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**BARTON
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bartonwillmore.co.uk
7 Soho Square
London
W1D 3QD
T7 0207 446 6888

SPECIAL DELIVERY & EMAIL

Ms Jane Moseley
Principal Planner
West Sussex County Council
Strategic Planning Business Unit
2nd Floor, Northleigh
County Hall
Chichester
PO19 1RH

23074/A3/BM/AO

18th July 2014

Dear Ms Moseley

**LAND SOUTH OF BOXAL BRIDGE, NORTHUP FIELD, WISBOROUGH GREEN, WEST SUSSEX,
RH14 0DD**
WSSC REFERENCE: WSSC/083/13/KD

We write on behalf of our client, Celtique Energie Weald Ltd ('Celtique'), and with regard to the above planning application and with reference to the following correspondence:

- Barton Willmore email dated 4th July 2014;
- West Sussex County Council (WSSC) email dated 7th July 2014;
- Barton Willmore letter dated 8th July 2014;
- WSSC email dated 9th July 2014.

As stated in our letter dated 8th July 2014, Celtique is disappointed that, despite seeking to work positively with WSSC throughout the application process, Officers are recommending refusal on the basis of the Highway Officer's consultation response received on 2nd July 2014 (over 9 weeks after additional highway information was submitted for consideration on 25th April 2014 and only 5 working days before Officer's Committee Report was due to be completed on the 9th July 2014). Our email dated 4th July 2014 and letter dated 8th July 2014 sets out Celtique's Highways consultant attempts to contact the Council's Highways Officer, Mr Smith, during June 2014 to discuss the proposals and ascertain whether he had any comments or concerns, but Mr Smith has not sought to reply or adequately engage with SCP Transportation Planning (Celtique's Highways Consultant).

We understand from your emails dated 7th July and 9th July 2014 that Officers were not prepared to meet with Celtique and their Highways consultant or defer the application so that Celtique may have a reasonable period of time to prepare and provide the additional highways information being requested (which, in our view, does not relate to matters of principle but rather aspects of detailed design that can most definitely be overcome).

In the meantime, the Council published its committee report on the 11th July 2014 recommending the application for refusal on the basis of the objections received by the Council's Highways Officer, as follows:

Suggested Reasons for Refusal

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

On the basis that, to date, Officers have declined to meet with Celtique and their Highways consultant or defer the application, Celtique have had no option but to instruct their Highways consultant (and an additional Highways Consultant to assist with the matter) to work the overtime required in order to prepare the additional information and comprehensively respond to the Council's Highway comments dated 2nd July 2014 prior to the Council's committee meeting on the 22nd July 2014.

The additional information and response has been prepared by Celtique's Highways consultant, Mr John Russell, Regional Director at SCP Transportation Planning (who has over 20 years experience in the fields of traffic engineering and transport planning). Celtique have also sought to undertake an independent review of the work, which has been carried out by Mr David Bird, Founding Director of Vectos (who has over 30 years experience in this field).

Accordingly, please find enclosed FOUR hard copies and ONE CD copy of the following:

- Draft Transport Objection Technical Response July 2014, prepared by SCP;
- Appendix 1 – WSCC Highways Objection;
- Appendix 2 – Scoping Correspondence with WSCC;
- Appendix 3 – Assessment Correspondence with WSCC;
- Appendix 4 – Vehicle Classifications;
- Appendix 5 – A272 Traffic Data;
- Appendix 6 – Road Safety Assessment, Proposed Temporary Haul Route, Wisborough Green, West Sussex;
- Appendix 7 – Road Safety Audit Stage 1, Kirdford Road, Wisborough Green Site Access;
- Appendix 8 – Site Access (Drawing No. SCP/14809/F01);
- Appendix 9 – Construction Traffic Route – 20T Construction Tipper; and
- Appendix 10 – Construction Traffic Route – Low Loader HGV.

The Response is provided in draft at this stage as we would wish to discuss the content and conclusions with Officers so that an agreed Report can be made available to Members to inform their consideration of the application.

In summary, the additional information and response prepared by SCP and independently reviewed by Vectos fully addresses the Highway comments received and overcomes the suggested reasons for refusal as follows:

Response to Reason for Refusal 1

Swept path analysis of the site access has been undertaken for a 20te tipper truck and a 16.6m articulated low-loader. This demonstrates that the proposed site access design can safely accommodate the movements of the typical design vehicle as well as the worst case design vehicle. Mitigation measures can be put in place which minimise the potential risks identified.

Average recorded speeds for traffic at the site access (provided with the submission assessment) are recorded at 36.1mph (58.1kph) for eastbound traffic and 35.5mph (57.1kph) for westbound traffic. 85th percentile recorded speeds for traffic at the site access provided with the submission assessment are recorded at 41.3mph (66kph) for eastbound traffic (this is traffic travelling from the west of the site access) and 40.2mph (64.3kph) for westbound traffic (this is traffic travelling from the east of the site access). Based on these observed speeds, the following desirable minimum SSDs have been calculated using guidance provided in Manual for Streets 2 (September 2010):

- Desirable minimum SSD = 109m for a speed of 41.3mph. This compares to 117m provided; and
- Desirable minimum SSD = 104m for a speed of 40.2mph. This compares to 121m provided.

The visibility splays provided therefore meet design requirements.

This information addresses the concerns of Officers as set out in the highway objection and suggested reason for refusal 1.

Response to Reason for Refusal 2

At the request of WSCC, a route safety study was commissioned by the Applicant and this was provided with the submission assessment. This study entitled the "Road Safety Assessment, Proposed Temporary Haul Route, Wisborough Green, West Sussex", *Malcolm Gandy Road Safety Consulting Ltd, 16th July 2013* (provided at Appendix 6 of the enclosed Transport Objection Technical Response) provided an independent safety audit of the proposed route between the A272 and the site access. The recommendations of the auditor referred to in the extract from the report have been incorporated into the design and mitigation proposals.

Swept path analysis of the construction route between the A272 and the site access has been undertaken for a 20te tipper truck and a 16.6m articulated low-loader.

Review of the swept paths identifies four locations in addition to the site access at which further assessment has been undertaken. These locations comprise:

- Boxal Bridge;
- Corner on Kirdford Road east of junction with Skiff Lane;
- Junction of Durbans Road / Kirdford Road; and
- Junction of Durbans Road / A272.

The assessment provides a summary of the swept path analysis, identifies potential risks which the swept path analysis suggests, proposed mitigation to remove or reduce the risk and then provides an assessment of the likelihood of the mitigated risk.

Mitigation measures can be put in place which minimise the potential risks identified such that this suggested reason for refusal is fully addressed.

Response to Reason for Refusal 3

Comments were sought from WSCC regarding the scope of the Transport Assessment prior to submission and this correspondence is provided at Appendix 2 of the Transport Objection Technical Response. This included submitting a completed draft of the Assessment. The 1.5 tonnes (te) threshold was included in this scoping and was chosen to differentiate between cars and light commercial vehicles (LCV). Notwithstanding this, the alternative assessment of impacts provided in the enclosed Transport Objection Technical Response responds to the request from WSCC that the split between light vehicles and heavy vehicles should be 3.5te. Appendix 4 provides details of the types of vehicles included in each category.

On this basis, the assessment set out in the Technical Response arrives at the same conclusion as the submission assessment that there is expected to be a Negligible Impact in terms of road traffic arising from the proposed development. The number of HGV movements associated with the proposed exploration remains the same at 20 per day for most of this period but 24 per day for the two weeks of rig mobilisation and demobilisation (see ES Addendum Table 10.11). It should be noted that 24 HGV movements are anticipated during 2 periods that will last no more than one week each (i.e. a maximum of two weeks over the course of the exploration). For the remainder of the time activity is occurring on site, HGV movements will be between 4 and 20 per day.

Response to Reason for Refusal 4

In terms of the 4th reason refusal relating to the suggested harm that would be caused to the Character of Wisborough Green village and conservation Area, the publication of the Council's Committee Report is the first time that this issue has been raised thus Celtique has had no prior opportunity to review and respond.

We would draw Officers attention to paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) (March 2012). These require local planning authorities to 'approach decision-taking in a positive way' (para 186), 'look for solutions rather than problems' and 'work proactively with applicants' (para 187). Including this additional 4th reason for refusal over and above the technical comments raised by the Council's Highways Officer would appear to be at odds with the spirit of the NPPF.

Nevertheless, it is our view that these temporary proposals would not cause any significant or long-term harm to the character of the Wisborough Green Conservation Area for the following reasons:

- As set out in Chichester District Council's 'Wisborough Green Conservation Area Character Appraisal & Management Proposal' (September 2010), this highway route has been in existence for hundreds of years (see 1842 and 1912 map on page 7) and will have been (and still is) utilised by a variety of commercial vehicles, including those serving the surrounding farmsteads.
- The existing A272 already runs through the southern section of the Wisborough Green Conservation Area and is therefore an integral part of the village and Conservation Area. As stated in the Council's Highways objection dated 2nd July 2014, the A272 carries approximately 7,000 vehicles per day. It is therefore a busy road with the Conservation Area and Section 4.2 of the Conservation Area Appraisal states:

"Whilst the A272 forms its southern boundary, the busy traffic does not impinge too much..."

- The existing A272 running through the village and Conservation Area is already designated as a Local Lorry route by WSCC and the application proposals seek to utilise the existing strategic and local lorry route to its full extent before taking the shortest and most practical route to the application site from the A272 along Durban's Road and Kirdford Road. On this basis, it is encouraged by the Council that Lorries and HGVs should utilise the A272 route and its impact on the Wisborough Green Conservation, along with any traffic that needs to turn into the village or pass through, must therefore be deemed to have an acceptable impact. Furthermore, the use of the stretch of road from the A272 to the application site along Durban / Kirdford Roads would only represent a very small percentage of the overall total journey length of HGVs associated with the proposals.
- Any perceived harm would only be for a temporary period and would not cause any long-term impact on the village or Conservation Area. Indeed, the planning application clearly states that HGVs would only need to access the site for 24 weeks during the entire exploration programme. The absolute HGV numbers (which the Council has based its assessment on) are 20 per day for most of this period but 24 per day for the two weeks of rig mobilisation and demobilisation. It is therefore hard to see how this short term impact is sufficient enough reason to suggest that a level of harm would be caused to the Conservation Area that would warrant a reason for refusal. In addition, any reference to Policy BE6 of the Chichester Local Plan (first review)(1999) in this respect would appear incorrect as the policy makes no reference to the impact of traffic within Conservation Areas.
- We have been unable to find any appeal cases that have been allowed on the basis of a refusal relating to traffic impact in a Conservation Area. We would therefore suggest that this is not a robust reason that could stand up to scrutiny at appeal, particularly in relation to traffic on the primary route network, defined as "major roads intended to provide large-scale transport links within or between areas" (DfT, Guidance on Road Classification and the Primary Route Network, January 2012).
- Finally, the Council has not sought to pro-actively engage with Celtique on this issue and discuss what potential management/ mitigation measure might be appropriate in order to help reduce any perceived harm to the character of the Conservation Area.

On the basis of the additional highways information prepared by SCP and independently reviewed by Vectos, along with the summary reasons given above setting out how the reasons for refusal could be overcome or discussed further to agree any appropriate management/ mitigation measures, Celtique are respectfully requesting that the Council reconsiders its decisions not to defer the application from the 22nd July committee meeting.

We believe that deferring the application to the next Committee to be held on 2nd September 2014 is justified for the following key reasons:

- Council Officers and Committee Members need sufficient time to consider all information available to them ahead of making a formal decision on the application;
- The Council's Highway objection was received late (2nd July 2014) in relation to the completion of Officer's committee report (by 9th July 2014) and did not provide a reasonable period of time for Celtique and its advisors to respond to the matters raised which included new matters, not previously discussed;
- Taking into account that Celtique agreed to extend the determination period when WSCC have asked (working pro-actively with the Council to resolve all outstanding issues);
- The fact that WSCC Highways Officer did not respond to SCP's telephone calls/ emails during June 2014 (ahead of receiving the objection letter);

- The fact that we are confident that the objections can be overcome locally;
- Bearing in mind paragraphs 186 and 187 of the NPPF which require local planning authorities to 'approach decision-taking in a positive way' (para 186), 'look for solutions rather than problems' and 'work proactively with applicants' (para 187);
- Any refusal could result in a re-submission or appeal which could be a further expense to taxpayers' money via the Planning Inspectorate and unnecessary cost to Celtique (who are merely seeking to undertake essential exploratory works within a licenced area granted by central government) and a further period of uncertainty for local people;
- The extension of time would only be for a short period of time (over the Summer) until 2nd September 2014.

On the basis that WSCC Highway's objection letter has been received so late in the process and we are confident that the points raised can be adequately addressed, as demonstrated in the additional information prepared by SCP and independently reviewed by Vectos, we would kindly request that the application is deferred from the July committee in order to allow full consideration of this additional information.

Celtique Energie is extremely keen to work with the Council to overcome this matter and continue to work positively with the Council.

We look forward to hearing from you.

Yours sincerely



BOB MCCURRY
Director

cc: Mike Elkington, Strategic Planning Manager, West Sussex County Council
Dominic Smith, Highways Officer, West Sussex County Council
Geoff Davies, CEO, Celtique Energie
Jenny Massingham, Planning Advisor, Celtique Energie
Simon Ricketts, Partner, King & Wood Mallesons SJ Berwin
Gareth Wilson, Partner, Barton Willmore
Lucy Wood, Director, Barton Willmore