

# Statement of Case for West Sussex County Council

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**The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (SI 2000/1624), as amended by the Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rule 2009 (SI 2009/455)**

Appeal by: Celtique Energie Weald Ltd.

Site: Land South of Boxal Bridge, Northup Field, Wisborough Green RH14 0DD

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

PINS Ref.: APP/P3800/A/14/2227410  
WSSC Ref.: WSSC/083/13/KD

## Introduction

- 1.1 This appeal relates to West Sussex County Council's (WSCC's) refusal of an application by Celtique Energie Weald Ltd. for the creation of a temporary exploratory hydrocarbon (oil/gas) site on land south of Boxal Bridge, Northup Field, between Wisborough Green and Kirdford in the north of the county (West Sussex County Council ref. WSCC/083/13/KD; PINS ref. APP/P3800/A/14/2227410).
- 1.2 The appellant sought a temporary, three year permission to use the site to allow the exploration, testing and evaluation of hydrocarbons, as well as associated development including the creation of an access track within the site, new soil bunds, and the restoration of the site upon completion.
- 1.3 The application was submitted to WSCC on 2 September 2013 and validated on 9 September 2013 at which time the public consultation period began, ultimately running to 3 December 2013.
- 1.4 On 3 December 2013, WSCC issued a request for further information under Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Additional information was also requested by email on 20 December 2013.
- 1.5 The further information requested was provided by the appellant on 25 April 2014. In response to this WSCC requested further clarification/information (primarily accurate elevations/sections) on 1 May 2014. This was provided on 12 May 2014, with the public consultation period running from 15 May 2014 to 20 June 2014.
- 1.6 In response to these consultations, the Highway Authority objected to the proposal. No other statutory consultees raised objections. However, Wisborough Green Parish Council, Kirdford Parish Council and Loxwood Parish Council all objected, as did Sussex Wildlife Trust and 2,471 third parties. Eighteen representations were received from third parties in support of the proposal.

### *Additional Information*

- 1.7 At 3pm on Friday 18 July the applicant submitted some 200 pages of additional information seeking to overcome the issues raised by WSCC Highways, prior to the Planning Committee to be held on Tuesday 22 July 2014.
- 1.8 Officers did not have time to consider this in detail but noted at the Planning Committee meeting (see page 45 of Appendix I: Transcript of the WSCC Planning Committee Meeting) that the highway mitigation works required to make the development acceptable were still unclear, and there was likely to be more work required to improve the site access.

- 1.9 At the Planning Committee meeting Members were advised that the additional information could be significant and could go to the heart of the reasons for refusal so members were asked to consider whether it was in the public interest for the application to be deferred so officers and members of the public would have further time to consider it. However, it was also noted that members may conclude that they have sufficient information to come to a decision, and whether the planning authority had been reasonable in considering the proposal.
- 1.10 Following debate, the application was refused by the WSCC Planning Committee on 22 July 2014, with the following reasons given:
- 1. "The applicant has failed to demonstrate that vehicles could enter and exit the site safely and without detriment to the highway network, contrary to Policies 26, 47 and 48 of the West Sussex Minerals Local Plan (2003), paragraph 32 of the National Planning Policy Framework (2012), Policy TR7 of the Chichester Local Plan (first review)(1999), and Policy 39 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014)).*
  - 2. The applicant has failed to show that vehicles could travel the proposed route to the site safely and without harm to highway capacity or road safety, contrary to policies 26, 47 and 48 of the West Sussex Minerals Local Plan (2003), Policy TR7 of the Chichester Local Plan (first review)(1999), Policy 39 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014) and paragraph 32 of the National Planning Policy Framework (2012).*
  - 3. The applicant has failed to accurately assess the increase in HGV movements resulting from the development and so has failed to demonstrate that it would not have a detrimental impact on highway capacity and road safety, and on residential amenity through increased noise. The development would, therefore, be contrary to policies 19, 26, 47 and 48 of the West Sussex Minerals Local Plan (2003), Policies RE12 and TR7 of the Chichester Local Plan (first review)(1999), Policies 39 and 48 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014) and paragraphs 32, 120 and 123 of the National Planning Policy Framework (2012).*
  - 4. The heavy goods vehicles resulting from the development would harm the character of Wisborough Green village and conservation area. The development would, therefore, be contrary to Policy 26 of the West Sussex Minerals Local Plan (2003), Policies RE12 and BE6 of the Chichester Local Plan (first review)(1999), paragraphs 28, 131 and 134 of the National Planning Policy Framework (2012), and Policies 25,*

*39, 45, 47 and 48 of the Chichester Local Plan (Key Policies Pre-Submission Document (2014)).*

5. *The Applicant has not demonstrated to the satisfaction of the County Planning Authority that the application site presents the best option in comparison with other alternative sites within the area of search (the Petroleum Exploration and Development Licence (PEDL) area) contrary to Policy 26 of the Minerals Local Plan (2003)."*

- 1.11 The appeal against this decision was submitted by the appellant on 15 October 2014.

### **The Appeal Site**

- 1.12 The appeal site comprises some 1.65 hectares of agricultural land which forms part of Hookhurst Farm, in use for intensive cereal cropping. It is located on the southern side of Kirdford Road to which the proposed pad would be linked by a new access road making use of the existing farm access.
- 1.13 The site slopes upwards gently from the road, with the southern extent sitting some 4 metres higher than the roadside. It slopes downwards slightly to the north towards Boxal Brook which runs in a north-south direction under Kirdford Road.
- 1.14 The site is to the rear (south-east) of an area of ancient and semi-natural woodland known as Northup Copse. The other site boundaries abut farmland within Hookhurst Farm which is crossed by a row of large electricity pylons.
- 1.15 The South Downs National Park is some 600 metres south of the site, beyond the row of pylons. The Mens Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) is some 500 metres south of the site.
- 1.16 The nearest residential dwellings are at Skiff Farm (and adjacent dwellings along Kirdford Road) some 520 metres north east; at Lower Sparr Farm some 560 metres north east; and Barkfold Manor, some 750 metres to the west.

### **The Application**

- 1.17 The application the subject of this appeal sought planning permission for the construction of a well site compound and access road to enable the exploration and appraisal of hydrocarbons (oil and/or gas). No hydraulic fracturing ('fracking') was proposed.
- 1.18 Details of the proposed application are set out in Section 4 of the Planning Committee Report.

## Policy Considerations

- 1.19 Details of the policy considerations relevant to the application are set out in section 6 of the Planning Committee Report, with the key policies identified in the reasons for refusal.
- 1.20 Please, however, note that policy TR7 of the Chichester Local Plan (first review)(1999) is erroneously referred to in reasons 1, 2 and 3 of the decision notice which should refer to policy TR6.
- 1.21 Policy TR7 related to 'access for people with disabilities' and was not saved following the Secretary of State's Direction in September 2007.
- 1.22 Policy TR6 was quoted throughout the Planning Committee Report, and relates to highway safety. This was the appropriate policy reference which should have been used in reasons for refusal 1 and 2.
- 1.23 The Council will provide a detailed appraisal of the refusal in relation to each of these policies, taking into account the weight which should be accorded to each.

## Presentation of the Council's Case

- 1.24 The Council will present evidence to support their case for refusing the application, focusing on the following issues:
  - a) Whether vehicles could enter and exit the appeal site safely and without detriment to the highway network (Reason for Refusal 1);
  - b) Whether vehicles could travel the route between the site and the A272 without detriment to highway capacity or road safety (Reason 2);
  - c) Whether the increase in HGV movements would have a detrimental impact on highway capacity, road safety, and residential amenity through increased noise (Reason 3);
  - d) Whether the HGVs resulting from the development would harm the character of Wisborough Green village and conservation area (Reason 4); and
  - e) Whether the site represents the best option in comparison with alternative sites within the Petroleum Exploration and Development Licence (PEDL) area (Reason 5).
- a) Site Entrance and Exit (Reason for Refusal 1)
- 1.25 In refusing the application the Council concluded that over the course of the application process, the applicant had not provided sufficient information to demonstrate that the largest HGVs

associated with the development could enter and exit the appeal site safely and without detriment to the highway network. The visibility splays provided did not satisfy the stopping sight distances of the 85<sup>th</sup> percentile speed in the vicinity of the site access.

- 1.26 The additional information submitted to the Council on 18 July 2014 has now been scrutinised by highways officers. The information overcomes most of the issues raised in refusing the application by providing accurate visibility splays, vehicle tracking and some mitigation.
- 1.27 However, the nature and extent of the mitigation needed will still need to be clarified to ensure the environmental impacts are not significant. In addition, a Construction and Operational Traffic Management Plan (submitted by the appellant to the County Council on 29 January 2015) still needs to be agreed, covering the works constructing the site, restoring the site and bringing rigs on and off as well as any traffic associated with drilling operations and testing.
- 1.28 Once the nature and extent of the mitigation has been clarified it may be that the reason for refusal can be overcome, but until that time it remains.

b) Safe Travel between Site and A272

- 1.29 The appellant did not provide sufficient information during the planning process to demonstrate that HGVs could travel the roads between the site access and the A272 without detriment to highway capacity or road safety. The vehicle tracking information submitted by the applicant did not cover the entire route, and the information that was submitted showed that traffic turning left from Durbans Road onto the A272 could not do so safely, without manoeuvring into the opposite lane.
- 1.30 Similarly, the applicant has submitted information which shows that HGVs turning from Durbans Road into Kirdford Road would enter the opposite lane of the carriageway.
- 1.31 However, as with the previous reason for refusal, the additional information submitted on 18 July 2014 has overcome some of the concerns raised. It has demonstrated that most of the route could be travelled safely but there remain outstanding concerns requiring additional details.
- 1.32 The information now submitted still indicates that vehicles would cross the centre line when turning to and from the A272, and between Durbans Road and Kirdford Road. No mitigation has yet been proposed by the applicant or agreed through a Construction and Operational Traffic Plan. However, the mitigation measures may involve additional environmental impacts through the installation of temporary traffic management and/or altering the

junction geometry. In addition, a S106/S278 legal agreement may be required to secure the mitigation.

- 1.33 As with the previous reason for refusal, until the nature and extent of the mitigation has been clarified, the reason for refusal remains.

c) Increase in HGV Movements

- 1.34 Throughout the application process, information was sought from the applicant to clarify the existing number of HGVs currently using the affected roads. Surveys provided by the applicant included vehicles over 1.5 tonnes in weight as HGVs, whereas the Council considers 3.5 tonnes in weight to be more appropriate, reflecting as it does the DMRB approach.

- 1.35 It was therefore unclear what the 'baseline' situation is on affected roads, and how much of an increase the proposal would represent.

- 1.36 Nonetheless the information subsequently submitted by the application confirmed that the impact on vulnerable road users, amenity and severance as a result of the increase in HGV movements would be 'negligible', a conclusion that the Council agrees with. It is agreed therefore that this part of the third reason for refusal has been overcome.

- 1.37 However, concerns remain over the impact on residential amenity. The information submitted on 18 July 2014 indicates that there would be an increase in HGV movements on Kirdford Road of up to 57.4%. Additional information has been submitted to consider severance, driver delay, pedestrian delay and amenity, fear and intimidation, and accidents and road safety, but no further information has been submitted in relation to noise impacts.

- 1.38 Because there would be an increase in HGV movements of more than 50%, the Institute for Environmental Assessment 'Guidelines for the Assessment of Road Traffic' indicates that the potential environmental impacts require further consideration – as referred to by the appellant at paragraph 10.17 of the Environmental Statement. Due to incorrect identification of the 'baseline' relating to HGV movements, the appellant has incorrectly screened out further consideration of the impact of increased traffic on the noise environment.

- 1.39 Further information is therefore required by way of a Design Manual for Roads and Bridges (DMRB) compliant survey to confirm whether the impact of this increase in HGV movements would be significantly adverse.

- 1.40 On 27 January 2015 the appellant submitted further information relating to noise from HGVs in a revision of the draft Statement of Common Ground. However, until this information has been considered in detail by the appropriate experts it therefore remains

unclear whether there would be a significant impact on residential amenity as a result of the increase in HGV movements.

d) Harm to Character of Wisborough Green

- 1.41 The Council will demonstrate that the proposed development, resulting in up to 40 HGV movements each day, would harm the character of the area and the setting of the Conservation Area in Wisborough Green. While there would be periods of lower or no HGV movements, there would be up to six months in total of days during which there would be 24 – 40 HGV movements each day.
- 1.42 These vehicles would travel through the rural area and village of Wisborough Green, part of which is a Conservation Area and includes a number of Listed Buildings.
- 1.43 The Council will demonstrate that allowing this level of HGV movements and the associated infrastructure required to mitigate their impacts, which has yet to be quantified, would be an intrusive, disturbing feature, the level of which would be contrary to planning policies seeking to protect the character of the rural area and the setting of the Conservation Area.

e) Alternative Site Comparison

- 1.44 Evidence will be presented by the Council to demonstrate that the applicant has not demonstrated that the site presents the best option for the development in comparison with other alternative sites within the Petroleum Exploration and Development Licence (PEDL) area.
- 1.45 While Council officers did not include this as a reason for refusal and it was added by members, the Council will demonstrate that it is a robust reason, and that the applicant has not in fact demonstrated that the site is the best option in the area of search.
- 1.46 Policy 26 of the West Sussex the Minerals Local Plan (2003) supports exploration and/or appraisal *“where it is demonstrated to the satisfaction of the Minerals Planning Authority that the proposal presents the best option in comparison with other alternative sites within the area of search...”*
- 1.47 However, during the debate, members expressed particular concern that the appellant had restricted their search to sites which landowners had indicated were available to them, noting that compulsory purchase could be used so this had needlessly restricted their search.
- 1.48 They noted particular concern in relation to whether the appeal site represented the ‘best option’ in terms of its proximity to the main highway network.



1.49 The Council will therefore present evidence to support the conclusion that the appellant did not demonstrate that the site represents the 'best option' in comparison with other alternative sites.

### **Conclusion**

1.50 In light of the above factors, the Inspector will be invited to conclude that West Sussex County Council's decision to refuse this application was appropriate, taking into account the development plan and other material considerations.