

9 January 2018

**Minerals Planning Application (County Matter)**

**Temporary permission for exploration and appraisal comprising the flow testing and monitoring of the existing hydrocarbon lateral borehole along with site security fencing, the provision of an enclosed testing flare, and site restoration**

**Lower Stumble Exploration Site, London Road, Balcombe RH17 6JH**

**Application No. WSCC/040/17/BA**

**Report by Head of Planning Services**

**Local Member:** [REDACTED]

**District: Mid Sussex**

**Executive Summary**

This report relates to an application to carry out hydrocarbon (oil and gas) exploration and appraisal at an existing hydrocarbon site south of Balcombe, Mid Sussex. The site is located on the north-eastern side of the B2036 (London Road), some 800 metres south of Balcombe.

The application follows the drilling of a vertical and lateral (horizontal) well at the site over summer 2013 under planning permission WSCC/027/10/BA. That permission also allowed appraisal, including flow testing and monitoring activities, and flaring. The permission expired in September 2013 before the applicant had time to complete the appraisal operations.

Subsequent to this, planning permission WSCC/005/14/BA was granted, allowing a temporary, six month planning permission to clean the existing borehole, carry out seven days of flow testing (pumping fluids from the well into tanks on the site, and flaring any gas), shutting-in the well for pressure monitoring for sixty days, after which the well would be sealed and secured and the site restored. The permission was unimplemented, so lapsed in May 2017.

The current application seeks to undertake the same works permitted in 2014, though a two year permission is sought. This is to allow time to analyse the results of the testing before deciding whether to abandon the well or to submit an application for commercial production.

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.

Balcombe Parish Council has raised objections to the proposed development. No objections have been raised by other statutory consultees.

There have been 2739 objections from third parties, along with 11 in support and four raising concerns about the development.

## **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 on amenity and public health;
- the development is acceptable in terms of impacts on the water environment;
- the development is acceptable in terms of impact on landscape; and
- the development is acceptable in terms of impacts on ecology.

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

The NPPF gives 'great weight' to the benefits of mineral extraction, including to the economy and highlights that minerals can only be worked where they are found. PPG: Minerals notes that 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. Although little weight can be given to Policy M7a, the JMLP supports exploration/appraisal on sites that are, among other things, the least sensitive, deliverable location. The present proposal would make use of an existing well on a site with established infrastructure to establish whether oil and gas resources are exploitable and so is considered to represent the 'best option'. It is, therefore, concluded that there is an identified need for local oil and gas production, and that there is an identified need for development on this particular site, to establish whether the hydrocarbons identified in drilling in 2013 are exploitable.

### ***Highway Capacity and Road Safety***

The proposed development would result in increased HGV movements on the B2036 and other roads over the five month period sought. However, at most there would be an 8% increase in HGV movements, which would occur during the seven day mobilisation period. For most of the operation the increase in HGV traffic would not be significant. WSCC Highways Officers raise no objection to the proposal, concluding that the increase in vehicle movements is not sufficient to materially impact on the operation of the highway network in safety or capacity terms, subject to the imposition of a condition requiring the submission and approval of a Traffic Management Plan.

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

The development has the potential to adversely affect residential amenity and health primarily through increased noise and emissions to air. In terms of noise, there is a potential for the flare and plant on site to result in noise disturbance. However, but it is considered that this can be adequately controlled by conditions requiring monitoring, and remediation if levels are exceeded. The development has the potential to result in impacts on air quality through the flare, and an increase in vehicles travelling to and from the site. However, emissions from the flare are controlled by the Environmental Permit which applies to the operations. The potential impact upon amenity and air quality as a result of increased vehicle

numbers is not considered to be significant, as numbers are relatively low, on B- and A-roads, and for a temporary period.

### ***Impacts on the Water Environment***

The potential impact of the development on the water environment is a material consideration, but PPG: Minerals, paragraph 12 notes that mineral planning authorities must assume that non-planning regimes operate effectively. This means assuming that the well is constructed and operated appropriately, that surface equipment operates satisfactorily, and that waste and NORMs are appropriately managed, in accordance with the requirements the Health & Safety Executive, Department of Energy and Climate Change and Environment Agency.

The Environment Agency and Health and Safety Executive have not raised concerns in relation to the proposal. The risk to surface water would be minimised by carrying out activities on an impermeable membrane with a sealed drainage system. Conditions would be added to the permission requiring the submission of a scheme to protect the water environment, as well as surface and foul water drainage schemes. With regards to groundwater, it must be assumed that the well is constructed and operated to the appropriate standards. Mapping and surveys ensure that there is no risk of the present well intersecting with the well drilled in the 1980s. It is proposed to use dilute hydrochloric acid to clean the well, which is a standard procedure with many boreholes, including those for drinking water. The hydrochloric acid would react with material in the borehole to become non-hazardous salty water. It is therefore concluded that the development does not pose a risk to the water environment, either at the surface or groundwater and that the proposal accords with criteria (a)(iii) and (a)(v) of emerging Policy M7a.

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

The application site is located within the High Weald Area of Outstanding Natural Beauty (AONB), so great weight must be given to conserving landscape and scenic beauty. The most visible elements of the development would be the workover rig at 32 metres in height, and the enclosed flare at 13.7 metres in height. However these elements would only be in place for four weeks and one week respectively. The other development on site would be at a relatively low level and screened by mature vegetation. This and the temporary nature of the development has led WSCC's Landscape Officer to conclude that the development is unlikely to result in significant impacts on landscape or the natural beauty of the area. It is therefore concluded that the proposal accords with Policy M13 of the JMLP and is acceptable in terms of its potential visual impact and impact on the landscape.

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

The proposed development is adjacent to ancient woodland, and there are a number of Sites of Special Scientific Interest in the local area, though relatively distant from the site, each more than 2,000 metres away. A key concern relates to the potential impact on bats. However, WSCC's Ecology officers have raised no objection, subject to conditions to control lighting on the site, and bat monitoring. It is considered that the potential impact of the development on habitats and species would be minimal, subject to controls on emissions to air and the water environment which would contain the operation within the site. It is therefore considered that the proposal is acceptable in terms of its potential impact on ecology.

## **Overall Conclusion**

The flow testing and monitoring operation proposed at the Lower Stumble Wood site has the potential to result in impacts on the highway, people and the environment, issues which have been raised in the large number of objections to the application. Although Balcombe Parish Council have objected to the application, no other statutory consultees have objected, subject to the imposition of conditions. It is concluded that the number of vehicles required to carry out the development is not significant enough to raise concerns regarding highway capacity or safety. Emissions from the development would be controlled through the planning regime as well as through the Environmental Permitting and health and safety regimes and the Health and Safety Executive which would ensure that water quality would not be compromised and that emissions to air would be acceptable. Although the rig, crane and flare on the site would be visible at times during the development, the impact would be short-lived and so would not compromise the landscape qualities of the High Weald Area of Outstanding Natural Beauty.

## **Recommendation**

That planning permission be granted subject to the conditions and informatives set out in **Appendix 1** of this report.

## **1. Introduction**

- 1.1 This report relates to an application to carry out hydrocarbon (oil and gas) exploration and appraisal at an existing hydrocarbon site south of Balcombe, Mid Sussex. It follows the drilling of a vertical and lateral (horizontal) well at the site over summer 2013 under planning permission WSCC/027/10/BA. That permission also allowed appraisal, including flow testing and monitoring activities, and flaring. The permission expired in September 2013 before the applicant had time to complete appraisal operations.
- 1.2 Subsequent to this, planning permission WSCC/005/14/BA was granted, allowing a temporary, six month planning permission to clean the existing borehole, carry out seven days of flow testing (pumping fluids from the well into tanks on the site, and flaring any gas), shutting-in the well for pressure monitoring for sixty days, after which the well would be sealed and secured and the site restored. The permission was unimplemented, so lapsed in May 2017.
- 1.3 The current application seeks to undertake the same works permitted in 2014, though a two year permission is sought. This is to allow time to analyse the results of the testing before deciding whether to abandon the well or to submit an application for commercial production.

## **2. Site and Description**

- 2.1 The application site is located on the north-eastern side of the B2036 (London Road), some 800m south of Balcombe (see [Appendix 2: Site Location Plan](#)). It is within Balcombe Estate which also owns land to the east and west of the site.

- 2.2 The site is located in an area of woodland comprising a conifer plantation, native and non-native planting, as well as Lower Meadham Wood and Lower Stumble Wood, both of which are Ancient Woodlands.
- 2.3 The site extends to some 0.73 hectares (0.58 hectares for the above ground works, with the lateral borehole comprising the remaining 0.15 hectares), including the surface pad, and access road linking to London Road (see [Appendix 3: Existing Site Plan](#)).
- 2.4 The pad is a roughly rectangular area of hardstanding with the borehole in its approximate centre, and is enclosed with a 2m security fence.
- 2.5 A site access road of some 150 metres in length extends between the north-eastern corner of the pad and the eastern side of the B2036. The access road is sealed, with agricultural-style gates at the highway access.
- 2.6 The lateral extension of the well is at some 820 metres in depth, and extends some 520 metres from the pad in a south-westerly direction.
- 2.7 The pad is enclosed on three sides by woodland, and on the fourth, to the south-east, by the access road, beyond which is woodland. The London-Brighton railway line is some 45 metres east of the site on an elevated bank.
- 2.8 The site is some 350 metres south-east of Kemps Farm, the nearest residential property, and some 800 metres from the southern edge of Balcombe village.
- 2.9 The site is located within the High Weald Area of Outstanding Natural Beauty.
- 2.10 It is not within an area subject to ecological, heritage or other designations, and is not in an area identified as being at risk of flooding. It is not within a groundwater source protection zone. The site is one kilometre from the Ardingly Reservoir, and there are small streams in the locality of the site, including 15 metres east of the access road.
- 2.11 The nearest Public Right of Way is some 300 metres north of the site, running from London Road east under the railway corridor.

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

- 3.1 The site was first used for exploratory drilling in 1986–1987 under planning permission BA/10/86 which allowed the construction of a hardstanding in association with exploratory drilling exercise. It was subsequently used by Balcombe Estate for forestry storage under planning permission BA/38/87 which allowed the retention of the pad for forestry product storage, and improvements to the existing access.
- 3.2 Planning permission was granted for a temporary period by West Sussex County Council in 2010 to *“upgrade existing stoned platform and drill and exploratory borehole for gas and oil exploration”* (ref. WSCC/027/10/BA). No objections to the application were received and planning permission was granted on 23<sup>rd</sup> April 2010, subject to 21 conditions and five informatives. The approved development included flow testing and monitoring.
- 3.3 Condition 2 of the permission stated:

*"This permission shall be for a limited period only expiring 3 years from the date of commencement of site construction, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery, including foundations, hard standings shall be removed from the site, and the site shall be restored in accordance with the approved restoration scheme."*

- 3.4 The County Council was advised that construction works would commence on 28 September 2010, at which time the applicant carried out preparatory site works sufficient to implement the permission. No further operations took place at the site until July 2013 when drilling commenced, after initial site preparations and mobilisation of equipment. Drilling began at the site on 29 July 2013 and was completed by 24 September 2013, with equipment removed by 28 September 2013.
- 3.5 Two applications were submitted in July 2013 seeking additional time to carry out the drilling and testing programme (ref. WSCC/061/13/BA) and to vary the approved flare to be used under the 2010 permission (ref. WSCC/063/13/BA). These applications were withdrawn on 2 September 2013.
- 3.6 A temporary, six month planning permission WSCC/005/14/BA was granted by Planning Committee on 2 May 2014 allowing the exploration and appraisal comprising the flow testing and monitoring of the existing hydrocarbon lateral borehole along with site security fencing, the provision of an enclosed testing flare, and site restoration. The permission was not implemented by the operator and lapsed on the 2 May 2017. The grant of planning permission was challenged on a number of grounds by way of judicial review. The claim was dismissed.

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

- 4.1 The applicant is seeking temporary planning permission to carry out hydrocarbon exploration and appraisal over a two year period, along with associated development, including the installation of site security fencing, an enclosed flare, other testing equipment and ancillary facilities, as well as site restoration. The purpose of these works is to establish whether the well has sufficient hydrocarbons with sufficient flow to make production economically viable. If appraisal indicates production from the well would be viable, the applicant has indicated that a new planning application would be submitted for future production.
- 4.2 The proposed development is considered to fall within the definitions of both 'exploration' and 'appraisal', as set out in Planning Practice Guidance (PPG): Minerals (6 March 2014):

*"The exploratory phase 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."*  
(paragraph 95)

*"The appraisal phase can take several forms including additional seismic work, longer-term flow tests, or the drilling of further wells. This may involve additional drilling at another site away from the*

*exploration site or additional wells at the original exploration site...Much will depend on the size and complexity of the hydrocarbon reservoir involved.” (paragraph 100).*

- 4.3 The applicant has stated that information emerging from previous operations at the site indicated that the target formation, a limestone rock layer, does contain hydrocarbons and that it has a significant level of natural fracturing. The applicant has, therefore, confirmed that there is no need for hydraulic fracturing ('fracking'):

*“...the proposed flow testing operations do not include hydraulic fracturing and for the avoidance of doubt Cuadrilla can confirm that it is not proposed to hydraulically fracture this well in the future.”*  
(Environmental Report 1.1.5, page 6).

- 4.4 Flow testing operations, such as that proposed, would typically be undertaken during the exploration stage when the drill is still on site. The operations were approved as part of the 2010 permission (WSCC/027/10/BA) and under permission WSCC/005/14/BA. However, the operator only had time to drill the borehole before the 2010 permission expired and the 2014 permission was not implemented; therefore, no flow testing has been undertaken at the site.
- 4.5 In terms of the physical development on site, it is proposed to install a workover rig that would be at full extension (32 metres in height) for three weeks of the development, and a flare (13.7 metres in height) in the south-eastern corner of the site for a period of one week (see [Appendix 4: Proposed Elevation](#)).
- 4.6 Ancillary site infrastructure would be installed including modular buildings, tanks, pumps, generators, and the retention of a fence around the pad's perimeter. The modular buildings would be located around the periphery of the drill pad and would contain staff accommodation and facilities, offices, and storage. There would be a parking area along the north-eastern boundary and skips for waste in the south-eastern corner of the site (see [Appendix 5: Proposed Site Plan](#)).
- 4.7 The drill pad is underlain with a self-contained impermeable high density polyethylene (HDPE) membrane in the rig/well-testing area around the borehole. The membrane collects all surface water which is directed to a cellar where would be stored prior to be transported off site for disposal.
- 4.8 If viable reserves are found, well testing would be followed by retention. If no reserves are found, the site would be sealed and the site restored.

#### *Well Testing*

- 4.9 This stage would involve initial site set-up, cleaning of the well, flow testing and the shutting-in of the well, resulting in up to 170 heavy goods vehicle (HGV) movements (85 HVGs coming to/leaving the site) over a period of twelve weeks.
- 4.10 Equipment would be brought to site and installed over a period of one week. The equipment would comprise a beam pump (nodding donkey), coiled tubing unit (essentially a large roll of tubing), acid pump, generators, tanks for oil,

water, acid and nitrogen, a separator (separating material brought to the surface into oil, gas and water) and a nitrogen pump. A crane of up to 40m in height would be required to help support the coiled tubing, but would be on site for less than one week.

- 4.11 In addition, an enclosed flare standing at 13.7 metres in height would be installed in the south-eastern corner of the site.
- 4.12 Once the site equipment has been installed, the well would be prepared for flow testing. It would be cleaned with dilute (10%) hydrochloric acid, which would be pumped through the coiled tubing. This process removes residue left in the well and cleans the immediate wellbore area. It would not be at pressures that would fracture the surrounding rock.
- 4.13 These operations would involve a 'workover rig' being in place, with a maximum height of 32 metres. The rig would be in place and fully extended during the well cleaning and flow testing, but during the pressure monitoring, the boom of the rig would be lowered, reducing its height to 6 metres.
- 4.14 The flow testing would be undertaken over approximately 14 days, including site set-up. The hydrocarbon flow from the well would last no longer than a period of seven days, during which time operations would be continuous, and the flare available to burn off natural gas.
- 4.15 Following the seven-day flow testing operation, the nodding donkey would be removed and pressure gauges installed in the well. The well would be shut-in and secured for a period of around sixty days to allow pressure testing. Putting the well under pressure helps to establish what reserve is available in a geological formation, the density of the fluid, and the permeability of the rock.
- 4.16 If the testing determines that hydrocarbons are commercially viable, the equipment would be cleared from the site and the well secured (i.e. the condition the site is currently in) while a new planning application is prepared for production.

#### *Well Sealing*

- 4.17 Should it be determined, following the well testing operations, that the hydrocarbons found are not commercially viable, the well would be sealed and secured, a process also known as 'plugging and abandonment'. The borehole would be sealed with cement and cut approximately 1.5 metres below ground level, and a steel plate welded to the remaining casing stub. The well head and cellar would be removed, and the cellar filled in. Sub-surface wastes would be removed in accordance with an Environmental Permit relating to the management of mining waste.
- 4.18 The process would involve some 94 HGV movements (47 HGVs entering and leaving the site) over a period of eight weeks. The workover rig would be used during this period.
- 4.19 The works would be undertaken in accordance with procedures agreed with the relevant regulatory bodies: the Health and Safety Executive (HSE); the Environment Agency; and the Oil and Gas Authority (OGA).



### *Demobilisation and Restoration*

- 4.20 Once the well has been sealed, the site would be cleared of plant and equipment, tanks, and waste and restored to its previous condition as a hardstanding for forestry use. This would take approximately a week and up to 34 HGV movements (17 HGVs entering and leaving the site) over that period.

### *Vehicle Movements*

- 4.21 Table 1 summarises the maximum timescales and HGV movements associated with each stage of the proposal.

<b>Table 1: Maximum HGV movements and Days for Stages of Development</b>				
<b>Stage</b>	<b>Activity</b>	<b>Approximate Timescales</b>	<b>Estimated Total HGV Movements</b>	<b>Maximum daily HGV movements</b>
1	Mobilisation / equipment set up	1 week	65 (33 HGVs in/33 out)  Daily average: 9 (5 HGVs in/5 out)	20 (10 HGVs in/10 out)
	Flow test	2 weeks	97  Daily average: 6	23
	Pressure monitoring	9 weeks	8  Daily average: less than 1	4
2	Plug and abandonment of well	8 weeks	94  Daily average: 2	10
3	Demobilisation and site restoration	1 week	34  Daily average: 4	12
<b>TOTAL</b>		<b>147 days of activity</b>	<b>298 HGV movements (149 in, 149 out)</b>	

- 4.22 As Table 1 shows, the most intensive period of HGV movements would be during the site set-up and flow testing when equipment would be brought to and taken from the site.

### *Hours of Operation*

- 4.23 The applicant has indicated various different working hours, dependent upon the stage of operations. During site preparation (set-up), de-mobilising and restoration works, the applicant has stated that hours of operation would be between 07:30 and 18:30 hours on Monday to Friday, and 08:00 and 13:00 hours on Saturdays, with no operations on Sundays, Public or Bank Holidays. Plugging and abandonment works would be undertaken between 07:30 and 22:00 on weekdays and 08:00 and 13:00 hours on Saturdays, with no operations on Sundays, Public or Bank Holidays.

- 4.24 The flow testing and borehole pressure monitoring (including flaring operations) would be required to be undertaken 24 hours each day. However, HGV movements would be limited to the standard working hours given above.

#### *Environmental Permits*

- 4.25 The currently proposed testing programme is subject to Environmental Permits granted by the Environment Agency in relation to the management of mining waste (including flare emissions) and naturally occurring radioactive substances.

### 5 **Environmental Impact Assessment (EIA)**

- 5.1 The need for EIA was considered in relation to this application in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations').
- 5.2 The development does not fall within Schedule 1 of the EIA Regulations which sets out development for which EIA is always required.
- 5.3 It does, however, fall within Schedule 2, where EIA is required if the local authority considers the development is likely to have significant effects on the environment. It falls within Schedule 2 because the site is within a defined 'sensitive area', namely an Area of Outstanding Natural Beauty, and the development sought is a 'surface industrial installation for the extraction of petroleum and natural gas' (Part 2(e)) of more than 0.5 hectares in area.
- 5.4 Consideration must be given as to whether the development has the potential to result in 'significant environmental effects' that require an EIA.
- 5.5 The Annex to Planning Policy Guidance: Environmental Impact Assessment (6 March 2014) sets out indicative thresholds when considering whether EIA is necessary. For part 2(e) the indicative thresholds refer to a development site of 10 hectares or more, or where production is expected to be more than 100,000 tonnes of petroleum per year. The present proposal would not fall within either of these criteria.
- 5.6 The key issues to consider are noted in the Annex as the scale of development, emissions to air, discharges to water, risk of accidents and arrangements for transporting the fuel.
- 5.7 The scale of the present development and emissions associated with it are not considered to be significant, particularly as the use would be temporary. The risk of accidents is not considered to be significant, and significant amounts of fuel would not require transportation. No potentially significant impacts have been identified when considering the key issues.
- 5.8 Taking into account the EIA Regulations 2017, as expanded upon by the above considerations, it was considered in an EIA Screening Opinion dated 22 August 2017 that the proposals would not have the potential for significant effects on the environment within the meaning of the EIA Regulations (see [Appendix 6: Screening Opinion](#)). Therefore, EIA was not considered necessary.

## 6. Policy and Legal Context

### ***Statutory Development Plan***

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the statutory 'development plan' unless material considerations indicate otherwise (as confirmed in paragraph 2 of the National Planning Policy Framework ('the NPPF')). For the purposes of the application, the statutory development plan is considered to comprise the West Sussex Minerals Local Plan (2003), the Mid Sussex Local Plan (2004), and Balcombe Parish Neighbourhood Plan (2016–2031).
- 6.2 The key policies in the development plan that are material to the determination of the application are summarised below, and their conformity or otherwise with the NPPF considered. In addition, reference is made to relevant national planning policy guidance, emerging planning policies and other policies that guide the decision-making process and which are material to the determination of the application.

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

- 6.3 The West Sussex Minerals Local Plan (2003) contains a number of policies that are relevant to this application. Although the Plan is 'out-of-date', the approach taken to onshore hydrocarbon development accords with the NPPF and, therefore, it should be given significant weight.
- 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 if the damage can be prevented or the need for the mineral outweighs environmental objections.
- 6.6 Policy 12 notes some mineral working may be permitted in the AONB providing they would not "*irreversibly damage the intrinsic qualities of these areas*", with assessments of need, alternatives and effects on the landscape/environment required, and mitigation measures to be of a high standard and rapid reclamation promoted.
- 6.7 Policies 16 and 56 seek to safeguard the water environment, Policy 19 seeks to protect residential and other amenity, and Policy 22 seeks appropriate restoration.
- 6.8 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.

- 6.9 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.*"
- 6.10 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.
- 6.11 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.
- 6.12 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.

#### ***Mid Sussex Local Plan (2004)***

- 6.13 The application site is within the defined 'countryside area of development constraint' on the Proposals Map.
- 6.14 Policy C1 of the Local Plan notes that in these areas the countryside will be protected for its own sake and that proposals will be 'firmly resisted and restricted to', among other things "*(c) in appropriate cases, proposals for the extraction of minerals or disposal of wastes.*"
- 6.15 Policy C4 relates to development in the AONB which will not be permitted unless, in summary, it is reasonably necessary for some other use which has to be located in the countryside; it is essential for local social/economic needs; or it is in the national interest and no suitable sites are available elsewhere. In considering development in the AONB the policy notes that 'particular attention' will be paid to siting, scale, design and screening of new buildings to ensure they do not detract from the area.
- 6.16 Policy T3 relates to HGVs, noting that proposals which give rise to significant numbers on roads not designed to accommodate HGVs will not be permitted.

#### ***Balcombe Parish Neighbourhood Plan***

- 6.17 The Balcombe Parish Neighbourhood Plan was 'made' in September 2016 and forms part of the 'Development Plan'. Policy 3: Design is relevant which seeks to avoid significant detrimental effect on the landscape and natural beauty of the High Weald AONB.

#### ***West Sussex Joint Minerals Local Plan: Proposed submission Draft (Regulation 19) (January 2017) ('the JMLP')***

- 6.18 The JMLP has been subject to two rounds of public consultation and an Examination in Public in September 2017, though the Inspector has yet to issue his final report on legal compliance and the soundness of the Plan. In accordance with paragraph 216 of the NPPF, given its advanced stage of preparation it can be given significant weight, though the relevant policies may be given less weight

where there are unresolved objections. The following sets out the relevant considerations and the weight accorded to them in the determination of this application.

- 6.19 Policy M7a of the JMLP is of greatest relevance to the present application as it relates to 'hydrocarbon development not involving hydraulic fracturing'. This policy is however subject to significant challenge and so should be afforded little weight at this stage.
- 6.20 Clause (a) of the policy notes that extensions to existing oil/gas sites, including extensions of time, will be permitted provided that, in summary:
- i. They are located outside South Downs National Park and Areas of Outstanding Natural Beauty;
  - ii. The site is the least sensitive, deliverable location from which the target reservoir can be reached;
  - iii. Any unacceptable impacts can be minimised and/or mitigated;
  - iv. Restoration/aftercare would be to a high quality standard; and
  - v. No unacceptable impacts would arise from the on-site storage or treatment of hazardous substances or contaminated fluids above or below ground.
- 6.21 The more generic 'development management' policies of relevance to the proposal are as follows:
- Policy M12: Character – supports development which would not have an unacceptable impact on the setting and character of the High Weald AONB and reinforce the main attributes of the wider character areas; [policy subject to minor objection and so can be given substantial weight]
  - Policy M13: Protected Landscape – supports development within the High Weald AONB if there are exceptional circumstances and where it is in the public interest [policy subject to minor objection and so can be given substantial weight]
  - Policy M15: Air and Soil – supports development which would not have unacceptable impacts on the intrinsic quality of air and soil or their management; [policy not subject to objection and so can be given significant weight]
  - Policy M16: Water Resources – supports development which would not cause unacceptable risk to water quality or quantity; [policy subject to some relatively minor challenge and so can be given significant weight]
  - Policy M17: Biodiversity and Geodiversity – supports development which avoids/mitigates/remedies significant harm to wildlife species and habitats; [policy subject to significant challenge and so little weight should be afforded]
  - Policy M18: Public Health and Amenity – supports development which would not result in an unacceptable impact on public health and amenity through on site operations or vehicle movements; and which safeguards public right of way routes; [policy subject to some challenge and so less weight afforded].

- Policy M19: Flood Risk Management – supports development which would not result in increased flood risk on site or elsewhere; [not challenged and so should be afforded significant weight]
- Policy M20: Transport – supports development with adequate transport links; maximises the use of the Lorry Route Network rather than local roads; does not have an unacceptable impact on highway capacity; provides safe access to the highway; provides vehicle turning on site; and minimises vehicle movements; [not challenged and so should be afforded significant weight]
- Policy M22: Cumulative Impact – supports development provided an unreasonable level of disturbance does not result from cumulative impact; [policy subject to challenge and so little weight should be afforded].
- Policy M24: Restoration and Aftercare – supports development with restoration schemes which ensure that land is restored at its earliest opportunity to a high quality. [not challenged and so should be afforded significant weight].
- Policy M25: Community Engagement - supports site liaison groups, where necessary, to address issues arising from site operations [policy not subject to objection and so can be given significant weight]

### **Other Policies**

6.22 The emerging Mid Sussex District Plan (2014) will be the main planning document when approved. This plan was initially submitted to the Planning Inspectorate in August 2016 and after some suggested modifications, re-consultation with local residents and re-submission to the Inspector, the District Council is targeting adoption of the Plan in spring 2018. Again, as a result, the relevant policies in the Plan can be afforded some weight. The following sets out the relevant policies in the determination of this application.

- Policy DP1: Sustainable Development in Mid Sussex
- Policy DP10: Protection and enhancement of countryside
- Policy DP14: High Weald Area of Outstanding Natural Beauty
- Policy DP19: Transport
- Policy DP27: Noise, Air and Light pollution
- Policy DP36: Trees, Woodland and Hedgerows
- Policy DP37: Biodiversity
- Policy DP41: Flood Risk and Drainage
- Policy DP42: Water Infrastructure and the Water Environment

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

6.23 The NPPF sets out the government's planning policies for England and outlines how these are expected to be applied. The NPPF does not form part of the development plan but is a material consideration in determining planning applications. One of its stated intentions is to guide decision-makers as to what matters are material to the decision-making process. At the heart of the NPPF is a presumption in favour of sustainable development.

6.24 Paragraph 115 gives 'great weight' to conserving landscape and scenic beauty in AONBs (as well as the Broads and National Parks), also noting that the conservation of wildlife and cultural heritage are important considerations.

6.25 Paragraph 116 continues:

*"Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:*

- *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

6.26 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.

6.27 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.

6.28 The other paragraphs in the NPPF of relevance to the application are:

Paragraph 7 (dimensions of sustainable development); paragraph 14 (presumption in favour of sustainable development, and approving development that accords with the development plan); 17 (core planning principles); 109 (protection and enhancement of the natural and local environment); 110 (minimising pollution and other adverse effects); 120 (ensuring new development appropriate for location taking into account impact of pollution on health and the environment); 123 (impact of noise health and quality of life); 186 (positive decision making); 196 (determining applications in accordance with the development plan); 197 (presumption in favour of sustainable development); and 203-206 (use of planning conditions).

### ***Planning Policy Guidance***

6.29 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*

- 6.30 PPG: Minerals (March 2014) sets out the Government's approach to planning for mineral extraction in both plan-making and the planning application process.
- 6.31 Paragraph 12 sets out the relationship between planning and other regulatory regimes noting that *"the planning system controls development and the use of land in the public interest"* including ensuring development is appropriate for its location and an acceptable use of land.
- 6.32 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."*
- 6.33 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.
- 6.34 Paragraph 14 sets out issues which are for other regulatory regimes to address. For hydrocarbon extraction this links to paragraphs 110 to 112 which sets out the key regulators in addition to the Mineral Planning Authority, namely:
- Oil and Gas Authority (formerly Department of Energy and Climate Change (DECC)): issues petroleum licences, gives consent to drill, responsibility for assessing risk of and monitoring seismic activity, grant consent for flaring or venting;
  - Environment Agency: protect water resources (including groundwater aquifers), ensure appropriate treatment of mining waste, emissions to air, and suitable treatment/management of naturally occurring radioactive materials (NORMs). Assess chemical content of fluids used in operations.
  - Health and Safety Executive: regulates safety aspects of all phases of extraction, particularly ensuring the appropriate design and construction of a well casing for any borehole.
- 6.35 Paragraph 17 notes that the cumulative impact of mineral development can be a material consideration in determining planning applications.
- 6.36 Paragraphs 91 to 128 relate specifically to hydrocarbon extraction.
- 6.37 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.
- 6.38 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."*

6.39 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."*

6.40 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).

6.41 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*

6.42 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).

6.43 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).

- 6.44 PPG: Climate Change notes that addressing climate change is one of the core land use planning principles the NPPF expects to underpin decision taking.
- 6.45 PPG: Natural Environment notes that planning decisions should be based on up-to-date information about the natural environment and other characteristics of the area, and local planning authorities should have regard to management plans for AONBs (paragraph 4). Paragraph 5 notes:

*“Planning permission should be refused for major development in a National Park, the Broads or an Area of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable.”*

### **Permitted Development Rights**

- 6.46 The Town & Country Planning (General Permitted Development)(England) Order 2015 grants permission for a variety of mineral and mining operations to be carried out without the need for an application. Part 17 of Schedule 2 relates to mining and mineral exploration and permits the erection, extension, installation, rearrangement, replacement, repair or other alteration of any plant, machinery or buildings. Unlike other parts of the Order, there are no conditions attached limiting, for instance, the hours or types of operation that may be undertaken.

## **7. Consultations**

- 7.1 The following summarises the responses of statutory consultees to the application.
- 7.2 **Mid Sussex District Council (Planning & Environmental Health comments):** Asks that in determining application WSCC are satisfied with the effects on the AONB, and if permission is granted, conditions should ensure a Construction Management Plan that could include hours of work and numbers of HGVs/routing/deliveries to avoid school drop-off and pick up times and weekends. If staff are to live on site appropriate accommodation should be provided. Also urges WSCC to ensure residents are protected from noise impacts, air quality, odour and groundwater and apply and enforce the conditions of the application.
- 7.3 **Balcombe Parish Council:** Objection. Re-submits 2013 local ballot which indicated that Balcombe Parish Council should always oppose such applications. The objection raises concerns including the financial condition of Cuadrilla Balcombe Ltd.; lack of EIA; transport of large and/or hazardous materials, particularly past school; lack of community engagement by Cuadrilla; inaccurate noise survey as does not include flare; more detailed air quality survey required; lack of control measures relating to drainage, flood risk and water pollution; risk to groundwater; bat surveys should be undertaken during any works; seek 28 days' notice of commencement of works on site; seek bond

and 50 year aftercare period; lighting pollution to be monitored; independent monitoring of noise, air and water; visual impact of rig and flare; seek creation of site liaison group at least 3 months before commencement; seek routing of vehicles to south, particularly when carrying hazardous materials.

- 7.4 **Environment Agency:** No objection subject to a condition requiring submission and approval of a Construction Method Statement outlining how the site will be engineered to prevent pollution. Reviewed and found that Section 10 of the Environmental Report (Hydrology and Pollution Control) is satisfactory. Notes that the operations at the site have the benefit of a Mining Waste Permit and Radioactive Substances Activity Permit, the former covering matters regarding flare emissions and the latter covering the storage and disposal of formation water containing Natural Occurring Radioactive Material (NORM) from the well flow testing phase.
- 7.5 **Health and Safety Executive:** Highlights the various different regulatory regimes which the operator of the site must adhere to.
- 7.6 **Public Health England:** Raise no significant concerns regarding risk to health of local population. Recommends consultation with local authority environmental health department and the Director of Public Health.
- 7.7 **Natural England:** No objection regarding statutory nature conservation sites; highlights guidance to use regarding protected landscapes, protected species, local sites and Sites of Special Scientific Interest.
- 7.8 **WSCC Drainage:** No objection. Refers to comments previously for the 2014 application which required submission, approval and implementation of surface and foul water drainage schemes.
- 7.9 **WSCC Ecology:** No objection subject to conditions relating to lighting and bat movement.
- 7.10 **WSCC Highways:** No objection subject to condition requiring Traffic Management Plan. Agree that Transport Assessment is not needed and site access is adequate. Have considered traffic counts on roads near site and concluded that development would result in a limited increase over existing HGV traffic, therefore unlikely to have a material impact on the operation of the highway network.
- 7.11 **WSCC Landscape:** No objection given temporary period of exploration do not think it likely to have significant visual impact or significantly affect landscape character.
- 7.12 **WSCC Trees and Woodland Officer:** No objection. The development is within the existing boundary so there is no increase in the site footprint. The surrounding trees, scrub, woodland are therefore not directly affected.
- 7.13 **Director of Public Health:** No response received. To be reported verbally at committee if received.
- 7.14 **Southern Water:** Highlights measures to protect public sewers, advises consultations with the Environment Agency and refers to sustainable urban drainage system guidance.

- 7.15 **High Weald AONB:** Highlights policies and guidance for the County Council to take into account in determining the application.
- 7.16 **Network Rail:** No response received. To be reported verbally at committee if received.
- 7.17 **Sussex Police:** Crime prevention advice provided, noting benefits of secure perimeter fencing, lighting, and CCTV.

## 8. **Representations**

- 8.1 The application was publicised in accordance with Schedule 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, including the erection of six site notices around the application site and in the village of Balcombe. In response, 2739 objections were received from third parties, four raising concerns and 11 representations in support.
- 8.2 Frack Free Balcombe Residents' Association (FFBRA) objected to the proposal. The organisation states it has a membership of more than 300 people living in the parish of Balcombe.
- 8.3 The main issues raised through objections, including that of FFBRA, were, in summary:
- Impacts of flare on human health and the environment;
  - Increased traffic past school, through Balcombe, and on rural roads;
  - HGVs should travel to south, rather than through Balcombe;
  - Too close to residential properties;
  - Tankers of chemicals travelling past children's classrooms and playground at school. Emergency procedures needed in case of spills on road;
  - Reliance on fossil fuels rather than renewables will undermine climate change obligations;
  - Noise impacts will be unacceptable;
  - Impact on bats;
  - Pollution of water environment, particularly as aquifer is shallow at site;
  - Pollution of streams adjacent to site which link to River Ouse and Ardingly Reservoir;
  - Use of hydrochloric acid and impact on environment;
  - Amount of water used;
  - Distance between previous borehole and current borehole;
  - HSE or EA have not inspected well or had required meetings;
  - No social licence to drill as Balcombe Parish Council poll shows;
  - Lack of local benefits;
  - Given the PEDL licence conditions, a shorter time period could be given;
  - Deterioration of village life with threatened and actual presence;

- Disposal of toxic waste;
- Potential for earthquakes;
- Cuadrilla should not monitor itself;
- Adverse impact on AONB;
- Landscape impact of flare;
- Lack of EIA, Transport Assessment, fault mapping, baseline bat data, baseline air monitoring, and noise information relating to flare;
- Fracking should be banned;
- Concern at lack of WSCC resources and expertise to deal with application and monitor operation if granted;
- Poor performance of Cuadrilla over summer 2013 – numerous breaches, and at sites in Lancashire;
- Cumulative impact: multiple boreholes, multiple sites, potential for future activities; and
- Need for financial guarantee to ensure Cuadrilla can cover pollution.

#### 8.4 Several representations were received from other public bodies:

- *Friends of the Earth*: Objection. Incompatible with climate change; should impose precautionary principle; lacks EIA; unacceptable adverse impact on water quality, air quality, traffic, noise and wildlife; seek wider emissions monitoring, delays are not justified; lack of community engagement.
- *Sussex Wildlife Trust*: Objection. Proposal contributes to climate change; does not fit within Government Policy or strategy; development would have an adverse impact upon local ecology.
- *Campaign to Protect Rural England Sussex Countryside Trust*: Objection. Proposal does not fit within Government Policy or strategy; development would undermine climate change obligations; not compatible within an AONB; inadequate information submitted; concern regarding stimulation.
- *Ardingly Parish Council*: Objection regarding proximity to Ardingly reservoir, water contamination, impacts on environment and impact upon the AONB.
- *Worth Parish Council*: Objection on the grounds of increased traffic generated.

## 9. Consideration of Key Issues

### 9.1 The key issues in relation to this application are considered to be 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 on amenity and public health;
- the development is acceptable in terms of impacts on the water environment;
- the development is acceptable in terms of impact on landscape; and
- the development is acceptable in terms of impacts on ecology.

## ***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 of 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 Taking this into account, the present proposal is considered to accord with the approach set in national guidance by allowing investment in energy infrastructure to establish whether indigenous oil and gas reserves are available and worth exploiting at Balcombe.
- 9.7 At the local level, Policy 27 of the West Sussex Minerals Local Plan (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*". This policy indicates a presumption in favour of allowing temporary hydrocarbon exploration, subject to environmental matters (considered in detail in the separate sections below). 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 (MLP paragraph 5.9).

- 9.8 Policy 26 of the West Sussex Minerals Local Plan (2003) 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...”*. This feeds into consideration of whether there is a need for this development on this site in particular.
- 9.9 Although the West Sussex Minerals Local Plan (2003) is ‘out-of-date’, the approach taken in the above hydrocarbon policies must be given significant weight as it remains the adopted plan, and they still accord with the NPPF.
- 9.10 The need to consider of alternative sites for hydrocarbons (and thereby the ‘need’ for this particular site) is set out in Policy M7a of the JMLP. However, this policy is subject to significant challenge and so should be afforded little weight at this stage.
- 9.11 Policy M7a supports proposals for oil and gas exploration and appraisal not involving hydraulic fracturing subject to certain criteria, including that (in summary) unacceptable impacts can be minimised; restoration would be to a high quality; and where the site is within the AONB, it accords with Policy M13. These considerations are considered in detail in the remainder of the report.
- 9.12 Criterion (a)(ii) relates to consideration of alternative sites, requiring that the site is the least sensitive, deliverable location from which the target reservoir can be reached. For oil and gas, the options are limited to those that can ‘tap’ into the identified reserve.
- 9.13 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 that are covered by a Petroleum Exploration and Development Licence (PEDL). As operators can only explore within the area of their PEDL, it is considered reasonable to limit evaluation of alternative sites to a single PEDL area.
- 9.14 The application site is within PEDL 244, so that is the ‘search area’ for the purposes of this application. There are currently two hydrocarbon sites in the PEDL: the application site (including Balcombe-1, the original well drilled in 1987) and Bolney-1, a gas site some 3.7 miles south of the site. The latter was drilled in 1963 but has not been in operation for many years. Balcombe-1, within the drill pad of the application site, was drilled in 1987, with a new borehole (Balcombe-2) drilled in 2013.
- 9.15 By using this site, the operator can make use of existing, site-specific geological data, and utilise the borehole drilled in 2013 and the associated infrastructure on site, including the membrane and access road. It is considered that, in accordance with Policy 26 of the adopted MLP, this is the ‘best option’ for establishing whether the reserves are viable to exploit compared to the possibility of exploratory and appraisal operations taking place at other sites within the area of search that have not been drilled in the past. Given that the site has been previously drilled and the infrastructure is in place, it is also considered to be a deliverable location from which the target reservoir can be

reached, in accordance with Policy M7a of the JMLP. The sensitivity of the location will be considered below.

- 9.16 Taking the above into account, it is concluded that there is a need for continued exploration and appraisal at the site 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 the PEDL boundary.
- 9.17 For the avoidance of doubt, hydraulic fracturing ('fracking') was not permitted under WSCC/005/14/BA and it is not proposed under the current application.
- 9.18 Further, a number of responses have raised concerns about 'acidisation' which, they state, is akin to fracking in terms of process and impacts. However, the Environment Agency have clarified that 'acidisation' is a very common industrial process used in creating and maintaining boreholes (whether for oil or water) to increase yield/performance or to rehabilitate a borehole (i.e. to remove blockages). Therefore, the proposed use of acidisation by the operator does not mean that fracking is proposed at the site. Fracking has a specific definition in the Infrastructure Act 2015 (relating to (in summary) the fracturing of shale, and the injection of more than 1,000 cubic metres (1 million litres) of fluid at each stage or 10,000 cubic metres (10 million litres) in total. Furthermore, hydraulic fracturing cannot be carried out at the site without further permissions and authorisations being secured. A condition is recommended to ensure that hydraulic fracturing does not take place under this permission.
- 9.19 *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. Although little weight can be given to Policy M7a, the JMLP supports exploration/appraisal on sites that are, among other things, the least sensitive, deliverable location. The present proposal would make use of an existing well on a site with established infrastructure to establish whether oil and gas resources are exploitable and so is considered to represent the 'best option'. It is, therefore, concluded that there is an identified need for local oil and gas production, and that there is an identified need for development on this particular site, to establish whether the hydrocarbons identified in drilling in 2013 are exploitable.*

### **Highway Capacity and Road Safety**

- 9.20 One of the key issues raised in objections to the application has been the impact of HGVs on the road network, in particular as they travel through Balcombe village.
- 9.21 As already noted, the application site is located on the western side of the B2036 (London Road). It has an existing upgraded bellmouth and access road that have been used for previous hydrocarbon operations, including the drilling in 2013.



- 9.22 As set out in Table 1 of this report, the development is expected to result in a total of 298 HGV movements (149 HGVs coming to/leaving the site) over an approximate five month period.
- 9.23 However, there are likely to be peaks and troughs. For example, there are expected to be up to 97 HGV movements (49 HGVs coming to and leaving the site) during the fourteen day flow testing operations, with a maximum of 46 HGV movements expected in any day (23 HGVs coming to/leaving the site). During demobilisation, there would be 34 HGV movements expected (17 HGVs coming to/leaving the site) over seven days, a maximum of 24 HGV movements expected in any day (12 HGVs coming to/leaving the site).
- 9.24 WSCC Highways Officers have considered traffic counts in three locations on the B2036 near the site to consider the impact of the development on the 'baseline' highway environment. Counts were taken north of Balcombe on the B2036, in Balcombe village (in the vicinity of Haywards Heath Road), and south of Balcombe. Although Highways Officers note that the data is dated (obtained in November/December 2012), they also note that the data does provide an indication of HGV movements on the local network. The data indicates there are around 350 HGV movements in the vicinity of Haywards Heath Road in Balcombe village, with 230 counted at the northern point, and 120 to the south.
- 9.25 As a worst case scenario, HGVs would increase by 8% during the mobilisation period (as measured as a proportion of HGV movements south of Balcombe - i.e. where the lowest number of HGVs was counted so the effect would be greatest). However, for the bulk of the operations, the percentage increase during operations is very minor (see Table 2).

<b>Table 2: Percentage Increase in HGV Movements</b>				
<b>Activity</b>	<b>South</b>	<b>Village</b>	<b>North</b>	<b>Duration (days)</b>
Mobilisation	8%	3%	4%	7
Flow Test	5%	2%	3%	14
Press. Monitoring	1%	<1%	<1%	63
Sealing	2%	1%	1%	56
Demobilisation	3%	1%	2%	7

- 9.26 Highways Officers have also noted that the site access is acceptable. Although the safety audit carried out in 2010 has not been updated, the trip generation is not sufficient to warrant a new audit being undertaken.
- 9.27 It has been suggested in a number of representations that HGVs should be routed to/from the south of the site, via Whitemans Green, to avoid Balcombe village to the north, in particular the local school. However, previous development has been routed to the north on the B2036, through Balcombe village, linking to junction 10A of the M23 some 7 kilometres north of the site. The comparable route to the south would be 7.6 kilometres long. In highways terms, the route north is preferable as it is more direct. Both routes would travel past residential properties and other sensitive uses, but the disturbance is considered to be minimal given the numbers of HGVs involved.
- 9.28 To address concerns regarding impacts on Balcombe CofE Primary School, Highways Officers have recommended the imposition of a condition requiring a

Traffic Management Plan that would restrict the timing of HGV movements including that of hazardous waste such as hydrochloric acid (though it should be noted that the safe carriage of hazardous waste is covered by other regulations (the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009, regulated by the HSE)).

- 9.29 Therefore, subject to a Traffic Management Plan, Highways Officers raise no objection to the development, noting that the development would not have a material impact on the operation of the highway network in safety or capacity terms.
- 9.30 Overall, it is considered that the development is acceptable in terms of its impact on the highway network, subject to the imposition of a condition requiring a Traffic Management Plan.
- 9.31 *The proposed development would result in increased HGV movements on the B2036 and other roads over the five month period sought. However, at most there would be an 8% increase in HGV movements, which would occur during the seven day mobilisation period. For most of the operation, the increase in HGV traffic would not be significant. WSCC Highways Officers raise no objection to the proposal, concluding that the increase in vehicle movements is not sufficient to materially impact on the operation of the highway network in safety or capacity terms, subject to the imposition of a condition requiring the submission and approval of a Traffic Management Plan.*

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

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

### ***Noise***

- 9.36 The development has the potential to result in increased noise at residential properties through the use of plant such as the nodding donkey, pumps, and the generators, in addition to vehicle movements to, from, and within the site.
- 9.37 A Noise Impact Appraisal was submitted with the application, which concluded that the impact of road traffic noise was not significant enough to be assessed, given the number of vehicles.
- 9.38 The flaring of gas can be a noisy operation, depending on how much gas is produced, but it can be controlled by 'throttling back the flow'. In addition, the

flare is confirmed to be enclosed. Although the flare would be a 24 hour operation, working measures can help to minimise noise. It is therefore considered that noise impacts from the flare are controllable.

- 9.39 Calculations submitted as part of the Noise Impact Appraisal indicate that the noise impact from the remainder of the plant and equipment including generators, a mobile crane, beam pumps (nodding donkey), and handheld welders would not be significant.
- 9.40 A condition is proposed requiring a Noise Management Plan that would require the applicant to provide details of 'instantaneous mitigation measures' such as throttling back the gas flow in the event that noise from the flare exceeds accepted limits; and in extreme cases, ceasing operations until appropriate action is taken (unless it is unsafe to do so). Noise monitoring would be undertaken continuously during operations by the applicant, with results submitted to the County Council on a weekly basis, but also on request. In the event that noise emissions do cause a problem, a condition is proposed requiring submission of a Noise Management Plan that will identify the mitigation measures to be put in place.
- 9.41 Under these circumstances, and given the controls that the proposed conditions would give, it is not considered that the proposal would result in adverse noise impacts on residential amenity.
- 9.42 The site set-up operations and demobilisation, as well as most of the plugging and abandonment works would be undertaken during the day (from 07.30 – 18.30 Monday to Friday, and 08.00 to 13.00 on Saturdays). With conditions setting a limit for noise emissions from the site, and a condition controlling the hours of HGV movements, it is considered that the potential for noise impacts would be limited.
- 9.43 Although working hours for the different operations period have been stated by the applicant, given the liberal permitted development rights that apply to minerals operations, which do not limit hours of working, a condition restricting working hours has not been recommended and would not meet the tests for a planning condition.
- 9.44 However, impacts upon local amenity can still be secured through strict regulation regarding noise and lighting impacts from the site. In this case, noise and lighting conditions have been recommended to limit such impacts. For instance, any Noise Management Plan approved under Condition 15 would enable instantaneous mitigation methods should noise levels are exceeded. It is therefore considered that impacts on local amenity can still be controlled and mitigated against without the requirement of a condition restricting working hours.

#### *Air Quality*

- 9.45 Concern has been raised in third party objections about the potential impact of the flare in particular on air quality and human health.
- 9.46 The flare would be on site for seven days to dispose of natural gas, a by-product of oil exploration which it not always viable to use.

- 9.47 PPG: Minerals (paragraph 112) is clear that the flaring or venting of gas is subject to DECC (now the Oil & Gas Authority) 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"*. It is clear therefore that the potential impact of the flaring of gas on air quality is not a matter for the County Council.
- 9.48 However, in leaving this issue to other regimes, PPG: Minerals also makes it clear that the Minerals Planning Authority must be satisfied that the issues can or will be addressed by taking advice from the relevant regulatory body (paragraph 112). The Environment Agency has commented on this application and has raised no objection. In addition, the Environment Agency has granted an Environmental Permit that addresses the flaring of waste gas resulting from the proposed operations, and considers it can be done without risk to people or the environment.
- 9.49 Consultation was carried out with Public Health England who raise no objection to the application, stating that they have *"no significant concerns regarding risk to health of the local population from potential emissions associated with the proposed activity, providing that the applicant takes all appropriate measures to prevent or control pollution, in accordance with relevant technical guidance or industry best practice"*.
- 9.50 The development also has the potential to result in impacts on air quality through increased traffic on the road to and from the site. However, the levels of vehicles associated are not considered to be significant enough to reduce air quality, particularly given the short-term nature of the project and the small increase over existing HGV numbers already on the local highway network.
- 9.51 Taking the above into account, it is concluded that the potential impact of the development on air quality is satisfactory, particularly given the controls in place through the Environmental Permitting regime.
- 9.52 Overall, it is considered that the proposal accords with the requirements of criterion (a)(iii) of Policy M7a of the JMLP, which requires that hydrocarbon exploration/appraisal does not have any unacceptable impacts on (in summary) the natural and built environment and local amenity.
- 9.53 *The development has the potential to adversely affect residential amenity and health, primarily through increased noise and emissions to air. In terms of noise, there is a potential for the flare and plant on site to result in noise disturbance. However, it is considered that this can be adequately controlled by conditions requiring monitoring, and remediation if levels are exceeded. The development has the potential to result in impacts on air quality through the flare, and an increase in vehicles travelling to and from the site. However, emissions from the flare are controlled by the Environmental Permit that applies to the operations. The potential impact of increased vehicle numbers is not considered to be significant as numbers are relatively low, and for a temporary period.*

### ***Impacts on the Water Environment***

- 9.54 One of the key issues raised in objections to the proposal is the potential impact on the water environment. PPG: Minerals notes that *"surface, and in*

*some cases ground water issues*", should be addressed by minerals planning authorities as well as flood risk and water (paragraph 13). The impact on the water environment is, therefore, a material planning consideration.

- 9.55 The site is not within a groundwater source protection zone, with the nearest of these some 2.3 km north-west of the site, without an abstraction licence to pump water (though 20m<sup>3</sup> can be abstracted without such a licence). The Environment Agency has confirmed that there are no licenced groundwater abstractions within 3km of the site. There are, however, small streams as close as 15 metres from the site access road.
- 9.56 The site lies on Wadhurst Clay some 47 metres thick, classified as 'unproductive strata' because it is identified as being generally unable to provide usable water supplies and unlikely to have surface water and wetland dependent upon them. The clay also acts as a natural barrier to the migration of either groundwater or gases between permeable strata.
- 9.57 Below the clay are the Ashdown Beds of some 212 metres' thickness, a 'Secondary Aquifer' formed of fine-grained silty sandstone and mudstone. The Environment Agency notes that this contains naturally high levels of methane, but that due to geology and well construction this does not pose a risk to groundwater. Below the Ashdown Beds is another layer of Kimmeridge Clay, below which are the hydrocarbon-bearing Micrite Beds into which the lateral well extends.
- 9.58 In considering the potential impacts on the water environment, it is important to note that the County Council must assume that other, non-planning regimes operate effectively (PPG: Minerals, paragraph 112). In relation to water, this means assuming that the construction, design and operation of the borehole have been undertaken appropriately, in accordance with Health and Safety Executive (HSE) requirements. It also means assuming that the Environment Agency will ensure that surface equipment operates satisfactorily, and that mining waste and NORMs are appropriately managed.
- 9.59 Nonetheless, as already noted, paragraph 112 of PPG: Minerals notes that before granting permission the County Council will need to be satisfied that the issues dealt with under other regimes can be adequately addressed 'by taking advice from the relevant regulatory body'. The County Council has consulted with the Environment Agency and HSE, neither of which has objected.
- 9.60 The main risks to the water environment are due to run-off from the surface of the site. For any development, it is important to ensure that fluids, particularly where they are potentially polluting, are managed within the site. For this development, impacts on water quality would be mitigated by ensuring potentially-polluting activities are undertaken on an impermeable surface with sealed drainage system. A condition would be added, as requested by the Environment Agency, requiring the submission and approval of a Construction Method Statement detailing: the inspection of the existing containment measures; remediation or replacement of the containment measures; containment construction and quality assurance and future inspection and maintenance. Fuel tanks and chemicals stored outside of the impermeable area would have their own bunded containers, as is common practice in industry and agriculture.

- 9.61 It is considered these mechanisms, which satisfy the Environment Agency, would ensure that surface water is protected.
- 9.62 Details of surface and foul water drainage are required by conditions at the request of WSCC Drainage Officers, which would ensure that the site does not increase the risk of flooding off-site, and that foul waste is managed appropriately.
- 9.63 The main risks to groundwater are through failure of the well casing, leaking of chemicals and hydrocarbons, and through migration of liquid from the borehole. All of these matters are addressed through regulation by the Environment Agency and HSE. The Environment Agency has considered the site's location in terms of a range of issues including geology and hydrogeology, and protected sites and species. The HSE consider the potential interaction with nearby wells, as well as geological strata and the fluid within them. Neither consultee has raised concerns about the proposal.
- 9.64 As with the previous application, concern has been raised that the works presently proposed would interact with the borehole drilled in the 1980s (Balcombe-1), which is 10 metres from the present borehole. The vertical (and horizontal, where relevant) position of existing wells is mapped prior to new wells being drilled so there is no risk of collision.
- 9.65 The drilling of boreholes in close proximity to other boreholes is common practice and is not considered to pose particular risks. As an example, there are seven wells drilled from a pad at Singleton oilfield near Chichester with no resultant problems emerging. Further, HSE previously confirmed that Balcombe-1 has not been inspected since it was abandoned, but that there is no regulatory requirement for them to do so as it was abandoned in accordance with agreed procedures to minimise the risk to the environment.
- 9.66 Specific concerns have been raised regarding the use of hydrochloric acid in the 'acidisation' process. As previously noted, this is a standard procedure in the cleaning of boreholes for not just oil and gas development but also more generally for many drinking water boreholes. The acid would be diluted to a maximum of 10%, with at most 2,000 litres being used with 18,000 litres of water.
- 9.67 The Environment Agency has considered the use of dilute hydrochloric acid in responding to the present application, as well as in granting its Environmental Permits and has raised no concerns. The decision document relating to the Environmental Permit for this operation notes that *"the dilute hydrochloric acid reacts with the residual drilling muds debris and surrounding rocks to become salty water (calcium carbonate, calcium chloride and water)"* (Decision Document for Draft Permit number EPR/AB3307XD, page 7). This salty water (spent hydrochloric acid) is considered non-hazardous, with the Environment Agency concluding that it *"does not create a risk to groundwater as it cannot migrate to where there is groundwater as there is no pathway to where groundwater can be found"* (ibid, page 18).
- 9.68 It has been suggested that a bond or financial guarantee should be sought to cover remediation in the event that contamination occurs or for extended aftercare. However, for minerals projects, typically quarries and similar, financial guarantees are only justified in 'exceptional cases' involving very long

term projects, novel approaches, or reliable evidence of the likelihood of financial or technical failure (PPG: Minerals, paragraph 48). For oil and gas projects, the operator is explicitly liable for any damage or pollution caused by their operations, with the Oil and Gas Authority checking that operators have appropriate insurance against these liabilities in granting a PEDL Licence.

- 9.69 Southern Water was consulted with and provided comments regarding sewer location, consultation with the Environment Agency and appropriate drainage systems.
- 9.70 Taking the above into account, it is considered that subject to the imposition of appropriate conditions the development does not pose a risk to the water environment. It therefore accords with criterion (a)(iii) of Policy M7a of the JMLP, which seeks to, among other things, minimise impacts on the water environment, and criterion (a)(v) which requires that *"no unacceptable impacts arise from the on-site storage or treatment of hazardous substances and/or contaminated fluids above or below ground"*.
- 9.71 *The potential impact of the development on the water environment is a material consideration, but PPG: Minerals, paragraph 12 notes that mineral planning authorities must assume that non-planning regimes operate effectively. This means assuming that the well is constructed and operated appropriately, that surface equipment operates satisfactorily, and that waste and NORMs are appropriately managed in accordance with other regulatory regimes. The Environment Agency and Health and Safety Executive have not raised concerns in relation to the proposal. The risk to surface water would be minimised by carrying out activities on an impermeable membrane with a sealed drainage system. With regards to groundwater, it must be assumed that the well is constructed and operated to the appropriate standards. Mapping and surveys ensure that there is no risk of the present well intersecting with the well drilled in the 1980s. It is proposed to use dilute hydrochloric acid to clean the well, which is a standard procedure with many boreholes, including those for drinking water. The hydrochloric acid would react with material in the borehole to become non-hazardous salty water. It is therefore concluded that the development does not pose a risk to the water environment, either at the surface or groundwater, and that the proposal accords with criteria (a)(iii) and (a)(v) of Policy M7a of the JMLP.*

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

- 9.72 The proposal has the potential to result in impacts on the surrounding landscape, particularly as the site is within the High Weald AONB.
- 9.73 The physical development would involve the use of a workover rig of up to 32 metres in height (when extended), a 40m crane, a flare measuring 13.7 metres in height and site infrastructure including portacabins, tankers, pumps and generators. The site is currently enclosed with a 2 metre high security fence which would be retained.
- 9.74 The workover rig would be extended to its full height (32 metres) for the first three weeks of the development and for a further week when the well is plugged and abandoned. For the remainder of the development, the boom would be lowered and so would be the height of a lorry. A crane of up to 40m in height would be required to help support the coiled tubing, but would be on

site for less than one week. The flare (13.7 metres in height), would be located in the south-eastern corner of the site, and would be in place for seven days while flow testing is undertaken, during which time the rig would also be at full height.

9.75 There would therefore be a four week period during which the infrastructure on site would be at its most visible. For the remainder of the time, the equipment on site would be relatively low in profile, and largely screened by mature trees.

9.76 The potential visual impact and impact on landscape must be considered against paragraph 115 of the NPPF which notes that:

*“Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads, Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.”*

9.77 Paragraph 116 of the NPPF notes that planning permission should be refused for major developments in AONBs (and National Parks) except in ‘exceptional circumstances’. Paragraph 5 of PPG: Natural Environment restates this and notes that whether proposals are considered ‘major development’ is a matter for the decision taker, taking into account the proposal in question and the local context.

9.78 Policy M13 (Protected Landscape) of the JMLP can be afforded substantial weight as it is subject to only minor objection. It states that minerals development will not be permitted in AONBs unless the site is allocated for the use (which it is not); the proposal is for small-scale development to meet local needs (which it is not); or that it accords with part (c) relating to major mineral development within protected landscapes.

9.79 Therefore, there is a need to consider whether the proposal meets the criteria in part (c) which states:

*“major minerals development will not be permitted within protected landscapes unless there are exceptional circumstance and where it is in the public interest by assessment of:*

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

9.80 These considerations also feed in to Policy M7a (above), which supports development in the AONB that accords with Policy M13.

9.81 Referring to criterion i) and ii), the need for the development and the possibility of alternatives, is assessed and confirmed in paragraphs 9.2 – 9.18. It is not considered that the development would result in significant impact, positive or



negative, upon the local economy and in terms of national energy considerations, it would help to establish whether oil and gas resources are exploitable in this location.

- 9.82 In relation to criterion iii), the development is for a short period, after which the site would be restored (or retained while an application for further works is prepared). As considered elsewhere in this report, any potential detrimental impact on amenity and public health, the water environment and ecology as a consequence of this development would not be significant. The potential impact on the landscape is considered in the following.
- 9.83 The visual impact of the works would be largely contained within the site, and as previously stated, the key off-site impacts relating to the work-over rig, the crane and flare would be short-lived.
- 9.84 The applicant has submitted 'viewpoint photographs' indicating the potential impact of the workover rig from four key locations as a 'worst case scenario'. These indicate that the rig is likely to be visible from London Road at the site entrance and through the farm entrance (adjacent to the Christmas Tree plantation), with more limited views likely from the railway bridge looking south and the public right of way south-west of Kemps Farm. All photo montages include the flare, the rig and the crane. As noted previously, the crane and flare would be in place for less than seven days.
- 9.85 A condition would be added to the permission requiring the submission and approval of a lighting plan to minimise the impact of lighting on both the landscape and ecology of the area. It is important to note that the flare would be fully enclosed, so no light/flame would be visible.
- 9.86 If no hydrocarbons are found in useable quantities, it is considered that the site could be restored to a high quality standard for use in association with the forestry use adjacent, as was previously the case, in accordance with Policies M7a (criterion (a)(iv)) and M24 of the JMLP.
- 9.87 WSCC's Landscape Officer has not objected to the proposal, noting that the development is for a temporary period and so is unlikely to have significant visual impacts. Furthermore, officers consider it unlikely to have any additional impacts on the character components of natural beauty identified by the High Weald AONB Management Plan 2014.
- 9.88 Taking the above into account, it is concluded that the proposed development would not conflict with the conservation of the landscape and scenic beauty of the AONB in which it is located. The development would not 'irreversibly damage' the qualities of the AONB, or result in significant visual impacts, particularly as the operations would be temporary in nature, and the flare and extended rig would only be in place and visible for four weeks of the six month permission.
- 9.89 In relation to JMLP Policy M13, the proposed development is considered to accord with the requirements for major developments in the AONB in that there are 'exceptional circumstances' and it would be in the public interest.
- 9.90 *The application site is located within the High Weald Area of Outstanding Natural Beauty (AONB), so great weight must be given to conserving landscape*

*and scenic beauty. The most visible elements of the development would be the workover rig at 32 metres in height, and the enclosed flare at 13.7 metres in height. However these elements would only be in place for four weeks and one week respectively. The other development on site would be at a relatively low level and screened by mature vegetation. This and the temporary nature of the development has led WSCC's Landscape Officer to conclude that the development is unlikely to result in significant impacts on landscape or the natural beauty of the area. It is therefore concluded that the proposal accords with Policy M13 of the JMLP and is acceptable in terms of its potential visual impact and impact on the landscape.*

### **Impact on Ecology**

- 9.91 The application site abuts Ancient Woodland to the north and south, as well as beyond the railway corridor to the east and beyond the B2036 to the west. It is otherwise relatively distant from any ecological designations, being some 800 metres south-east of the Rowhill Copse Local Nature Reserve and some 1,100 metres south-west of the Ardingly Reservoir Local Nature Reserve.
- 9.92 There are several Sites of Special Scientific Interest (SSSIs) within 5 kilometres of the site. Wakehurst and Chiddingly SSSI is some 2,300 metres north-west of the site; Cow Wood and Harry's Wood SSSI is some 3,200 metres west of the site; Worth Forest SSSI is some 3,800 metres north of the site and Philpot's and Hook Quarry SSSI is some 4,600 metres north-east of the site. Beyond this, Ashdown Forest Special Protection Area (internationally-designated) is some 8.9km east of the site.
- 9.93 Following ecological assessments, at least 110 noteworthy species were recorded within 2km of the site. However, the Ecology section in the Environmental Report explains that the:
- "Works are restricted to an area of existing hard-standing so although adjacent land is suitable for a number of protected species, the only protected species which could be indirectly affected by the proposed development are foraging and commuting bats."*
- 9.94 WSCC's Ecology Officers note that ecological surveys and assessments have been carried out and have raised no objection to the proposal, subject to a condition seeking to protect bats by way of minimising lighting. Furthermore, having reviewed the comments of the Sussex Wildlife Trust, WSCC's Ecologist recommends that an updated bat monitoring condition would address their concerns.
- 9.95 They also confirm that Natural England's Standing Advice (referred to in Natural England's consultee response) forms an integral part of their assessment of the application. In conclusion, they consider that the submitted information is robust, and that no additional or further surveys are required. Any disturbance would be minor and temporary, and minimised by the imposition of a condition controlling lighting.
- 9.96 It is considered that through controlling impacts on surface and groundwater, and emissions to air, impacts on ecology would also be minimised. Monitoring of both water and air quality (as required by the Environmental Permit) would ensure that any emissions are identified and controlled appropriately. The

potential for adverse impacts through water and air emissions is therefore considered to be minimal.

9.97 Taking the above into account, it is considered that the impacts of the proposed development can be contained within the site to ensure that habitats and species are not adversely affected. The development thereby accords with criterion (a)(iii) of Policy M7a of the JMLP, which seeks to minimise unacceptable impacts on, among other things, the natural environment, and Policy M17 of the JMLP, which seeks to minimise harm to biodiversity.

9.98 *The proposed development is adjacent to ancient woodland, and there are a number of Sites of Special Scientific Interest in the local area, though relatively distant from the site, each more than 2,000 metres away. A key concern relates to the potential impact on bats. However, WSCC's Ecology Officers have raised no objection, subject to conditions to control lighting on the site, and bat monitoring. It is considered that the potential impact of the development on habitats and species would be minimal, subject to controls on emissions to air and the water environment which would contain the operation within the site. It is therefore considered that the proposal is acceptable in terms of its potential impact on ecology.*

## 10. Overall Conclusion and Recommendation

10.1 The flow testing and monitoring operation proposed at the Lower Stumble Wood site has the potential to result in impacts on the highway, people and the environment, issues that have been raised in the large number of objections to the application. Balcombe Parish Council has objected to the application, but no other statutory consultees have objected, subject to the imposition of conditions.

10.2 It is concluded that the number of vehicles required to carry out the development is not significant enough to raise concerns regarding highway capacity or road safety. Emissions from the development would be controlled through the planning regime as well as through the Environmental Permitting and health and safety regimes which would ensure that water quality would not be compromised and that emissions to air would be acceptable. Although the rig, crane and flare on the site would be visible at times during the development, the impact would be short-lived and so would not compromise the landscape qualities of the High Weald Area of Outstanding Natural Beauty.

10.3 It is, therefore, **recommended** that planning permission is granted, subject to conditions and informatives set out at Appendix 1.

## 11. Equality Duty

11.1 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act 2010. Officers considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

## 12. Risk Management Implications

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

## 13. Crime and Disorder Act Implications

- 13.1 This decision to grant planning permission for a temporary period for exploration and appraisal comprising the flow testing and monitoring of the existing hydrocarbon lateral borehole along with site security fencing, the provision of an enclosed testing flare, and site restoration at Balcombe has no implications in relation to crime and disorder.

## 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.


  
Head of Planning Services

**Background Papers:** As set out in Section 6.

### List of Appendices

Appendix 1 – Conditions

[Appendix 2 – Site Location Plan](#)  
[Appendix 3 – Existing Site Plan](#)  
[Appendix 4 – Proposed Elevation](#)  
[Appendix 5 – Proposed Site Plan](#)  
[Appendix 6 – Screening Opinion](#)

Contact: 

## Appendix 1: Conditions and Informatives

### CONDITIONS

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

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

#### **Time Limitations**

2. The Stage 1 Activities (mobilisation, flow-test, pressure monitoring) hereby approved shall be completed and cease within a period of six months from the date of commencement of development.

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

#### **Notification of Works**

3. Prior written notification of the date of commencement of each Stage 1 Activity (mobilisation, flow-test, pressure monitoring) hereby approved shall be sent to the Minerals Planning Authority not less than seven days and no more than 14 days before commencement of each Stage 1 Activity.

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

#### **Completion of Works**

4. Notification of the date of the completion of pressure monitoring hereby approved shall be sent to the Minerals Planning Authority not more than seven days following completion. Within six months of the completion of pressure monitoring, the operator shall either:
  - i) restore the site in accordance with the scheme approved under Condition 18; or
  - ii) clear all plant and machinery from the site whilst a planning application for the production of hydrocarbons from the site is prepared.

*Reason: To secure the timely restoration of the site.*

#### **Approved Plans**

5. The proposed development shall not take place other than in accordance with the approved drawings and documents:
  - Figure 1: Site Location Plan (Rev 01);
  - Figure 2: Existing Site Plan (Rev 01);
  - Figure 3: Proposed Site Plan (Rev 01);
  - Figure 4: Proposed Elevation – View from North West (Rev 02); and
  - Enclosed Oilfield Flare (Flare and Equipment Photos, Photo (02));

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

*Reason: To secure a satisfactory development.*

### **Decision Notice**

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

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

### **Pollution Prevention Statement**

7. Development shall not begin until a Pollution Prevention Statement has been submitted to and approved in writing by the Minerals Planning Authority setting out details of the construction of the engineered site to prevent pollution. The Statement shall include:

- Details of the inspection of the existing containment measures;
- Details of any remediation or replacement of the containment measures;
- Details of containment construction and quality assurance; and
- Details of future inspection and maintenance

The Pollution Prevention Statement shall include detailed pollution prevention assessments and mitigation methods to prevent pollution of the water environment. The approved Statement shall be implemented in full and maintained throughout the course of the development. Any changes to the approved Statement shall be approved in advance and in writing by the Minerals Planning Authority.

*Reason: to protect the water environment.*

### **Surface Water Drainage Scheme**

8. Development shall not begin until a scheme of surface water drainage has been submitted to and approved in writing by the Minerals Planning Authority. Details shall include:

- Design for 1:100 year return period.
- Inclusion of 30% peak run-off and 20% additional volume for climate change.
- Infiltration rates and groundwater levels shall be determined by site investigation and/or testing during the winter period
- Inclusion of a suitable freeboard above the seasonal high groundwater table (minimum 1m unless otherwise agreed by the Minerals Planning Authority's engineers).
- Consideration of overland flows (pluvial impact).
- Evidence of agreement with the Local Water Authority.
- Assessment of pollution control measures .

The approved scheme shall thereafter be implemented in full and maintained throughout the duration of the development.

*Reason: to protect the water environment.*

#### **Foul Water Drainage Scheme**

9. Development shall not begin until a scheme of foul water drainage has been submitted to and approved in writing by the Minerals Planning Authority. The approved scheme shall thereafter be implemented in full and maintained throughout the duration of the development.

*Reason: to protect the environment and people from the impacts of foul water.*

#### **Lighting Strategy**

10. Development shall not begin until a Lighting Strategy, assessed by a suitably-qualified ecologist, has been submitted to and approved in writing by the Minerals Planning Authority. The Lighting Strategy shall include:

- a) Re-assessment by suitably-qualified ecological consultant of the impact of the site's lighting regime on the surrounding vegetation at night within 7 days of its installation;
- b) Measures for immediate remedial action should the assessment carried out at (a) indicate that light spill exceeds 1 lux; and
- c) Within 14 days of the installation of site lighting, submission to the Minerals Planning Authority of a report detailing the impact of the lighting on the surrounding vegetation. The report shall detail lighting measurements (carried out in accordance with (a)), remediation undertaken and its impact, and the type and timescale of further remediation which may be required to ensure light spill onto adjacent vegetation is less than 1 lux.

The approved Lighting Strategy shall thereafter be implemented in full.

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

#### **Traffic Management Plan**

11. Development shall not begin, including any works of mobilisation, until a Traffic Management Plan has been submitted to and approved in writing by the Minerals Planning Authority. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during the development;
- the method of access and routing of vehicles;
- the parking of vehicles by site operatives and visitors;
- the loading and unloading of plant, materials and waste;
- the storage of plant and materials used in the development;
- the erection and maintenance of security hoarding (if relevant);
- the provision of works required to mitigate the impact of the development upon the public highway (including the provision of temporary Traffic Regulation Orders);
- details of public engagement both prior to and during the development;



- traffic management schemes such as restrictions on timings, associated signage etc.; and
- measures to ensure that HGV movements avoid school pick-up and drop-off times.

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

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

### **Hours of HGV Movements**

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

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

### **Noise Levels**

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

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

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

*Reason: In the interests of residential amenity.*

### **Noise Monitoring**

14. Noise levels shall be monitored at Kemps Farm at weekly intervals from the date of the commencement of development. The results of the monitoring shall include LA90 and LAeq noise levels, the prevailing weather conditions, details and calibration of the equipment used for measurement and comments on other sources of noise which affect the noise climate. The monitoring shall be carried out for at least 2 separate durations during the working day and the results shall be submitted to the Minerals Planning Authority within 3 days of the monitoring being carried out. If the results indicate that the noise levels exceed those set out in Condition 13 the mitigation detailed in Condition 15 shall be implemented within 48 hours.

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

### **Noise Management Plan**

15. Prior to the commencement of development, the applicant shall submit to, and have approved in writing by the Minerals Planning Authority a Noise Management Plan. The Plan shall identify:
- Details of initial noise tests for each item of noise-emitting plant on site to establish whether noise emissions are compliant with condition 13;
  - If not compliant, details of what mitigation would be introduced and timescales for implementation;
  - Details of instantaneous mitigation methods for each item of noise-emitting equipment (e.g. throttling back gas flow for the flare, stopping works where safe to do so) and any longer term mitigation;
  - Detail of continuous monitoring procedure to monitor noise limits;
  - Procedures for addressing any complaints received.

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

### **Reversing Alarms**

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

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

### **Bat Monitoring**

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

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

### **Restoration**

18. Prior to the commencement of development, a scheme of restoration and aftercare specifying the steps to be taken to manage restored land shall be submitted for the written approval of the Minerals Planning Authority. Thereafter the approved restoration and aftercare scheme shall be implemented in full.

*Reason: To ensure the site is restored to a satisfactory standard of appearance.*

### **Additional Security Measures**

19. Prior to the commencement of development, a scheme of additional security measures shall be submitted to and approved in writing by the Minerals

Planning Authority. The scheme shall identify the height, location and appearance of any fencing and other security measures which may be required to be installed on the site. It shall not include fencing of more than 4.5 metres in height or 2 metres in height fronting the highway. Only security measures approved in this scheme shall be erected on site. Any security measures installed shall be removed upon completion of the development.

*Reason: To ensure that the site can be secured appropriately without significant impact on the landscape of the area.*

### **Workover Rig**

20. Prior to the commencement of development, details of the workover rig to be used shall be submitted to and approved in writing by the Minerals Planning Authority. Only the approved rig shall be used in implementing the development.

*Reason: to secure a satisfactory development.*

## **INFORMATIVES**

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