
Appeal Decision

Hearing Held on 15 November 2021

Site visit made on 15 November 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/Y9507/W/20/3265729

Avington Wellsite, Land off Matterley Farm, Petersfield Road, Ovington Down, Hampshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by IGas Energy PLC against the decision of South Downs National Park Authority.
 - The application Ref SDNP/20/01255/CM, dated 18 March 2020, was refused by notice dated 24 June 2020.
 - The development proposed is use of wellsite and surface and sub-surface infrastructure for a period of 5 years to allow for appraisal of oil and gas.
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Decision

1. The appeal is allowed and planning permission is granted for use of wellsite and surface and sub-surface infrastructure for a period of 5 years to allow for appraisal of oil and gas at Avington Wellsite, Land off Matterley Farm, Petersfield Road, Ovington Down, Hampshire in accordance with the terms of the application, Ref SDNP/20/01255/CM, dated 18 March 2020, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in July 2021. The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework.
3. The description of development shown on the planning application form and South Downs National Park Authority's (the Authority) decision notice both refer to 'retention'. However, Section 55 of the Town and Country Planning Act 1990 (TCPA 1990) describes 'development' as the carrying out of building operations and not as their 'retention'. I have therefore removed the word 'retention' from the description of development in my decision and the heading above.
4. There is an extensive history of temporary permissions for oil exploration wells at the appeal site. Planning permission Ref. 03/02907/HCM was approved in 2004. The appeal scheme seeks to retain the wellsite, current infrastructure and operations permitted under planning application Ref. SDNP/13/00935/CM for a further 5 years. The previous planning permission was for a limited

period, which expired on 1 March 2018. Condition 1 requires the cessation of operations, the removal of all buildings and hardstanding and the restoration of the site by this date. The restoration works have not been carried out.

Main Issue

5. The main issue is whether or not the proposal would conserve and enhance the landscape, scenic beauty, wildlife and cultural heritage of the South Downs National Park.

Reasons

6. The appeal site lies within the South Downs National Park. Policy SD1 of the South Downs Local Plan Adopted July 2019 (the Local Plan) sets out the Authority's approach to sustainable development stating the purposes of the National Park. This policy indicates that proposals that fail to conserve the landscape, natural beauty, wildlife and cultural heritage of the National Park are likely to be refused. Policies SD2 and SD9 of the Local Plan relate to the effect of proposals on ecosystems and biodiversity. Policy SD4 of the Local Plan indicates that development proposals should be informed by landscape character, reflecting the context and type of landscape, with the design, layout and scale of proposals conserving and enhancing existing landscape features.
7. Policy 4 of the Hampshire Minerals and Waste Plan 2013 (the Minerals Plan) states that major minerals development will not be permitted in the National Park except in exceptional circumstances. Supporting paragraph 4.33 states that major minerals development is considered to be development that, by reason of its scale, character or nature, has the potential to have a significant adverse impact on the natural beauty, wildlife, cultural heritage and recreational opportunities provided by the National Parks or the natural beauty, distinctive character, and remote and tranquil nature of the AONBs. The potential for significant impacts on the National Park will be dependent on the individual circumstances of the case. Policy 24 of the Minerals Plan states that exploration and appraisal of oil and gas will be supported, subject to 3 criteria, including that the site is not located within the National Park except in exceptional circumstances, where the reasons for the designation are not compromised and where the need for the development can be demonstrated.
8. Paragraph 176 of the Framework sets out that great weight should be given to conserving landscape and scenic beauty in National Parks which have the highest status of protection in relation to these issues. It also notes that the conservation and enhancement of wildlife and cultural heritage is an important consideration and should be given great weight, and the scale and extent of development should be limited.
9. The main parties agree that the proposed development would not constitute 'Major minerals development' under the terms of the definition used in Policy 4 of the Minerals Plan or paragraph 177 of the Framework and footnote 60. I see no reason to take a different view. Therefore, Policy 4 is not applicable to the proposed development. Furthermore, given that the proposal would not be major minerals development, I see no basis for the Authority's approach in applying the criteria set out in Policy 4 when considering whether exceptional circumstances exist under the terms of Policy 24.

10. The appeal site covers an area of approximately 1.33 hectares and comprises an area of hardstanding containing well heads, storage tanks and other equipment within a compound that is secured by fencing. The appeal site includes bunds to the north and east, and existing vegetation towards the northern boundary. A dense hedgerow and tree belt runs to the west of the appeal site on the opposite side of the access road, and a dense area of woodland is located to the north. Agricultural land adjoins to the east, with a hedgerow/tree belt running along the eastern side of the field. Immediately to the south of the appeal site is a large area of hardstanding at a higher land level, and Matterley Motocross Centre is located further beyond. The appeal site is situated within Oil and Gas Authority Licence Area PEDL 070, and the whole of the PEDL is within the confines of the National Park.
11. The appeal site currently contains the infrastructure required for the proposed oil exploration, and the appellant states that there would be no need for any additional above ground installations. The site covers a modest area, and the infrastructure is of a small scale. Whilst the infrastructure, by its nature, is alien to its surroundings, the nearby bunds and trees/vegetation ensure that the site is visually well-contained, as demonstrated by the appellant's Landscape Statement¹. I saw that there is very limited visibility of the infrastructure in the surroundings. In particular, the infrastructure was not visible from South Downs Way to the north, and the belt of mature trees adjacent to the site provides extensive screening in views from South Downs Way to the west. Furthermore, I note that the vegetation cover would be supplemented by additional planting, which could be secured by a planning condition.
12. The Transport Statement² indicates that there would be around 16 HGV movements per day, which is a modest amount. Furthermore, the Noise Impact Assessment³ shows that noise associated with the proposal would be localised and would not cause significant disturbance to the nearest noise sensitive receptor. There is no substantive evidence before me that the previous temporary permissions have given rise to levels of noise and HGV movements that detract from the experiential qualities of the National Park.
13. The supplementary planting set out in the Landscape Statement includes native chalk grassland, new/enhanced hedgerows and a section of linear woodland. This would reinforce the landscape pattern and provide suitable enhancements to biodiversity in the area. The restoration stage enhancements include restoration of the appeal site to an arable field utilising soil from the bund, and new native boundary hedging and chalk grassland to enhance the landscape pattern and biodiversity. This approach is acceptable, and a detailed scheme could be secured by a planning condition. Having regard to the above considerations, together with the temporary duration of the development and the proposals for site restoration on cessation of the use, I find that the proposed development would conserve and enhance the landscape and scenic beauty of the National Park.
14. The appellant's Preliminary Ecological Appraisal⁴ shows that the proposal would cause no harm to protected species. Furthermore, there is little before me to

¹ Volume 1: Landscape Statement, Report No 12567_R02a_JB_HM dated 21 December 2020

² Prepared by motion Issue v1.1 dated 10 October 2019

³ Prepared by RPS dated 18 October 2019

⁴ Prepared by Corylus Ecology Ref. 19144 dated 28 January 2020

indicate that the proposed development would be detrimental to the National Park's wildlife or cultural heritage.

15. Paragraph 209 of the Framework states that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation. Furthermore, paragraph 211 of the Framework states that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.
16. There is no dispute between the parties that there is a national need for onshore oil and gas, as part of a diverse and secure energy supply. Government energy policy recognises that the United Kingdom is not currently in a position to rely solely on renewable energy sources, and fossil fuels will therefore continue to have a role in the UK's energy system. The proposal would enable a greater understanding of the oil resources within PEDL 070, which is contained wholly within the National Park. The Framework highlights that minerals can only be worked where they are found, and I accept the appellant's evidence that it would be impractical to explore this resource from outside the National Park. The proposed exploration facility would contribute towards meeting the government's objectives to achieve secure and reliable energy supplies, and it would also provide modest support to the economy through employment during the investigation activities. These are benefits that attract significant weight.
17. I have found that the proposal would not compromise the reasons for designation of the National Park and there is a demonstrable need for the oil exploration development. Furthermore, the required infrastructure is already in place, which would avoid environmental impacts associated with drilling and construction activities. Having regard to the above factors, I find that the proposal constitutes exceptional circumstances for oil exploration development in the National Park, as required by Policy 24 of the Minerals Plan. Furthermore, the proposal would have an acceptable environmental impact, and it provides for the restoration and subsequent aftercare of the site.
18. For the above reasons, I conclude that the proposal would conserve and enhance the landscape, scenic beauty, wildlife and cultural heritage of the South Downs National Park. The proposal would therefore accord with Policies SD1, SD2, SD4 and SD9 of the Local Plan, Policy 24 of the Minerals Plan, and the provisions of the National Planning Policy Framework, the aims of which are set out above.

Conditions

19. In order to conserve and enhance the National Park, I have imposed a condition to limit the planning permission to a period of 5 years and to require restoration of the site. Furthermore, I have attached a condition to require the development to be carried out in accordance with the submitted plans, specifications and written particulars, in the interests of proper planning and certainty.
20. Conditions to require notification of the date of commencement for each phase of development works and to require a copy of the decision notice/approved plans to be kept at the site office are necessary to inform the Authority of any

potentially disruptive periods and to ensure that site operatives are conversant with the terms of the planning permission.

21. A condition relating to hours of works and noise levels are necessary to protect the living conditions of the occupiers of neighbouring properties. Conditions regarding measures to prevent mud from vehicles leaving the site during restoration works, provision of parking and turning on site of vehicles, and details of warning signs for lorry drivers of the presence of a National Trail Public Rights of Way are necessary in the interests of highway and pedestrian safety. A lighting condition is necessary to protect the visual amenity of the area. In order to protect ground water supplies, conditions are necessary relating to the method of operation of the development; and, to require fuels to be stored within an impervious bund.
22. A condition to require the submission of a detailed landscaping scheme based on the 'Early Enhancements Plan' prepared by Tyler Grange is necessary to conserve and enhance the National Park. Furthermore, a condition to require the submission of a Restoration and Aftercare Strategy based on the 'Restoration Stage Enhancements Plan' by Taylor Grange is necessary to ensure that the site would be restored to an acceptable standard.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR

Schedule of Conditions

- 1) This permission shall be for a limited period only expiring 5 years from the date of this decision, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery, including foundations and hard standings shall have been removed from the site and the site shall be restored in accordance with the approved Restoration and Aftercare Strategy.
- 2) The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars.
- 3) Prior written notification of the date of commencement for each phase of development works (mobilisation/demobilisation, testing and restoration) hereby approved shall be sent to the South Downs National Park Authority and Hampshire County Council not less than seven days before such commencement.
- 4) A copy of this decision notice together with the approved plans and any schemes and/or details subsequently approved pursuant to this permission shall be kept at the site office at all times and the terms and contents thereof shall be made known to supervising staff on the site.
- 5) Unless otherwise agreed in advance and in writing by the South Downs National Park Authority, mobilisation/demobilisation and restoration phases of the development work at the site shall only be undertaken between the hours of 0800 and 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. No mobilisation/demobilisation or restoration phase work shall occur on Sundays, Bank Holidays and Public Holidays.
- 6) Measures shall be taken to prevent mud and spoil from vehicles leaving the site during restoration works being deposited on the public highway. These measures shall be implemented before the restoration activities commence and thereafter maintained. No vehicle shall leave the site unless its wheels have been cleaned sufficiently to prevent mud being carried on to the public highway.
- 7) Provisions for the parking and turning on site of operatives and construction vehicles shall be retained for the duration of the development.
- 8) No operations shall be commenced until details of signage to warn lorry drivers of the presence of a National Trail Public Rights of Way have been submitted to and approved in writing by the Local Planning Authority and the signs have been installed in accordance with the approved details. The signs shall thereafter be maintained for the duration of the development.
- 9) No operations shall be commenced until a scheme of lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be installed and maintained in accordance with the approved scheme.
- 10) No operations shall be commenced until the method of operation for the development has been submitted to and approved in writing by the Local Planning Authority. The method of operation shall accord with the broad

principles of Section 4 of the Planning Statement by Union4 Planning Ltd, dated March 2020. The site shall thereafter be operated in accordance with the approved details.

- 11) Any facilities for the storage of fuels shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume for single and hydraulically linked tanks. If there is multiple tankage, the bund capacity shall be 110% of the largest tank or 25% of the total capacity of all tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses and overflow pipes shall be located within the bund. There shall be no outlet connecting the bund to any drain, sewer or watercourse or discharging onto the ground. Associated pipework shall be located above ground where possible and protected from accidental damage.
- 12) Noise levels arising from work over operations shall not exceed 80 dB LAeq,5min between 0700 and 2200 hours, and 65 dB LAeq,5min at any other time, as measured on the site boundary at 1.5 m above grade.
- 13) No operations shall be commenced until a landscaping and planting proposal scheme has been submitted to and approved in writing by the Local Planning Authority. The proposals shall accord with the 'Early Enhancements Plan', reference 12567/P09a by Tyler Grange. Thereafter, the approved chalk grassland creation, topsoil stripping and seeding shall be carried out in the first autumn following the grant of consent and tree and hedgerow planting shall be carried out in the first available planting season.
- 14) No operations shall be commenced until a Restoration and Aftercare Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy submitted shall accord with the Restoration Stage Enhancements Plan, reference 12567/P10 by Tyler Grange.

Following cessation of operations in accordance with Condition 1, the site shall be restored to agriculture in accordance with the approved Strategy.

- 15) Before the topsoil is replaced and regraded, the site shall be thoroughly ripped to avoid compaction.
- 16) After-care of the site shall take place for a period of five years in accordance with the approved Restoration and Aftercare Strategy beginning when restoration is completed in accordance with condition (14) above.

APPEARANCES

For the Appellant	
Giles Cannock QC	Barrister, Kings Chambers
Jonathan Rowlatt	Director, Union 4 Planning
Jonathan Berry	Landscape Architect, Tyler Grange
For the Authority	
Anjoli Foster	Barrister, Landmark Chambers
Heather Lealan	Development Management Planning Officer, South Downs National Park Authority
Kirsten Williamson	Planning Policy Lead Waste and Minerals, South Downs National Park Authority