



The countryside charity  
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Jacky Parsons  
The Planning Inspectorate Room 3C  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

4<sup>th</sup> March 2022

Dear Ms Parsons,

**Ref: APP/P3800/W/21/3282246 - Appeal by Angus Energy Ltd re Lower Stumble Hydrocarbon Exploration Site, London Road, Balcombe, West Sussex, RH17 6JH from WSCC decision ref: WSCC/045/20.**

I am writing on behalf of CPRE Sussex, the Sussex countryside charity (**CPRESx**) to explain why CPRESx opposes the grant of this appeal against the planning decision made under the West Sussex County Council (**WSCC**)/South Downs National Park Authority Joint Minerals Plan (**the Plan**).

CPRE Sussex made representations in respect of the planning decision now under appeal, and predecessor applications by the exploration site owners. We opposed the applications involved.

The application was refused by WSCC's Planning Committee in a unanimous decision on 10 March 2021 for the following reasons: *"The proposed development would represent major development in the High Weald Area of Outstanding Natural Beauty, for which there are no exceptional circumstances, and which is not in the public interest. There are alternative sources of hydrocarbon supply, both indigenous and imported, to meet the national need, there would be minimal benefit to the local economy from the development, and there is scope for meeting the need in some other way, outside of nationally designated landscapes. It would therefore be contrary to Policies M7a and M13 of the West Sussex Joint Local Minerals Plan (2018) and paragraphs 170 and 172 of the National Planning Policy Framework (2019)."*

We write to explain why we consider that the refusal decision made by WSCC last March was correct, why the judgements made by the Council in reaching their decision were rational and reasonable and to provide additional reasons why, in our view, this appeal should be dismissed.

We have appended for ease of reference CPRESx's 23<sup>rd</sup> September 2020 representation to WSCC which we ask you to treat as core part of this submission as we do not rehearse here the case we present in that representation.

To promote, enhance and protect a thriving countryside for everyone's benefit

President: Lord Egremont

Campaign to Protect Rural England Sussex Branch CIO | Registered charity number: 1156568

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As a starting point we ask that the Inspector satisfy herself that the appeal was lodged within the prescribed six month period, as it is not apparent on the face of the record that this is so.

### **Incompatibility with your Minerals Plan's strategic objectives**

We have nothing to add to what we have said in paragraphs 4 and 5 of our 23<sup>rd</sup> September 2020 representations. We stand by those submissions and ask the Inspector to have regard to them.

### **High Weald AONB conservation considerations**

This site is within the High Weald Area of Outstanding Natural Beauty (**AONB**). AONBs have been designated by Parliament<sup>1</sup> as public assets because they are areas that represent the most precious of England's special landscapes and areas of natural beauty. NPPF para 176 provides that the special landscapes and beauty of AONBs are to be conserved and enhanced, and that this is to be achieved by giving great weight to the need to protect them from inappropriate development.

It is to be noted that the purpose of para 176 is both to conserve **and enhance**" *{our emphasis}* the landscape and scenic beauty of AONBs, and that dual requirement is one of the tests against which the appropriateness of a planning application is to be assessed. The High Weald AONB Unit, WSCC's own advisers on High Weald AONB matters, advised at the time of the application that the proposal would have adverse impacts on this part of the AONB. Whilst the applicant makes a case that seeks to minimise that harm, no case is made – or could be made – that its development will enhance it (or, we and the High Weald AONB Unit say, even conserve it), as para 176 requires.

NPPF para 177 supplements para 176 by requiring that planning permission should be refused for any development proposal that a planning authority deems to involve major development within an AONB unless there are (i) genuinely exceptional circumstances and (ii) a public interest need for that development which trumps the public interest in conserving England's most precious designated landscapes. Para 177 in effect treats major AONB development as necessarily unsustainable unless both those two tests are satisfied.

NPPF paragraphs 176 - 177 are given effect within the Plan, which addresses major development within Areas of Outstanding Natural Beauty at policies M7 and M13 in particular.

WSCC has throughout treated the Appellant's site proposals as involving major development for the purposes of those provisions. It has based its decisions on that basis. WSCC's judgement on that has not hitherto been challenged by the Appellant. Given the scale of the development and its potential emissions impacts on its surroundings, including homes, in the vicinity within the High Weald, we consider that there is no cause to second-guess or revisit WSCC's discretionary decision to treat this as a major development proposal, and that the appeal should be determined on that basis.

We refer you to paragraphs 6 – 12 of our appended 23<sup>rd</sup> September letter which explains our case as to why the exceptional circumstance exception and public interest test are not met.

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<sup>1</sup> Through Part IV of the Countryside & Rights of Way Act 2000.

WSSC's decision to rely on policy M13 to refuse permission, and their evaluation of the considerations that there are insufficient exceptional circumstances or an adequate public interest to justify overriding the presumption against permitting this major development are, in our opinion, sensible and rationale.

We address below in the context of our climate change argument the fact that there is no public interest need for oil extraction in Balcombe. It also needs to be said that, in order for an "exceptional need" case to be made that the Weald hydrocarbon basin (the extent of whose commercially recoverable reserves remains unknown) could provide a materially useful reserve resource available to the UK to overcome a hypothetical international supply shortage, a huge number of productive wells would be needed across a wide area of the High Weald and possibly beyond.

As to the practical implications of that in terms of its environmental impacts, we can do no better than quote you the 12<sup>th</sup> February 2022 comments of Government Minister Zak Goldsmith who said *"To replace half the gas we import, we'd likely need around 6,000 new wells, with all the associated industrial equipment & endless movements of trucks ferrying toxic chemicals & wastewater to & from sites. It's hard to imagine communities across the UK being ok with that. It's hard to overstate just how unpopular fracking is with the British public. The last BEIS attitude tracker showed only 18% support (76% supported onshore wind). People do not want large-scale industrialisation of the British countryside. And given the gas would be produced by private firms and sold at the highest price (internationally), there would likely be no measurable impact on UK gas prices anyway. We do need gas - it is the cleanest bridge to renewables (I've not seen a model that says otherwise). But the UK is not Utah. To have any impact at all, Govt would need to rig the market & go to war with furious communities. On every level the cost would be enormous."*<sup>2</sup> Whilst Baron Goldsmith's comments relate specifically to onshore gas exploitation, and are not a statement of Government policy, they tell a truth that applies no less to the application under consideration in this appeal: all the more so given that we are talking about developments that would take place wholly or mainly within the High Weald AONB.

In short, the public interest in conserving from harm part of one of the country's most precious designated landscapes from major development for which there is no pressing public need must surely trump whatever public interest (if any) may exist in furthering the opportunity to exploit whatever fossil fuel reserves may be found to exist there. The application under appeal fails the "conserve and enhance" test in NPPF para 176 and both the exceptional circumstance and public interest preconditions in para 177.

### **Environmental considerations**

We refer you to paragraphs 13 – 15 of our previous appended submission. Since then, the requirement for a development proposal to demonstrate that nature will be measurably better off (net environmental gain) has been enshrined within the Environment Act 2021, and public consultation on the appropriate methodology for measuring net gain is ongoing. The applicant has failed to demonstrate net gain on any basis, which provides a further ground on which to dismiss this appeal.

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<sup>2</sup> See <https://twitter.com/ZacGoldsmith/status/1492559700096868359>.

## Social and economic considerations

Please refer to paragraphs 16 – 17 of our 23<sup>rd</sup> September 2020 submission. The fact that so few new jobs would be created by this proposal serves both to highlight its very limited social benefit and the absence of any exceptional reason to override the presumption against allowing major development within an AONB on this score too.

## Climate Change implications

WSCC's decision to refuse permission in this case aligns its planning decisions with section 19 (1A) of the Planning and Compulsory Purchase Act, as amended under the Planning Act 2008. This requires local authorities to reduce future climate risks through the planning system, and with broader national policy to achieve a national net zero emissions policy by 2050. It also aligns with its own recognition of a climate emergency and its environmental credentials.

Climate change is unarguably the greatest and most urgent long-term challenge that we all face, and must all do our bit to mitigate. The Intergovernmental Panel on Climate Change (IPCC)<sup>3</sup> has reported that the current decade is the key period within which sufficiently radical action must be taken everywhere if the worst effects of global warming is to be halted, and that some impacts are already irreversible.

Local planning authorities have a vital role to play. The independent UK Climate Change Committee has pointed out that local authorities potentially influence around a third of UK greenhouse gas emissions, and that their role is crucial in delivering the nation's commitment to net zero carbon emissions through the use of their planning powers<sup>4</sup>. The exercise of those powers in a positive way to assist our transition to net zero is vital in the public interest.

WSCC has given itself the powers to act against global warming in its minerals planning decisions. Objective 13 of the joint WSCC/SDNPA Plan provides: "*Strategic Objective 13: To minimise carbon emissions and to adapt to, and to mitigate the potential adverse impacts of, climate change*"; and made clear its commitment "*to sustainable development and aim to support the 'decoupling' of economic growth from higher levels of carbon emissions*" (Plan para 4.2.8). Policy M23 requires applicants to "*demonstrate the need for the development and its acceptability in terms of the other relevant policies of this Plan.*"

Further strong grounds on which this appeal should be rejected are provided by (a) the application proposal's failure to demonstrate the public interest need for it (discussed above), (b) its incompatibility with the need to meet statutory targets to reduce carbon emissions and achieve net zero by 2050, and (c) the expectations of Chapter 14 of the NPPF (Meeting the challenge of climate change), particularly paras 152 – 154.

The NPPF (para 152) requires that councils should use their planning powers "*to help to shape places in ways that contribute to radical reductions in greenhouse gas emissions*", and it would be

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<sup>3</sup> Intergovernmental Panel on Climate Change 6th assessment Report 28 February 2022: <https://www.ipcc.ch/report/ar6/wg2/>

<sup>4</sup> See <https://www.theccc.org.uk/publication/local-authorities-and-the-sixth-carbon-budget>.

irrational for climate change not to be a material factor in this appeal decision. WSCC's planning powers provide it, and you as the appeal Inspector, with the discretion to give as much, or more weight, to greenhouse gas emission reduction as to the supposed benefits of hydrocarbon extraction. They do not preclude WSCC or you from taking account of the wider ramifications of the burning of fossil fuel that would be extracted from the Balcombe well.<sup>5</sup> Given that the IPCC report previously cited identifies the need for policymakers to focus on climate resilient development as their principal task, it is surely imperative in practice that planning decisions on applications to extract CO<sup>2</sup>-producing fossil fuels do consider the wider picture in the evaluation of those applications and appeals.

It would be utterly perverse to pretend that wider picture is irrelevant, and to approve continued exploration for fossil fuels at Balcombe, when its sole and inevitable ultimate purpose is to burn that product with the direct result of emitting CO<sup>2</sup>. Especially so when the country is already behind the game – “off target” as the Climate Change Committee calls it - in achieving its (legally binding) targets of reducing greenhouse gas emissions by 57% within the next decade and by 78% by 2037.

The environmental downsides of allowing this appeal heavily outweigh the appellant's illusory argument that future oil production at Balcombe would protect the UK's energy security or influence its cost. That supposed benefit is in reality bogus because the UK has no oil fuelled power stations, and the Government itself accepts that oil is an internationally traded – and priced - commodity from multiple sources around the world, with no single dependent source, and that there is no material risk of a global oil supply shortage: the Statutory Security of Supply Report 2019 produced by the Department for Business, Energy and Industrial Strategy and its quango, the Oil and Gas Authority in its UK Oil and Gas Reserves and Resources as at the end of 2019 report<sup>6</sup> both conclude that the UK has “*sufficient capacity to meet demand, as well as respond to supply shocks*”.

Since then, the International Energy Agency has declared<sup>7</sup> that exploitation and development of new oil and gas fields must stop this year if the global goal to achieve net zero emissions by 2050 – a goal adopted and signed into law in the UK.

## **Conclusion**

This appeal is the last throw of the dice for an impecunious company that, since the 2014 decision that the site justified test well drilling, has done nothing but dither and delay, whilst the local community has faced protracted worry and uncertainty – uncertainty that could be extended for another 4 years if the appeal succeeds. Consents have been allowed to lapse through inactivity, applications have been withdrawn and appeals lodged at the last moment. The planning history of this site reveals a human cost to those living in Balcombe, and that cost should not be ignored.

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<sup>5</sup> The recent Court of Appeal decision in *Finch v Surrey CC [2022] EWCA Civ 187* decided that, whilst it was not a requirement for decision makers to take account of off-site environmental considerations – the burning of the extracted oil and the release thereby of CO<sup>2</sup> – they have a discretionary power to do so if they consider it appropriate.

<sup>6</sup> See ([https://www.ogauthority.co.uk/media/6681/uk\\_oil-gas-rr\\_2020.pdf](https://www.ogauthority.co.uk/media/6681/uk_oil-gas-rr_2020.pdf))

<sup>7</sup> See (<https://www.iea.org/reports/net-zero-by-2050>)

To allow this appeal would represent an example of over-valuing illusionary economic benefits of onshore exploitation for oil, for which there is no national need, at the expense of the people of Balcombe, of the particularly precious landscape they are blessed to live in, and of the urgent imperative of reducing CO<sup>2</sup> emissions.

The application failed to deliver on the Plan policy M23 requirement to demonstrate credibly the need for the development proposed or its acceptability in terms of the other relevant policies of the Plan. The application is therefore incompatible with the Plan as the law requires it to be.

We therefore urge you to reject the appeal and to require the applicant to cap off its well permanently and to restore the site to its former condition.

Yours sincerely

**Michael A. Brown**

**For CPRE Sussex, the Sussex countryside charity**

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