

Sussex Wildlife Trust

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Response sent via email, no hard copy will follow.

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26/02/2014

Dear Ms Moseley

Planning Application No: WSCC/005/14/BA

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

Location: Lower Stumble Hydrocarbon Exploration Site

Applicant: Cuadrilla Resources Limited

The following **objection** to the above planning application is made on behalf of the Sussex Wildlife Trust. It is based on information accompanying the proposal and our own knowledge of the ecology of the area.

Fossil fuels and Climate Change

Climate change is the most serious threat facing biodiversity. The Sussex Wildlife Trust therefore supports the development of sustainable renewable energies and the phasing out of fossil fuels. The use of finite energy resources such as fossil fuels cannot meet the energy needs of a growing population without contributing to the unacceptable impacts of climate change on biodiversity. The Sussex Wildlife Trust supports the UK Government's legally binding commitments to reduce carbon emissions enshrined in the Climate Change Act 2008. We believe that the granting of this application by West Sussex County Council (WSCC) would undermine efforts to reach this target.

Ecological update

The ecological information submitted with this application shows no evidence that the original desktop survey carried out 5 years ago in 2009 has been updated. We also ask WSCC to note that the ecological appraisal pre works update, for this application was carried out in April 2013. This was before work associated with the previous planning application WSCC/027/10/BA commenced on site in August 2013.

All surveys must be undertaken at the appropriate time of year, by a qualified ecologist following the correct methodology. We stress the need for up-to-date information during the entire process to ensure

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it gives as accurate reflection of the ecological functionality of the site and its context within the wider environment.

We also encourage WSCC to ensure that the ecological information submitted with this application has met the appropriate recommendations of the Biodiversity – code of practice for planning and development. This guidance came into effect on 31st August 2013 and gives recommendations for a rigorous professional, scientific and consistent approach to gathering, analysing, presenting and reviewing ecological information at key stages of the planning application process.

We remind West Sussex County Council (WSCC) that the NPPF clearly states

‘that planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area...’ (Para 165),

and that *‘when determining planning applications, local planning authorities should:... ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety...’* (Para 144).

The planning application form asks the applicant under question 11 if there is a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, OR on land adjacent to or near the application site: Designated sites, important habitats or other biodiversity features. The applicant has answered no to this question. The Ecological Appraisal from 2009 submitted does show that woodlands directly to the north and southeast of the site are ancient woodland. We take this opportunity to remind WSCC of Paragraph 118 of the NPPF;

‘Planning permission should be refused for developments resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland unless the need for, and benefits of, the development in that location clearly outweighs the loss.’

Mid Sussex Local Plan Policy C5 protects Sites of Special Scientific Interest, Sites of Nature Conservation Importance, Local Nature Reserves, Ancient Woodlands and other sites or areas identified as being of nature conservation or geological importance, including wildlife corridors, from development. Applications affecting these will be subject to rigorous examination, and only permitted where the proposal minimises the potential impact on features of nature conservation importance. The weight to be attached to nature conservation interests will reflect the relative significance of designations.

Further to this we refer WSCC back to Appendix J, the EIA Screening Opinion submitted as part of the 2010 application, WSCC/027/10/BA. It notes in its concluding paragraph that *‘An ecological report will be required to accompany any planning application, which should address the potential impacts on ancient woodlands and bats.’*

We refer WSCC to the BSI standards section 6.4.5 which says *‘where a preliminary ecological appraisal contains recommendations that further detailed survey work is necessary in order to inform a planning application, this work should be undertaken before determination of the application.’*

We do not feel that the pre works update or the bat survey submitted as part of this application addresses the aforementioned issues adequately. We would like to see WSCC ensure that the full ecological impacts on the ancient woodland and associated species are fully addressed before this application is determined, in line with the Ancient Woodland Standing Advice produced by Natural England.

Of particular relevance is Natural England’s acknowledgement of the possible effects of development on land adjacent to ancient woodland including *‘increased likely exposure to pollutants from the surrounding area’* (section 7.1).

WSSC has a duty as a public body under section 40 of the NERC Act 2006:

'Every public body, must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

Ancient woodland is a habitat of principal importance for the purpose of conserving biodiversity identified under section 41 of the NERC Act 2006. There is an expectation that public bodies when complying with the above duty will refer to the section 41 list and as such those habitats and species within it should be treated as material considerations when taking planning decisions.

Bat Survey

The bat survey submitted with this application has raised concerns as it was conducted over a 17 day period in August. The Bat Conservation Trust (BCT) state clearly in the BCT guidelines that best practice is to space the surveys evenly through the optimum survey period. We do not feel this has been achieved over such a limited period of time.

Further to this, the dates of this survey indicate that they were conducted while operational and security lighting was in place on site in August 2013. The Sussex Wildlife Trust are therefore concerned that this survey will not accurately reflect the true species assemblage of the site, as no baseline data was ever requested as part of the previous applications. This is a concern echoed by the ecologist submitting the bat survey.

'The effect of the lighting on these bats and whether bats have been impacted by the associated operations of the rig is difficult to determine given the lack of previous baseline data'

The survey submitted with this application has shown that bats are using the edges of the site as commuting and foraging areas and that there is potential for roost to be in close proximity, although they may have not been identified by this particular survey.

As the application stands, we are provided with no detail about the lighting that will be used onsite as part of this application request. This makes it difficult to accurately determine the impact of the lighting on the bats commuting, foraging and potentially roosting that are *'present or maybe present outside the near vicinity'* (taken from the submitted bat report).

However we understand from section 5.1 of the bat report that *'many nocturnal invertebrates will be attracted from the surrounding woodland into the lit area and light spillage areas. This is likely to change bat commuting and foraging activity.'* The Royal Commission on Environmental Pollution commissioned a report on Artificial Light in the Environment (2009). Section 1.5 of the report states that *'wherever artificial light floods into the natural world there is potential for some aspect of life and its rhythms – migration, reproduction, feeding – to be affected. ...Another well-known example is the effect on the feeding of bats caused by insects clustering around outdoor light sources'*.

Further, research by Stone *et al* (2009) demonstrated that *'The illumination of flightlines can significantly affect the ability of some bat species to commute between roosts and foraging grounds.'*

What is clear from the bat survey submitted with this application is that at the time of the survey in August 2013, certain areas illuminated the boundary and beyond in the North West area up 60-80 metre. Section 5.2 goes on to recommend that the site is very well lit with light spillage into the surrounding woodland and plantation and that this level of spillage should be reduced as much as practically possible.

The applicant has offered limited assurance in the section 4.6 of the Planning Statement that *'Should WSSC require conditions relating to submission of a lighting scheme showing the type of light appliance, the height and position of fitting, illumination levels and light spillage then the applicant would be content to have these details approved in writing by WSSC, following submission of the detailed scheme, prior to commencement of operations.'*

Section 4.12 goes on to state

'The survey makes several recommendations regarding site lighting to reduce light spillage, which would be fully implemented and maintained as part of an Environmental Management and Monitoring Plan for the proposed development.'

In light of the points raised above we remind WSCC that bat species are protected by domestic and European law. We would therefore expect these recommendations to be more than hopefully implemented.

We remind WSCC of the following paragraphs within ODPM circular 06/05 Government Circular Biodiversity and Geological conservation – statutory obligations and their impact within the planning system:

Para 98

"The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult Natural England before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long term protection of the species. They should also advise developers that they must comply with any statutory species protection provisions affecting the site concerned. For European protected species (i.e. those species protected under the Habitats Regulations) further strict provisions apply, as explained below, to which planning authorities must have regard."

Para 99

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission..."

We ask WSCC to request detailed information on the lighting plan for this application prior to its determination to ensure the aforementioned obligations are met. This will help to ensure that impacts to bats in the area are fully understood and best practice guidelines for lighting as suggested by the Bat Conservation Trust are adhered to. We feel strongly that the information submitted with the application is insufficient for WSCC to be able to make an informed decision.

While the Sussex Wildlife Trust object to this application, if WSCC is minded to approve this application, we ask them to exercise their right to request through conditions a clear and detailed monitoring strategy, this should be in place to determine the impact of the operations and the restoration of the site to create net gains in biodiversity as per paragraph 109 of the NPPF. We would also ask that a condition is imposed to request that light meter readings are routinely taken throughout the duration of works to ensure that light spill onto adjacent vegetation is less than 1 lux. If light levels are shown to exceed this level then immediate action should be taken to remediate this.

Yours sincerely

Laura Brook
Conservation Officer