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Mr Chris Bartlett,
Planning Dept.,
West Sussex County Council.

23rd September 2020

By e-mail to planning.applications@westsussex.gov.uk

Dear Mr. Bartlett,

**Planning Application WSCC/045/20 - Lower Stumble Exploration Site, off London Road, Balcombe, RH17 6JH;
Pumping out of drilling fluids and well flow testing**

Introduction

1. I am writing to you on behalf of the Sussex branch of the Campaign to Protect Rural England (CPRESx) to encourage your Council to refuse the above planning application at <https://westsussex.planning-register.co.uk/Planning/Display/WSCC/045/20>.
2. We believe that your Office's advice to the Council was fully justified to refuse planning permission for the applicant's subsequently withdrawn similar 2019 planning application on grounds of its incompatibility with your Minerals Plan policy M7(a) and M13 and NPPF paras 170/172 given the absence of any compelling need for major development to explore for hydrocarbons within the designated area of the High Weald AONB, no claimed net biodiversity gain and minimal local economic benefit.
3. As this renewed application is premised on the carrying out of the same major development works as before in substantially the same manner (albeit with material changes such as a disturbing 50% increase in the hydrochloric acid component in the acidisation process that may be used during the extended well testing), the question has to be whether there are sufficient material reasons provided in this fresh application to reach the opposite conclusion as to the application's merits now. We say that the applicant's planning statement and supporting documents provide no sufficient justification, and that there are additional compelling reasons why this application is contrary to national policy and those in your Minerals Plan, and should therefore be refused.

Incompatibility with your Minerals Plan's strategic objectives

4. The application claims that it is supported by your Minerals Plan objectives/priorities. That claim does not stand up to scrutiny. Quite the opposite. In terms of the strategic objectives in section 2.3 of your Minerals Plan we note that

- In the case of oil, there is no market demand or constraints on supply in the Plan area that require its supply from sources in the High Weald (SO1);
 - The proposed works are not necessary in order to safeguard potential economically viable mineral resources from sterilisation (SO5);
 - The works will harm rather than protect or enhance the health and amenity of Balcombe's residents, businesses and visitors. They offer nothing to maximise health or amenity benefits for the local community or environment (SO6);
 - On a best view the development will modestly harm rather than conserving or enhancing the landscape character of West Sussex and the local distinctiveness and character of the High Weald AONB and its setting. (SO7).
 - The development will do nothing at all to protect and, where possible, enhance the natural resources and historic environment of West Sussex. On the contrary, very large volumes of water (mixed with hydrochloric acid) will be consumed in the course of the phase 3 works in an area of severe water stress. Additionally, the development would put at risk, in the event of an accident, rather than safeguard, water resources, including aquifers and surface waters, from contamination, and the quality of the water environment (SO8 and SO9);
 - As a proposed oil development, it will continue to cause adverse impacts on the local environment and local communities in Balcombe with noise and atmospheric pollution, and heavy vehicle traffic on local roads (SO10 and SO11¹); and
 - It will also exacerbate the level of carbon and methane emissions within West Sussex (and beyond), thereby having aggravating rather than mitigating adverse climate change (SO13).
5. In our view the balance of competing Minerals Plan objectives falls clearly against allowing this application. That is particularly so when considered in the context of
- The overriding necessity of taking all practical steps to minimise further warming of our climate and loss of biodiversity;
 - the Government's commitment under the Climate Change Act (as amended last year) to cut the UK's net greenhouse gas emissions to zero and the recent advice from the Climate Change Committee that we are falling behind the targets set to achieve that result;
 - the Government's acceptance, by the withdrawal of NPPF para 209(a), that fossil fuel extraction in the UK does not assist the transition to a low carbon economy or benefit the security of national energy supplies;
 - your own Council's declaration of a climate emergency and your ability to exercise your planning powers here to resist the further exploration for fossil fuels within the county;
 - the absence of evidence of a compelling national need for any oil that may be found at Balcombe that might otherwise be argued as creating a public interest in its extraction, even if it exists in commercially viable quantities: and

¹ We address at para 20 below the implications of the qualifying language in SO11 to the effect that oil and gas development planning decisions should recognise the national commitment to maintain and enhance energy security in the UK which in our view, following the withdrawal of NPPF para 209(a) is no longer compliant with national planning policy guidance.

- the direction in NPPF para 172 and your Plan policy M13 to refuse major development applications (which this is) in the absence of exceptional circumstances and where the public interest overrides that of conservation and enhancement of the High Weald AONB, tests that this application patently fails.

Conservation and enhancement of the High Weald AONB

6. Notwithstanding the mantra that minerals can only be extracted where they are located, this application must be addressed on the basis of the application to it of NPPF para 172 dealing with, outstanding beauty which, as para 172 highlights, enjoy “the highest status of protection” from inter alia, the conservation and enhancement of the landscapes and natural beauty of areas of development, and where, contrary to the applicant’s assertion², there is no presumption that new development would be sustainable. Your Plan policy M13 operates in line with NPPF para 172.
7. The new application does not challenge the Council’s previous reasoned conclusion that the works proposed would constitute major development for the purposes of NPPF para 172. That paragraph mandates refusal of major development proposals within an AONB in the absence of both qualifying exceptional circumstances and a separate public interest justification that is sufficiently strong to override the public interest in conserving and enhancing the High Weald’s landscape and natural beauty. Do those two necessary pre-conditions to overriding of the mandate to refuse major development applications apply in this case? In our view they plainly do not.
8. Whilst paras 8.2.8 and 9.3.4 of the applicant’s planning statement assert that the NPPF para 172/Minerals Plan policy M13 exceptional circumstances tests should be applied, the applicant provides no new evidence to support that case, a case that your office has previously discounted for detailed and justified reasons.
9. There is also an issue as to whether there is a public interest in facilitating a potential new domestic source of oil, notwithstanding its AONB location; and if so, whether that public interest is sufficiently significant to override the statutorily based public interest in conserving one of the country’s most important natural landscape habitats.
10. The applicant does not directly address those questions. However as its accompanying socio-economic report does comment, mostly in the context of climate change impacts, on the value of allowing the development of a further onshore oil resource at Balcombe if the further works now proposed do demonstrate the presence of commercially exploitable reserves, we want to make clear our opinion that there is no meritorious case to be made that the para 172 public interest precondition is met by allowing oil development at Balcombe.
11. One would need to suspend disbelief to give credence to a case that Balcombe could satisfy an otherwise unmeetable need for oil or make more than a miniscule contribution to the security of the country’s oil reserves. Any case that could be made would not be able to demonstrate that this minor contribution to energy security from within the High Weald AONB represented a greater public interest than the public interest in conserving untrammelled, and enhancing, the AONB given

² Planning Statement at para 9.3.2.

the statutory backing it enjoys for its unique landscapes and natural beauty, and the High Weald's major contribution to Sussex's biodiversity, and the public health and welfare benefits that it brings. As your office rightly pointed out in relation to the withdrawn application, there are ample alternative sources of supply from sources in non-designated areas.

12. There is no serious oil security risk or need for oil exploration within the High Weald AONB and, even if there were, it is fanciful to suppose that Balcombe could make a worthwhile contribution to addressing it:
- You yourselves have identified the conclusions of the Statutory Security of Supply Report 2019, produced by the Department for Business, Energy and Industrial Strategy that The UK's oil supply chain *"continues to deliver security of supply and is expected to continue to function well, with sufficient capacity to meet demand, as well as respond to supply shocks"* and that *"the evidence shows that the UK fuel supply is resilient to most shocks where the market can adapt as it has done historically."*
 - A more recent Oil and Gas Authority report concurs with that view. The OGA says: *"The UK's petroleum reserves remain at a significant level. On the basis of current production projections, this could sustain production from the UKCS [UK Continental Shelf] for another 20 years or more".*³ That assessment predates the effect of significant and long-term demand reductions as a result of the coronavirus pandemic.
 - The Government is committed to reducing the country's dependence on fossil fuels to meet its legal and international Paris 2015 treaty obligations to achieve a net zero carbon emissions target by 2050. As part of that commitment it is now said to be considering bringing forward its ban on new petrol driven vehicles from 2040 to 3030 or 2035⁴;
 - It is no longer Government policy that the planning system should facilitate the exploration and extraction of hydrocarbons onshore following its withdrawal of NPPF para 209(a)⁵;
 - Even British Petroleum has reported this month that demand for oil in the West has peaked or is about to do so, and that a combination of the transition to renewable energy sources, increased energy efficiency measures and Covid 19 will result in lower demand than previous forecasts have assumed;⁶
 - Only 10% of the UK's oil is imported, the majority of which derives from Norway and the USA, both stable countries and suppliers. The UK also exports considerable amounts of oil.

So there is no exceptional justification in this instance for departing from the NPPF para 172 direction to planning authorities to refuse planning permission for major development within AONBs, or from your Plan policy M13(c) which effectively says the same thing. It offers no material public benefit, only private benefit to the PEDL licence holder consortium members.

³ OGA Report: UK Oil and Gas Reserves and Resources as at the end of 2019:

https://www.ogauthority.co.uk/media/6681/uk_oil-gas-rr_2020.pdf

⁴ https://www.theguardian.com/environment/2020/sep/21/uk-plans-to-bring-forward-ban-on-fossil-fuel-vehicles-to-2030?CMP=Share_iOSApp_Other

⁵ See para 20 below.

⁶ <https://www.bp.com/en/global/corporate/energy-economics/energy-outlook/demand-by-fuel/oil.html>.

Environmental considerations

13. We also note that the application makes no promise of environmental net gain (NPPF para 170(d) and your Plan policy M17(e)); nor of enhancement of the High Weald's natural beauty as per NPPF para 172. The applicant's only promise is to restore the site when the site is abandoned. The restoration of an industrially degraded site to its pre-development agricultural and forestry usage to meet regulatory requirements does not constitute the enhancement of the land, nor involve any environmental gain. On these counts the application falls short of policy compliance.
14. We note that the applicant's LVIA identifies a moderate degree of adverse local landscape and visual impacts from the proposed usage of this AONB site. Even taking that opinion at face value that the harm will be less than significant, that conclusion in itself also weighs against allowing the application.
15. We would also urge you to consider whether the large volume of water required to be used during the works would be compatible with your Plan policy M16(a) (and supporting section 8.5 text) and the water authority's ability to provide unrestricted water supplies to its customers given that Balcombe lies in an area that has been classified by the Environment Agency as "seriously stressed".⁷

Social and economic considerations

16. A case is made that the works would bring local work (including 4 long term jobs) and income to the community in Balcombe. The vital fact is, though, that the local community as a whole have long been, and remain, strongly opposed to hydrocarbon exploration and exploitation at Lower Stumble, considering that its downsides outweigh any economic or social benefits that it may bring to them. That opposition merits great weight in line with the Government's commitment to localism.
17. So, as regards the grounds on which your Office recommended refusal of Angus's 2019 application before its withdrawal, we at CPRESx see no basis on which this renewed application merits any different conclusion from your Office or the Council.

Climate change implications

18. We also consider that there are additional powerful reasons for rejecting this application as being incompatible with your Minerals Plan and national planning policy. Those reasons refer to its climate change implications and to the financial status of the applicant and its co-investors.
19. We do not consider that a decision on this application can properly be made without careful consideration of the impact of hydrocarbon exploration and exploitation at this site and more generally on our heating climate. National planning policy guidance requires climate change to be addressed as one of the core land use planning principles that the NPPF expects to underpin decision taking.

⁷Environment Agency Report:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/244333/water-stressed-classification-2013.pdf

20. In 2019 it was determined in court proceedings that the NPPF para 209(a) instruction that minerals plans and planning decisions should “*recognise the benefits of on-shore oil and gas development, including unconventional hydrocarbons, for the security of energy supplies and supporting the transition to a low-carbon economy; and put in place policies to facilitate their exploration and extraction*” was not warranted; and the Government has consequently since withdrawn that paragraph of the NPPF. The NPPF therefore no longer requires adverse climate change impacts to be weighed against the supposed benefits of onshore hydrocarbons development, or minerals plans to facilitate their exploration and extraction. The removal of NPPF para 209(a) also now renders the language “*whilst recognising the national commitment to maintain and enhance energy security in the UK*” in strategic objective 11 of your Minerals Plan, which was based on that NPPF paragraph, inconsistent with national planning policy guidance.
21. So we urge you, in assessing this application to address what we consider to be the significant adverse climate change implications that it throws up in the context of national and local policy, and your Council’s own plans to use its powers, including planning powers, to reduce local greenhouse gas emissions. We believe that, in doing so, you will conclude that this provides a further sound policy ground that justifies rejecting the application.
22. We addressed both the climate change and investors’ financial status issues in some detail in our representations dated 11th November 2019 and 6th March 2020 in respect of the applicant’s withdrawn 2019 application. Those points all remain valid. Rather than repeat them in this letter we append those two letters for reference in appendices 1 and 2, and ask you to treat them as part of this submission.

Conclusions

23. For all these reasons we urge you to reject this application as being unsustainable and, on balance, incompatible with national planning policy and your Council’s Minerals Plan.
24. If contrary to this primary submission, your Council were minded to approve the application, we strongly urge you to impose a condition as to the time frame within which each of the phases of the works proposed is to be completed. We note that, whilst the applicant’s planning statement and other documents identify maximum periods within which those works can be carried out: Phase 1: 4 weeks; phase 2: 8 weeks approx; phase 3: 12 months; phase 4: 2 months, notwithstanding those periods the applicant seeks a period of 3 years of these development works to be carried out. That extended period for the convenience of the applicant should not be acceptable to your Council having regard to the already long-protracted disruption and uncertainty to the local community in Balcombe. Other tight conditions to minimise the traffic, noise and air pollution implications created by the proposed works should also be imposed.

Yours faithfully,

Michael A Brown

On behalf of the Campaign to Protect Rural England, Sussex Branch CIO

APPENDIX 1

Copy of CPRE Sussex representation dated 11 November 2019 re withdrawn planning application WSCC/071/19

Mr Chris Bartlett,
Planning Dept.,
West Sussex County Council.

11th November 2019

By e-mail

Dear Mr. Bartlett,

Planning Application WSCC/071/19 - Lower Stumble Exploration Site, off London Road, Balcombe, RH17 6JH; Pumping out of drilling fluids and well flow testing

Introduction

At the Sussex Branch of the Campaign to Protect Rural England (CPRESx) we campaign for the health and enhancement of Sussex's countryside and for the vitality of its rural communities and heritage.

CPRESx urges your Council to refuse this planning application. The environmental and public health downsides outweigh any benefits that further exploration or exploitation of potential oil reserves at Balcombe (if they exist) might bring.

Because local environmental impacts and traffic effects are covered extensively in representations by individuals and groups representing the local Balcombe community, we have chosen in this letter to concentrate our representation on our argument that scientific and regulatory developments since your Council originally authorised flow testing at the Lower Stumble site in 2014, especially with regard to climate change impacts, have significantly altered the planning balance judgement that your Council is being asked to make in favour of rejecting the latest application.

We also urge your Council to consider carefully whether it can be reasonably satisfied that the applicant has sufficient financial resources and standing to be in a position to honour an obligation to restore and ensure adequate long term aftercare of the site to a high quality standard as required by your Minerals Plan policy M7a(iv) and M24.

Things have hotbed up since you last considered shale oil exploration at Lower Stumble

Since your Council initially authorised flow testing at the site, things have moved on, and we believe that it would now be prudent and appropriate for your Council to reach a different conclusion re Angus Energy's request to extend the well testing period that remains consistent with your Minerals Plan and public obligations.

The processes involved in extracting the fossil fuel oil (including the movement of materials etc to and from the site), and its subsequent combustion, are known to be major generators of greenhouse gases as your own Minerals Plan acknowledges (para 4.10.2). Additionally, the gas flaring process required at this application stage will also generate methane, a greenhouse gas variously described in scientific literature as having a warming effect between 84 and 104 times greater than CO².

Your Council has recognised that we face a climate emergency which requires the Council to be far more active in taking, and encouraging others to take, measures to reduce carbon emissions and other greenhouse gases, and to be seen to be doing so.

That need for action now to reduce the rise in global temperatures is highlighted by the following:

- The significance of localised weather effects of climate change even at current raised levels is ever more apparent: serious floods, droughts and firestorms, melting ice. The bigger impact picture has to be considered given that carbon released from oil extracted at Balcombe could be used anywhere and would add to overall CO². The effects of fossil fuel emissions on our environment, way of life and health are happening now – hence the widespread public authority acceptance (including by your Council) that we face a climate emergency requiring changed thinking and changed actions.
- The Government's has made a new legal commitment to set a timetable to achieve net zero greenhouse gas emissions by 2050⁸.
- The latest conclusion of the Commission on Climate Change – the Government's own climate change advisory body – is that the country is falling behind in its carbon reduction targets: *"The Government's own projections demonstrate that its policies and plans are insufficient to meet the fourth or fifth carbon budgets (covering 2023-2027 and 2028-2032). This policy gap has widened in the last year as an increase in the projection of future emissions outweighed the impact of new policies. The foundations in the Clean Growth Strategy have not been developed into a coordinated approach that will deliver even the existing carbon budgets."* and *"there is little evidence of adaptation planning for even 2°C"* and *"The time for action is now"*.⁹
- The Government has withdrawn its claim in NPPF para 209(a), used to justify its support for the fracking industry, that unconventional hydrocarbons supports the transition to a low-carbon economy and helps ensure the security of energy supplies. The Government was held by the High Court¹⁰ to have acted illegally in having a closed mind about the overwhelming scientific evidence that extraction and exploitation of oil reserves adds to the level of greenhouse gases, thereby undermining the Government's own statutory climate change targets and recent net zero emissions commitment.
- NPPF para 148 instructs that *"The planning system should support the transition to a low carbon future in a changing climate"*. In that context it is vital to note that, as a result of the withdrawal of NPPF para 209(a), which no longer forms part of the NPPF, LPAs are no longer required
 - to recognise that on-shore oil and gas development, including unconventional hydrocarbons, supports the transition to a low-carbon economy; or
 - to recognise that on-shore oil and gas development, including unconventional hydrocarbons helps ensure the security of energy supplies, or
 - to put in place policies to facilitate the exploration and extraction of fossil fuels.

⁸ Climate Change Act 2008 (2050 Target Amendment) Order 2019

⁹ Committee on Climate Change 2019 Report to Parliament (July 2019).

¹⁰ Stephenson v Secretary of State for Housing, Communities and Local Government [2019] EWHC 519 (Admin).

In other words, national policy regarding the pros and cons of hydrocarbons has changed significantly.

It has also become clearer that unconventional drilling techniques that depend on under-pressure stimulation to fracture the oil-bearing layers has the potential to cause local earthquakes. Not only did that fact lead to the Government's calling a moratorium on fracking, but we also have the example of a cluster of earthquakes in 2018 and earlier this year around Newdigate in Surrey, close in location and timing to exploratory drilling by Angus Energy at its Brockham site. At least one of those earthquakes was more powerful than any of those at Cuadrilla's now suspended Lancashire operations. Scientific opinion is divided as to whether or not there is a link. Given the British Geological Survey's advice that the whole Wealden basin substructure is highly fractured, a precautionary approach is surely required of all the agencies handling the application.

Why climate change impacts demand rejection of this application

It lies your Council's lap, as the determining planning authority, to give effect to your own resolution to take steps within its powers to help reduce emissions by calling a halt to Angus Energy's attempt to raise and sell fossil fuel for use, and to avoid adding to the backlog of action needed to meet our climate change targets. We urge you not to fall into the Government's trap of illegality by giving insufficient weight to that scientific evidence or to the conclusions of the Committee on Climate Change. We do encourage you, on the other hand, to recognise that the previously claimed benefits of allowing unconventional hydrocarbon extraction recorded in NPPF para 209(a) no longer count in the balancing equation.

We acknowledge that NPPF para 205 asks you to give great weight to the benefits of mineral extraction, including to the economy. With the withdrawal of para 209(a) it is left unclear how, if at all, this instruction applies in practice to hydrocarbon testing or extraction, particularly by unconventional acidising means. Whatever else, it cannot reintroduce the effect of withdrawn para 209(a) by the back door. If there is any actual evidence of the economic and other public benefits of this proposal before your Council, there is nothing in the NPPF (or elsewhere) that requires any such benefits automatically to attract more weight than the mitigation of environmental harm through adding to greenhouse gas emissions – the inevitable result of supporting drilling (even at flow testing stage). Indeed, supporting fossil fuel exploration, by allowing this well testing application, would surely operate counter to your statutory duty under section 19 (1A) of the Planning and Compulsory Purchase Act, as amended under the Planning Act 2008, which requires local authorities to reduce future climate risks through the planning system. In other words, in our view, para 205, if and insofar as it applies at all, does not compel you to exercise your planning judgement in favour of allowing this application. Indeed, since the first flow testing application was approved, the pendulum has swung heavily the other way: the balance is now tilted heavily in favour of a decision that the current request be turned down.

Given the rising realisation of the widespread and significant adverse effects of global warming on much plant and animal life and health, rejection of the application would also accord with the duty imposed on local authorities by section 40 of the Natural Environment and Rural Communities Act 2006 to have regard, in the exercise of their functions, to the purpose of conserving biodiversity.

In the context of the climate change impact a decision to refuse this application would be fully in line with your Mineral Plan's strategic objective for oil and gas which is *"to protect the environment and local communities in West Sussex from unacceptable impacts of any proposal for oil and gas development, whilst recognising the national commitment to maintain and enhance energy security"*

in the UK". That part of the objective (and Plan policy giving effect to it) referring to the maintenance and enhancement of energy security is no longer consistent with the NPPF as most recently amended and should attract little or no weight in your assessment of the application's merits¹¹.

Your Plan policy M7a (Hydrocarbon development not involving hydraulic fracturing) is looking increasingly out of step with recent developments and understanding of hydrocarbon extraction processes:

- it fails to recognise that the industry uses oil extraction methods that are equivalent in their hazardous and harmful effects and risks as those falling within the statutory definition of fracking (including being as liable to cause earthquakes) and should be treated for regulatory control and planning policy purposes in the same way as fracking (as the NPPG, with its different definition of fracking, to some extent does).¹²
- it takes no account of the significant shift in national policy on hydrocarbon extraction, as exemplified in the amendment to the NPPF that in practice requires a more appropriate weighting of the climate change effects of the use of fossil fuels and of the need for planning authorities to do more to support the move to a low carbon economy (as your own above quoted policy objective itself provides for). To the extent that policy M7a may be argued now to be inconsistent with national policy, national policy must prevail.

That said, for the reasons given in this letter our own firm view is that policy M7a, especially sub-para (iii) does give your Council the freedom and, arguably, a duty to reject this application as being unsustainable on environmental grounds and inconsistent with your Plan's wider objective to "*protect the environment and local communities in West Sussex from unacceptable impacts of any proposal for oil and gas development*".

Financial Implications of restoration and aftercare conditions/obligations

We turn now to consider the implications of the requirements in your policy M7a(iv) and section 8.13 (including policy M24) that any permission granted would be conditional on comprehensive restoration and long-term aftercare of the site after cession of activities there. We question whether and, if so, how your Council will be able to satisfy itself that the operator Angus Energy plc, or its two joint venture partners would be in a position to satisfy your Council of their financial ability to

¹¹ In relation to oil, the energy security argument has always been a very weak one in any case: oil is not a power generator fuel, so power supplies are not at risk; there are multiple alternative sources to meet national oil needs in a world still awash with it; in the site owner's wildest dreams, it could not hope to make any noticeable difference in any national supply shortfall that might arise. And at this testing stage, the "supply to ensure energy security" issue does not even arise.

¹² See the following recommendation of the House of Commons Select Committee 2018 investigation into "Guidance on Fracking": "*We therefore believe that the [statutory] definition is unsuitable in the planning context and recommend that it should not be liquid or volume-based. While we welcome the Government's intention to unify the definitions of fracking used in the Act and the National Planning Practice Guidance due to the resultant lack of clarity and uncertainty in using multiple definitions, we are highly concerned at the Government's suggestion that the statutory definition will replace the current definition in a revised National Planning Practice Guidance. We call on the Government to amend the Act definition to ensure public confidence that every development which artificially fractures rock is subject to the appropriate permitting and regulatory regime.*"

honour that certain obligation; and whether, if they did not, whether your Council would be left to foot the bill.

None of the three joint venture partners, Angus Energy plc as investor and operator, Cuadrilla Resources Ltd and Lucas Bolney Ltd, who between them own the PEDL licence for the Balcombe site are companies of material net worth or with a production revenue stream. All depend on funding their exploration activities through ongoing shareholder or (in Angus Energy's case) debt market funding. None of them has any other significant UK business presence which would give them (or, in the cases of Cuadrilla and Lucas Bolney Limited, their foreign owners) a reputation-protection need to avoid defaulting. We presume that they would only be liable for their individual share of the restoration/aftercare costs, so that all three joint venture partners would need to deliver on their obligation for no non-payment risk to arise.

Angus Energy plc is the site operator and is apparently committed to pay all the costs of the applied-for well testing. It is not a company of substance: Its most recent (unaudited) consolidated financial statements¹³ to 31 March 2019 show the company to be a low revenue, low net-worth, loss making, significantly indebted, penny share company with no operational income and negative cash flow from its main activities. The Company allegedly disregarded planning conditions imposed by Surrey CC in respect of the drilling of its Brockham well. Since 31 March the Company has had to make provisions for the cost of decommissioning its Brockham and Lidsey sites, both of which Angus has announced (25 October 2019) have "no near term cash flow horizon". The Company has decided only to drip-feed a funding reserve over a period of years in respect of whatever decommissioning liability it may have at Balcombe, rather than setting aside a full reserve.

Following the Government's announcement of a moratorium on all fracking activity in England Cuadrilla Resources Ltd has only one operating, income producing site – at Elswick in Lancashire, which Cuadrilla says is reaching the end of its productive life. There must now be uncertainty over its sources of income to meet its liabilities. Cuadrilla is over 90% foreign owned and is dependent on its shareholders' willingness from time to time to continue supporting it financially, and that assurance is of just 12 month's duration¹⁴. A 12 month funding confirmation is of no assistance for a long term aftercare obligation. If this well proves not commercially viable there is no obvious commercial advantage to its shareholders to extend that financial support indication. Holding the company or its foreign owners to a long-term financial obligation would be problematic.

Lucas Bolney Ltd is a single activity subsidiary of an Australian holding company that, so far as we can establish, has no other UK oil and gas activities beyond its 45% holding in Cuadrilla Resources and its ownership of Lucas Bolney. Lucas Bolney Ltd lives hand to mouth, dependent on its parent's willingness from time to time to continue supporting it financially, and that assurance is also of no more than 12 month's duration, with the same implications as for Cuadrilla.

It is for these reasons that we question whether and, if so, how your Council will be able to satisfy itself that the operator Angus Energy plc or its two joint venture partners would be in a position to satisfy your Council of their financial ability to honour the inevitable restoration and long-term

¹³ <http://www.angusenergy.co.uk/wp-content/uploads/2019/06/Angus-Energy-Interim-Results.pdf>.

¹⁴ The "going concern" note to the Company's most recent financial statements states: "As an exploration business, the Group is funded by its major shareholders who have confirmed to the Company that they will continue to provide funding to the Group to enable it to execute its approved exploration programme and meet external liabilities as they fall due for a period of at least 12 months."

aftercare condition that would need to form part of any permission granted. If you cannot be so satisfied we presume that the appropriate response would be refusal of planning permission.

Suggested conditions if planning permission is granted

If, contrary to our primary submissions, you were to decide to permit this well testing extension application, then we call on you

- to ensure tight monitoring requirements on flaring and noise emissions;
- not to reduce the appropriate aftercare period on account of the questionable financial worth of the license holders and operator; but instead require long term cash reserves that are secured in your Council's favour or, failing that, suitable third party financial guarantees in respect restoration and aftercare conditions imposed. We know that the NPPF discourages such a requirement; but it does not forbid it, and these are applicants in respect of whom financial security for future pecuniary commitments is a necessary assurance to avoid a real risk of default; and
- above all, to reduce the requested testing period from 3 years to no more than 12 months: the people of Balcombe have already been subjected to 7 or more years of uncertainty and disruption. It is about time that the timetabling convenience of the applicant should give way to the rights of the local community to peaceful enjoyment of their lives and unblighted homes.

Conclusion

Consideration of this application provides your Council with an opportunity to demonstrate to the people of West Sussex that there is real and positive action that your Council can take, and is prepared to take, to give effect to your declaration that we are all facing a climate emergency. We call on you to put an end to this experimental testing and to reject this application.

Yours faithfully,

Michael A Brown

On behalf of the Campaign to Protect Rural England, Sussex Branch CIO

APPENDIX 2

Copy of CPRE Sussex representation dated 6th March 2020 re withdrawn planning application WSCC/071/19

Mr Chris Bartlett,
Planning Dept.,
West Sussex County Council.

6th March 2020

By e-mail to planning.applications@westsussex.gov.uk

Dear Mr. Bartlett,

Planning Application WSCC/071/19 - Lower Stumble Exploration Site, off London Road, Balcombe, RH17 6JH; Pumping out of drilling fluids and well flow testing

I wrote to you on 19th November 2019 on behalf of the Sussex branch of the Campaign to Protect Rural England to object to the above planning application on climate change impact and other grounds. For ease of reference I will attach a copy of that letter to my covering e-mail.

I appreciate that the consultation period has closed; but the Court of Appeal's 27th February judgement in *Plan B Earth v Sec of State for Transport [2020] EWCA Civ 214* creates a new situation that has implications for this application and requires additional comment. So I am writing to you again now in the light of that judgement which ruled that the Government had failed in the environmental assessment components of its Airports National Policy Statement to give consideration, as it should have done, to its own climate change policy, including its commitments under the 2015 Paris Accord to which I referred in my 19th November letter; and that the required ANPS was therefore invalid. In these circumstances I ask you to accept this additional representation.

I appreciate that the Lower Stumble application is not being pursued under the same planning regime as the proposed expansion of Heathrow airport.

However the Court of Appeal decision that the Paris Accord forms part of national climate change policy, that national policy extends beyond the provisions of the Climate Change Act 2008, and that meeting the objectives of the Paris Accord must form a material consideration whenever planning policy requires climate change impacts (from emissions from methane and all other greenhouse gases, not just CO²) to be considered in a planning context is directly relevant to this application, and adds further weight to the argument made in our 19th November representations.

The National Planning Policy Framework is, needless to say, a core planning policy document, and planning decisions must be in accordance with its policy framework. As we understand the law, Local Plan policies must be interpreted in the light of the NPPF. If and insofar as a Local Plan policy is inconsistent with it (as may well be the case with your joint minerals plan hydrocarbons policy) that policy is to be regarded as out of date.

NPPF chapter 14 addresses the need for planning decisions to meet what it calls the challenge of climate change. The appendix below highlights the core climate change policy objectives in chapter 14 that planning decisions are expected to achieve.

So my purpose in writing to you at this late stage is to reiterate in the light of the new game-changing Court of Appeal ruling that your consideration of this planning application needs to give full and careful consideration to the climate change impacts of the proposal and how continued exploration for fossil fuels at Lower Stumble could possibly be compatible with Government policy to work towards a net zero emissions target by 2020, a target that (as we have previously pointed out) the Committee on Climate Change has already said we are falling behind. There is no way, in our opinion, that the climate change impacts of allowing fossil fuel extraction can be made acceptable (NPPF para 154(b)).

If your Council were to conclude, as we argue that you should, that this development proposal is inconsistent with Government policy as set out in chapter 14 of the NPPF then we urge you to give that conclusion greater weight than the limited economic benefits of oil and gas exploration and exploitation that would result from approving the application. All the more so when the adverse implications identified in other local representations to you are taken into account. In any event we will look forward to reading the rationale for your Council's decision in due course.

Yours faithfully,

Michael A Brown

On behalf of the Campaign to Protect Rural England, Sussex Branch CIO

APPENDIX – Extracts from NPPF (February 2019) Chapter 14

148. *The planning system should support the transition to a low carbon future in a changing climate It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; and support renewable and low carbon energy and associated infrastructure.*
149. *Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures¹⁵. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts*
150. *New development should be planned for in ways that:*
- a) *avoid increased vulnerability to the range of impacts arising from climate change.*
154. *When determining planning applications for renewable and low carbon development, local planning authorities should:*
- a) *not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*
- b) *approve the application if its impacts are (or can be made) acceptable.*

¹⁵ The NPPF footnote 48 comment here that development plan policies should be “In line with the objectives and provisions of the Climate Change Act 2008” does not obviate the need to take account of the Paris Accord and other national policy, as the Court of Appeal emphasised.