood risk as water from the site would be collected and either reused on site or tankered off. Overall it is concluded that the development would be carried out in a way that would ensure that ground water and surface water are protected, and that flood risk is not increased. Therefore, subject to the imposition of conditions, the development is considered to be acceptable in terms of its impact on the water environment.*

### ***Impact on Ecology***

- 9.74 The application site is a greenfield site, adjacent to an area of ancient woodland, identified as a Site of Nature Conservation Interest (SNCI), and some 500 metres from 'the Mens', internationally-designated as a Special Area of Conservation (SAC) and nationally-designated as a Site of Special Scientific

Interest (SSSI), and some 5km from Ebernoe Common SAC to the west. Further, there is an active badger sett near the site. Therefore, the development has the potential to result in impacts on biodiversity and nature conservation.

- 9.75 The use of the site would involve the installation of lighting which has the potential to adversely affect bat species. However, the applicant submitted information showing cowled, inward-facing lighting within the drill rig, and the use of screening around boundary fencing. This has satisfied both WSCC's Ecologist and Natural England that the level of light spill from the development would be negligible, and should not result in adverse impacts on bats. This could be further secured by a condition requiring a light survey within seven days of lights being installed on the site demonstrating light spill does not reach 1 lux.
- 9.76 WSCC's Ecologist and Natural England are both satisfied that the development would not be detrimental to bat species or the integrity of the Mens or Ebernoe Common SACs. WSCC's Ecologist has also concluded that an appropriate assessment under the EU Habitats Directive is not required.
- 9.77 WSCC's Ecologist is satisfied that the development would not be detrimental to badgers as the applicant has demonstrated a 20 metre buffer zone between the site and the badger sett would be maintained, in accordance with Natural England guidance.
- 9.78 Finally, the development has the potential to affect ecology through pollution entering Boxal Brook. However, WSCC's Ecologist is satisfied that this would be satisfactorily address through the drainage conditions requested by the Environment Agency. This would ensure that drainage is contained within the site, without impact on Boxal Brook or its ecology.
- 9.79 *The proposed development has the potential to result in impacts on ecology through the use of lighting, primarily through pollution of waterways and through disturbance of a nearby badger sett. The applicant has submitted information demonstrating that lighting would be controlled to minimise light spill to an acceptable level so that WSCC's Ecologists and Natural England are satisfied there would be no adverse impact on bats or through doing so, the integrity of the Mens or Ebernoe Common Special Areas of Conservation (SACs). There would be a buffer between the site operations and the nearby badger sett which WSCC's Ecologist is satisfied will minimise disturbance. The site and operations would be contained so there would be no impact on Boxal Brook or its associated ecology. Subject to the imposition of conditions, therefore, the development is considered to be acceptable in terms of ecological impact.*

### ***Impact on the Character of the Area***

- 9.80 The potential impact of the development on the character of Wisborough Green has been raised in a large number of representations with the key concern resulting from HGVs travelling through Wisborough Green. In doing so, they would travel through the Wisborough Green Conservation Area, including past six Listed Buildings, and around two sides of the village green before reaching the A272. The impact of this has the potential to be detrimental to the character of the village.

- 9.81 Impacts on the Conservation Area and Listed Buildings within it must be considered in the context of Section 72 of the Planning (Listed Buildings and Conservation Areas Act) 1990. This provides that special attention shall be paid by the Council when taking a planning decision to the desirability of preserving or enhancing the character or appearance of the conservation area. Further, case law has confirmed that preserving the character or appearance of a conservation area could be achieved not only by a positive contribution to preservation, but also by development which leaves the character or appearance of the area unharmed- i.e. a neutral impact.
- 9.82 In planning policy terms, character is a key consideration in relation to the rural area, emphasised in policies in the Draft Chichester Local Plan (2014) which support proposals that would have minimal impact on the landscape and rural character of the area (Policy 45), and where there is no impact on the tranquil and rural character of the area and local landscape area (Policy 48). In addition, Policy 25, relating specifically to the northern part of the Plan area, notes that
- "The Council will encourage and support development proposals and other initiatives that:*
- Conserve and enhance the rural character of the area, the quality of its landscape and the natural and historic environment."*
- 9.83 The Wisborough Green Conservation Area extends along either side of Kirdford/Durbans Road from the northern extent of the village. A 'Character Appraisal and Management Proposals' document, approved by Chichester District Council in 2010<sup>5</sup>, highlights the 'attractive views' across the open green spaces in the village centre, and that historic development is centred in the southern part of the village, close to the A272 (Wisborough Green Conservation Area Character Appraisal and Management Proposals, September 2010, page 2).
- 9.84 It also notes that the Conservation Area is *"... notable for its open or more contained green spaces all of which are highly visible and make a major contribution to the special character of the area. By far the most important open space is Wisborough Green itself, which forms the centre of the conservation area and around which village life carries on. It contains a cricket pitch and a children's playground to the north. The area is laid to grass, with historic buildings over-looking it, including the Cricketers Public House. Whilst the A272 forms its southern boundary, the busy traffic does not impinge too much, although it does create difficulties for pedestrians (despite the pedestrian lights). To the north east of the Green the large parkland garden associated with Wisborough Park House provides an attractive and visible setting to the house."* (Ibid, page 9)
- 9.85 This emphasises the importance of the green and its setting to the character of the Conservation Area and the village itself, and highlights that existing traffic on the A272 affects the village green, but not significantly. This has been echoed in representations from the Wisborough Green Parish Council and local people.

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<sup>5</sup> [http://www.chichester.gov.uk/utilities/action/act\\_download.cfm?mediaid=10787](http://www.chichester.gov.uk/utilities/action/act_download.cfm?mediaid=10787)

- 9.86 The proposed development would result in up to 40 HGV movements (20 HGVs to/from the site) travelling through the Conservation Area and past the green each day. As Tables 1 and 2 show, during the initial stages of the development there would be 24–40 HGV movements (12–20 HGVs to/from the site) each day for a period of 11 weeks. These intensive periods of 20 to 24 HGV movements each day (10-12 HGVs travelling to/from the site) would total up to six months over the course of the proposed three year development.
- 9.87 There would be relatively long periods while drilling and testing are carried out during which there would, at the most, be six HGV movements (three HGVs to/from the site); this includes the 14 week vertical drilling period, the 12 week lateral drilling period, and the testing periods of between 2 weeks and 6 months. These quieter periods of HGV movements amount to one year of the development, with another year relating to ‘retention’ with no HGV movements.
- 9.88 Nonetheless, it is considered that the route that the HGVs would take to the A272, particularly past the village green, would harm the character of the area and the setting of the Conservation Area. The lorries would be an intrusive, disturbing feature that would affect the character of the village. The village green is central to the character of Wisborough Green. It is considered that the frequency that HGVs would travel past the green would be out of keeping with the character of the village and detrimental to its rural character, including the historic nature of the conservation area.
- 9.89 *The development has the potential to result in impacts on the character of the village of Wisborough Green through HGVs travelling to and from the operational site. The proposed route would travel through the Wisborough Green Conservation Area, including two sides of the village green. The green is considered to be a central part of village life and the character of the village, including the Conservation Area. It is considered that the number and frequency of HGVs travelling past the green would be out of keeping with the character of the village and would harm its rural character, including the historic nature of the Conservation Area.*

## 10. Overall Conclusion and Recommendation

- 10.1 The proposed use of a piece of agricultural land between Wisborough Green and Kirdford for temporary hydrocarbon exploration has the potential to adversely affect the environment and people in the area. There is, however, considered to be a need for the production of indigenous oil/gas, and the applicant has provided a robust assessment demonstrating why this site was favoured over alternatives.
- 10.2 The site is well-screened from public vantage points such that the impact on the surrounding landscape, including South Downs National Park, would not be significant. The development would result in increased noise for dwellings nearby, particularly at night, but this would not be at levels that exceed relevant guidelines, and conditions could be added to ensure best practices are followed to minimise impacts. However, the applicant has failed to accurately quantify the increase in HGV movements resulting from the development so it is unclear whether the resulting noise from HGV movements would be detrimental to residential amenity. No other impacts are considered to be of concern in relation to public health and amenity. The Environment Agency and other relevant consultees are satisfied that the development would not be

adverse in relation to the water environment, particularly with measures put in place to contain surface water run-off within the site. Impacts on ecology would not be significant, taking into account measures to minimise light spill to acceptable levels, to maintain a buffer from known badger setts, and to contain surface water within the site.

- 10.3 The applicant has failed to demonstrate that the HGVs necessary to bring forward the development could be safely managed within the highway network; this includes the use of the site access and movements at the Duran Road/A272 junction. Furthermore, the HGV route through the Wisborough Green Conservation Area, including past the village green, is considered to be detrimental to the character of the area. Accordingly, it is considered that the proposed development has the potential to result in unacceptable adverse impacts on the highway network, local amenity, and on the character of the area.
- 10.4 It is **recommended**, therefore, that planning permission be refused for the reasons set out in Appendix 1.

## 11. **Equality - Customer Focus Appraisal**

- 11.1 As part of the decision-making process, under the Equality Act, public bodies must have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it.
- 11.2 An Equality Impact Report is required in relation to this development to show how consideration of equality issues has influenced the decision-making process (**see Appendix 7**). This concluded that the development would not adversely affect those with 'protected characteristics'.

## 12. **Crime and Disorder Act Implications**

- 12.1 There are no implications.

## 13. **Equality Act Implications**

- 13.1 As part of the decision-making process, under the Equality Act, public bodies must have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it.
- 13.2 An Equalities Impact Report is required in relation to this development to show how consideration of equality issues has influenced the decision-making process (**see Appendix 11**). This concluded that the development would not adversely affect those with 'protected characteristics'.

## 14. Human Rights Act Implications

- 14.1 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 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.
- 14.2 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.
- 14.3 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.

Susan Hawker  
Director of Communities Commissioning

Michael Elkington  
Strategic Planning Manager

### **Background Papers**

As set out in Section 6.

### **List of Appendices**

Appendix 1 – Reasons for Refusal.

[Appendix 2](#) – Site Location Plan

[Appendix 3](#) – Environmental Constraints

[Appendix 4](#) – Proposed Site Layout: Construction Mode

[Appendix 5](#) – Proposed Layout: Drilling Mode

[Appendix 6](#) – Elevations: Drilling Mode

[Appendix 7](#) – Proposed Layout: Short Term Testing Mode.

[Appendix 8](#) – Restoration Plan

[Appendix 9](#) - Site Plan: Retention Mode

[Appendix 10](#) – Alternative Site Search

[Appendix 11](#) – Equality Impact Report

Contact: Jane Moseley, ext. 26948

## **Appendix 1: Reasons for Refusal**

1. The applicant has failed to demonstrate that vehicles could enter and exit the site safely and without detriment to the highway network, contrary to Policies 26, 47 and 48 of the West Sussex Minerals Local Plan (2003), paragraph 32 of the National Planning Policy Framework (2012), Policy TR7 of the Chichester Local Plan (first review)(1999), and Policy 39 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014)).
2. The applicant has failed to show that vehicles could travel the proposed route to the site safely and without harm to highway capacity or road safety, contrary to policies 26, 47 and 48 of the West Sussex Minerals Local Plan (2003), Policy TR7 of the Chichester Local Plan (first review)(1999), Policy 39 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014) and paragraph 32 of the National Planning Policy Framework (2012).
3. The applicant has failed to accurately assess the increase in HGV movements resulting from the development and so has failed to demonstrate that it would not have a detrimental impact on highway capacity and road safety, and on residential amenity through increased noise. The development would, therefore, be contrary to policies 19, 26, 47 and 48 of the West Sussex Minerals Local Plan (2003), Policies RE12 and TR7 of the Chichester Local Plan (first review)(1999), Policies 39 and 48 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014) and paragraphs 32, 120 and 123 of the National Planning Policy Framework (2012).
4. The heavy goods vehicles resulting from the development would harm the character of Wisborough Green village and conservation area. The development would, therefore, be contrary to Policy 26 of the West Sussex Minerals Local Plan (2003), Policies RE12 and BE6 of the Chichester Local Plan (first review)(1999), paragraphs 28, 131 and 134 of the National Planning Policy Framework (2012), and Policies 25, 39, 45, 47 and 48 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014)).

## **INFORMATIVE**

- A. The County Planning Authority has acted positively and proactively in determining this application by determining the application within a timely manner, clearly setting out the reasons for refusal, and giving the applicant an opportunity to overcome the likely reasons for refusal.