

1.0 Introduction

Witness

1.1.1 I am John-Paul Friend, I am the Director of LVIA Ltd and I specialise in landscape and visual planning issues associated with development and change.

1.1.2 I have provided evidence for planning appeal by inquiry, written representation and hearing for over seven years. I have previously prepared evidence for schemes within the boundary of Waverley Borough Council.

Qualifications

1.1.3 I hold a HND in Landscape and Garden Design, a BA (Hons) degree in Landscape Architecture and Post Graduate Diploma in Landscape Architecture from the University of Gloucestershire. I am a chartered member of the Landscape Institute.

Professional Practice

1.1.4 I am the Director of LVIA Ltd and I have been practising landscape architecture for 14 years; all in private practice as a Landscape Architect.

1.1.5 I am an associate lecturer at the University of Gloucestershire, where I teach undergraduate and postgraduate students on the Landscape Architecture course, specifically in landscape and visual impact assessment and landscape and environmental planning.

1.1.6 I have an active involvement in schemes across the United Kingdom, for a great many clients. The range of residential projects in which we have been involved extends from single dwellings through to large scale developments of thousands of units. I am also involved in the production of environmental impact assessment, environmental statements and general landscape design. During my professional career I have carried out a substantial number of Landscape and Visual Impact Assessments, Townscape Assessments, Landscape Appraisals and Character Assessments on a wide variety of sites and areas.

1.1.7 LVIA Ltd carries out impact assessments, masterplanning, landscape evaluations and detailed landscape proposals for a wide variety of clients. I liaise with local authority officers in many local planning authorities (London boroughs, district and borough Councils) across Britain; and a high proportion of my practice's activity is solely on site evaluation and landscape design.

1.1.8 I am familiar with the Outline Application Site and its surroundings; having reviewed all relevant background information and undertaken field surveys in June 2021. Before accepting the instruction to act as expert witness I reviewed all available pertinent information and was satisfied that I would be comfortable defending the Council's case on landscape and visual matters.

Declaration of Truth

1.1.9 I declare that the evidence which I have prepared and provide for this appeal is true. It has been prepared and is given in accordance with the guidance of the Landscape Institute and I confirm that the opinions expressed are true and professional opinions.

1.1.10 The scope of my Proof of Evidence is to deal with the landscape and visual impact issues associated with the site, and the submitted Landscape and Visual Impact Assessment.

Project Involvement

1.1.11 LVIA Ltd were appointed by Waverley Borough Council in June 2021 to prepare landscape and visual evidence in respect of the proposed development described as:

Construction, operation and decommissioning of a well site for the exploration and appraisal of hydrocarbon minerals from one exploratory borehole (Loxley-1) and one side-track borehole (Loxley - 1z) for a temporary period of three years involving the siting of plant and equipment, the construction of a new access track, a new highway junction with High Loxley Road, highway improvements at the junction of High Loxley Road and Dunsfold Road and the erection of a boundary fence and entrance gates with restoration to agriculture (the 'Appeal Proposal').

Scope of Evidence

1.1.12 My evidence addresses the landscape and visual effects of the proposed development.

1.1.13 The Guidelines for Landscape and Visual Impact Assessment, Third Edition by the Landscape Institute and Institute of Environmental Management & Assessment (GLVIA) have been used to provide a view on the submitted information.

Reasons for Refusal

1.1.14 Permission was refused by Surrey County Council (SCC), the determining Authority on 7th November 2020.

1.1.15 The reason for refusal of relevance to landscape and visual matters, that is supported by WBC, is:

Reason 2 – Detrimental to the intrinsic character and beauty of the countryside, the landscape quality of the Area of Great Landscape Value, and the rural character

1.1.16 The Refusal reason states:

"It has not been demonstrated that the applicant has provided information sufficient for the County Planning Authority to be satisfied that there would be no significant adverse impact on the appearance, quality and character of the landscape and any features that contribute towards its distinctiveness, including its designation as an Area of Great Landscape Value, contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC14(iii)".

1.1.17 The application site is located in undeveloped pasture-land within an area shown as 'Countryside beyond the Green Belt' in the adopted Local Plan Part 1 (LPP1) adopted 2018. Policy RE3: Landscape Character requires the protection of the distinctive character of the landscape defined as either the Surrey Hills Area of Outstanding Natural Beauty (AONB) or Area of Great Landscape Value (AGLV). The application site falls within the AGLV and within the setting of the AONB.

1.1.18 The proposal would fail to protect a valued landscape (which is clearly demonstrated by the site's designation as AGLV), or to recognise the intrinsic character and beauty of the open countryside. It would therefore fail to accord with paragraph 170 of the NPPF.

1.1.19 The visual images provided by the Applicant seek to confirm that the oil rig equipment will not impact on the character and appearance of the landscape. This would not be the case; the rig and base equipment will be visible within the landscape and the works will result in the removal of established hedgerows along High Loxley Road.

1.1.20 WBC considers that the development of this site with the appeal proposal would cause harm to the landscape character, beauty, tranquillity and openness of the Countryside beyond the Green Belt and within the AGLV. A significant industrial style operation will be formed on the site and views to the associated elements will be available from adjoining fields within the AGLV and the Surrey Hill AONB.

1.1.21 My evidence is structured as follows:

- Section 2.0 sets out Policy Context
- Section 3.0 sets out the Proposed Site: local context and character.
- Section 4.0 sets out the Visual Assessment
- Section 5.0 sets out the Landscape Character Assessment
- Section 6.0 sets out the Landscape Proposals and Mitigation
- Section 7.0 sets out the Summary Proof and Conclusions

2.0 Policy Context

2.1.1 The following policies are relevant to the Council's case on landscape and visual matters (only points of relevance to the site have been reproduced):

Policy RE1 – Countryside beyond the Green Belt.

Within areas shown as Countryside beyond the Green Belt on the Adopted Policies Map, the intrinsic character and beauty of the countryside will be recognised and safeguarded in accordance with the NPPF.

2.1.2 Paragraph 170 of the NPPF States (only points a and b have been reproduced as they are relevant to the site and its surroundings in landscape terms):

Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

2.1.3 The proposed development will be contrary to point (a) of paragraph 170 as it will cause harm to a landscape of identified quality (the site falls within the AGLV – a local landscape designation and the setting of the Surrey Hills AONB).

2.1.4 The proposed development will be contrary to point (b) of paragraph 170 as it will cause significant adverse harm on the intrinsic character and beauty of the countryside.

Policy RE3 – Landscape Character ii. The Area of Great Landscape Value.

New development must respect and where appropriate, enhance the distinctive character of the landscape in which it is located.

i. Surrey Hills Area of Outstanding Natural Beauty The protection and enhancement of the character and qualities of the Surrey Hills Area of Outstanding Natural Beauty (AONB) that is of national importance will be a priority and will include the application of national planning policies together with the Surrey Hills AONB Management Plan. The setting of the AONB will be protected where development outside its boundaries harm public views from or into the AONB.

ii. The Area of Great Landscape Value The same principles for protecting the AONB will apply in the Area of Great Landscape Value (AGLV), which will be retained for its own sake and as a buffer to the AONB, until there is a review of the Surrey Hills AONB boundary, whilst recognising that the protection of the AGLV is commensurate with its status as a local landscape designation.

2.1.5 The proposed development falls within the AGLV. In line with paragraph ii of Policy RE3, the same principles for protecting the AONB will apply to the AGLV which will be retained for its own sake and as a buffer to the AONB.

2.1.6 The proposed development will be contrary to the aim of retaining the AGLV for its own sake and also its aim to act as a buffer to the AONB, which is given the highest status of protection in relation to landscape and scenic beauty (paragraph 172 NPPF).

3.0 The Proposed Site: Local Context and Character

Context and Land Use

- 3.1.1 The site is accessed from High Loxley Road. The total site area is approximately 2.5 ha and is centred on N51°07'32, W00°32'41. The site is accessed from High Loxley Road.
- 3.1.2 The site sits approximately 500 metres from the boundary of the Surrey Hills Area of Outstanding Natural Beauty (AONB) and the access from High Loxley Road falls approximately 250 metres from the boundary of the AONB, clearly falling within its setting.
- 3.1.3 The site falls within the Area of Great Landscape Value (AGLV). The Surrey Hills AONB is closely linked with the designation of the AGLV.
- 3.1.4 The site is currently undeveloped and rural, laid out as fields in agricultural use with a number of trees and intermittent trees that form the internal and external field boundaries. The site sits close by existing woodland to the north and east.
- 3.1.5 The site sits wholly within the Area of Great Landscape Value (AGLV) (Policy RE3). The AGLV is to be retained for its own sake and as a buffer to the Area of Outstanding Natural Beauty (AONB). The protection of the AGLV is commensurate with its status as a local landscape designation.
- 3.1.6 The site is tranquil and feels rural in nature, with few detracting elements.
- 3.1.7 A bridleway runs through the same field to the south of the site and a network of public rights of way (PRoW) sit within the local landscape. Along these publicly accessible routes it is possible to gain some views across the appeal site to the Surrey Hills Area of Outstanding Natural Beauty (AONB) to the north from the publicly accessible routes, with views framed by trees within the site and the wider area. Equally, it is possible to see the site and access road from the AONB, including from a viewpoint located at Hascombe Hill, where a bench has been provided for the use of walkers to view the wider landscape to the south.
- 3.1.8 The character of the local landscape is typified by blocks of ancient woodland, woodland and agricultural land with hedgerow with intermittent tree field boundaries.

Valued Landscape

- 3.1.9 The site falls within the AGLV and represents a valued landscape.

Topography

- 3.1.10 The topography of the site is gently undulating, with the highest point of the site on the southern site boundary at approximately 71m AOD; although the access route from High Loxley Road is at approximately 75m AOD. The landform then falls gently to the north towards nearby woodland.

4.0 Visual Assessment

- 4.1.1 This section will present the results of my independent analysis of the assessed visual outcomes of the site based on the methodology used in the EDP Landscape and Visual Impact Assessment (LVIA). The methodology used within the LVIA broadly follows the best practice guidance provided within the GLVIA.
- 4.1.2 It is worth noting a few issues that may skew potential visual effects due to their lack of inclusion within the visual assessment.
- 4.1.3 Firstly, there are no winter views provided with the application. These images would show worst case scenario, when deciduous vegetation has lost its foliage and is acting as least dense visual barriers. There is no reason why these images could not have been taken during subsequent winters after the application and the lack of their inclusion was listed as a shortcoming in previous advice note provided by RPS on behalf of SCC dated 09.06.19 at point 7. The winter effects have been considered within the LVIA by the assessor, but for the reader it would help to provide physical evidence of the winter baseline presented from the chosen viewpoints and there is no reason not to have included them. This is especially important due to the potential change to views/additional views from within the AONB that may occur as a result of winter change.
- 4.1.4 Montages have been provided but are based on the photographs taken as summer views and do not clearly illustrate the additional change that would be noticeable on the winter landscape.
- 4.1.5 Secondly, no night-time images of the site have been included within the LVIA to illustrate the current baseline conditions during dark hours. Further detail is provided within this chapter as to my consideration of why this is a major weakness.
- 4.1.6 Thirdly, the choices of viewpoints vary in their usefulness, for instance viewpoint 3 which could have been taken over a gateway, but instead provides a view of the tallest element that will cause change on site between trees next to the gateway, a curious choice for an assessor to make.

Lighting Assessment

- 4.1.7 The submitted lighting assessment produced by Strenger (March 2019) has been considered due to the potential effects on the night sky because of the proposals. The report states that the lighting assessment only covers the drilling phase which requires 24 hour lighting of the tallest structure. Therefore the effects will last for longer than the drilling period.
- 4.1.8 I make no judgement on the technical levels detailed within the assessment, but offer a judgement on the effects to the landscape and visual baselines.
- 4.1.9 As the AONB sits approximately 500 metres from the site boundary, it is reasonable to expect that some views from the AONB will be affected by the addition of a 37 metre tall, 24 hour lit tower over the entire drilling period of approximately 60 weeks; over a year.



Image 1: images taken from light impact assessment part 2 to illustrate the lighting of the tower structure on site

4.1.10 The additional lighting within the site will also create a glow that will be visible in the local and wider landscape in some places.

4.1.11 Paragraph 6.12 of GLVIA states:

For some types of development the visual effects of lighting may be an issue. In these cases it may be important to carry out night-time 'darkness' surveys of the existing conditions in order to assess the potential effects of lighting and these effects need to be taken into account in generating the 3D model of the scheme. Quantitative assessment of illumination levels, and incorporation into models relevant to visual effects assessment, will require input from lighting engineers, but the visual effects assessment will also need to include qualitative assessments of the effects of the predicted light levels on night-time visibility.

4.1.12 Paragraph 3.21 of the LVIA states:

Reference in this LVIA is made to the separate lighting assessment undertaken to inform and accompany this application.

4.1.13 The GLVIA is clear that it is the responsibility of the assessor to provide a qualitative assessment of the potential effects of predicted lighting. This does not seem to have been undertaken, with no photographs illustrating the current night-time lighting baseline in the area.

4.1.14 An extract of the CPRE Light Pollution and Dark Skies map is provided at page 18, image EDP 3.1. This map does not convey to a reader of the report the actual visual or experiential landscape effects of the lighting on the current baseline as photographs of the baseline would.

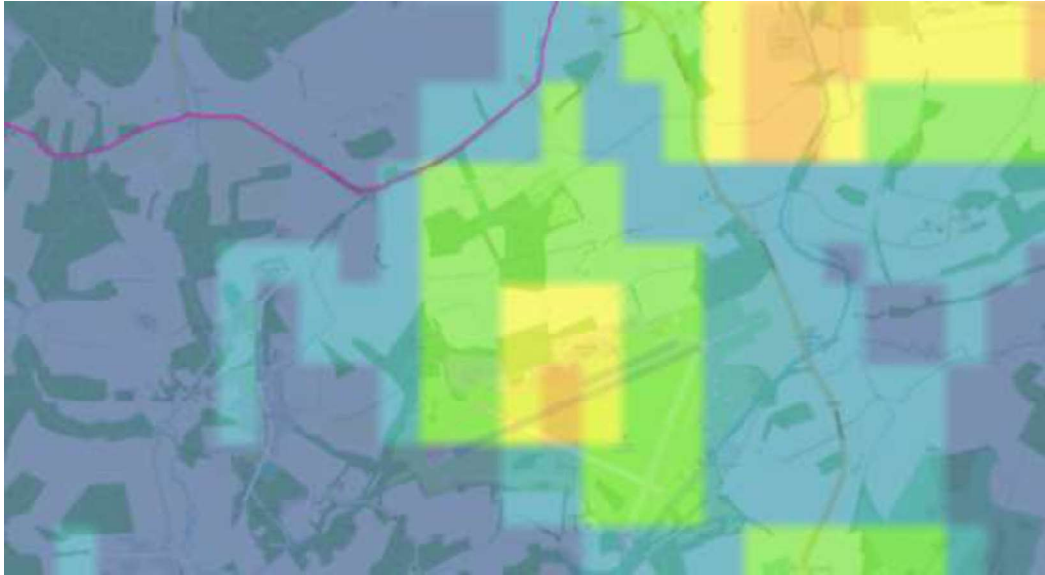
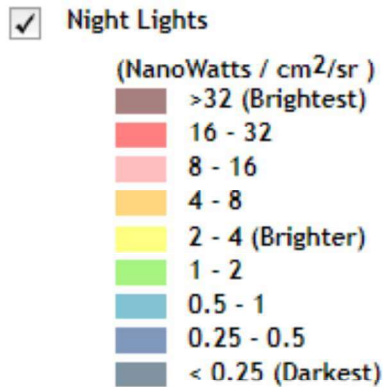


Image 2: Extract of CPRE Light Pollution and Dark Skies map – accessed 24.06.21

4.1.15As can be seen in the closer extract of the CPRE map provided, the extraction area of the site sits within a green area that sits below the middle of the scale of nanowatts as used to detail the levels on the CPRE map.



Each pixel shows the level of radiance (night lights) shining up into the night sky. These have been categorised into colour bands to distinguish between different light levels.

Image 3: Extract of CPRE legend for clarity

4.1.16The access to the site would fall within a category rated lower again.

4.1.17It appears that the light source of Dunsfold Aerodrome provides the illumination that covers the site. Dunsfold Aerodrome sits approximately 0.75km to the south of the site, beyond substantial woodland and lower in the local topography than the site.

4.1.18The effect of the lighting clearly spills beyond the mature woodland that sits between the aerodrome and the site.

4.1.19 The site sits approximately 0.5km to the south of the boundary of the AONB so it can be taken that lighting on site would be seen from the AONB at night. This is clearly illustrated in viewpoints 8 and 9 of the LVIA from the AONB that would allow views of the night-time change.

4.1.20 It is also important to be aware that the site falls within the AGLV, a valued landscape which will be directly affected by the lighting at night where the site is currently unlit and unused during dark hours.

4.2 Visual Section Conclusions

4.2.1 I agree with the locations of a number of the chosen viewpoints but would reposition them in some cases, sometimes by only a few metres to get a clearer view of the site in the landscape.

4.2.2 I identify some potential weaknesses in the assessment which have been detailed, particularly in regard to the lack of winter views and the night-time baseline.

4.2.3 I do not disagree with the receptor sensitivities at the chosen locations and these follow the guidance provided within GLVIA.

4.2.4 It is my professional judgement that the proposals when located on site would result in a noticeable adverse change from the local landscape and from viewpoints within the AONB. This change would be noticeable during both daylight and night-time hours and would be worse during winter months when vegetation has lost its foliage.

4.2.5 These visual effects would be generally comparable over the entire lifetime of the project due to the required machinery, access road, fencing, works and lighting required to allow its use.

5.0 Landscape Character Assessment

5.1.1 This section will present the results of my independent analysis of the assessed landscape outcomes of the site based on the methodology used in the EDP Landscape and Visual Impact Assessment (LVIA). The methodology used within the LVIA broadly follows the best practice guidance provided within the GLVIA.

5.1.2 For the purposes of my evidence, I recognise 'landscape' as defined by the European Landscape Convention, 2000 (ELC) as:

"...an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors".

5.1.3 My evidence deals with the potential effects of the changes proposed upon the character of the landscape. In this context, qualities such as openness and tranquillity are considered to be aspects of the landscape character.

5.1.4 Landscape character can be defined as:

The distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse.

5.1.5 The process of classifying landscape into landscape character areas and types is a judgement free one. The classification does not indicate landscape value.

5.1.6 The site and its surrounding landscape were visited and assessed in line with the methodology used by EDP (in the LVIA Appendix 2: Assessment Methodology dated April 2019) during June 2021.

5.2 Assessed Outcomes of the EDP Landscape and Visual Impact Assessment

5.2.1 All of the following chapters, page numbers and paragraphs in this section refer to the LVIA unless otherwise stated.

5.2.2 Within Appendix EDP 2 Assessment Methodology, the guidance used within the LVIA is given. In paragraph 1.5.2 the documents used as guidance for the methodology are outlined within bullet points that include:

- Guidelines for Landscape and Visual Impact Assessment – Third Edition (LI/IEMA, 2013);
- Landscape Character Assessment – Guidance for England and Scotland (Swanick & LUC, 2002) produced on behalf of the Countryside Agency and Scottish Natural Heritage; and
- An Approach to Landscape Character Assessment (Natural England 2014).

5.2.3 These documents were in date and would be expected to be used at the time the assessment took place.

5.2.4 Page 22, paragraph 3.36 of the LVIA identifies the site and its landscape context to be of a high value; it is assumed that this is the overall landscape sensitivity, rather than just the value so the landscapes susceptibility to change is also of a high level.

5.2.5 At page 35 paragraph 6.2, table EDP 6.1 summary of landscape effects the receptors are all given a high sensitivity with the exception of the Surrey Hills AONB which is given a very high sensitivity.

5.2.6 Table EDP A2.1: Landscape Sensitivity Criteria provides detail on how the landscape has fallen within the high sensitivity category through a combination of the landscape receptor value criteria and the landscape susceptibility to change criteria.

5.2.7 The criteria given to identify landscape receptor value are defined as:

Locally designated/valued countryside (e.g. Areas of High Landscape Value, Regional Scenic Areas) and landscape features; many distinctive landscape characteristics; very few landscape detractors.

5.2.8 It can therefore be reasonably assumed that the site exhibits these criteria.

5.2.9 The criteria given to identify landscape susceptibility to change are defined as:

Many distinctive landscape elements/- aesthetic/perceptual aspects; very few landscape detractors; landscape receptors in good condition. The landscape has a low capacity for change as a result of potential changes to defining character.

5.2.10 Again, it can therefore be given that the site exhibits these criteria.

5.2.11 I agree that the site and its context would be of a high sensitivity to change due to the current baseline and its location within the AGLV and setting of the AONB.

5.2.12 At paragraph 3.34 of the LVIA, the character assessment states that the context of the aerodrome influences the site, but is not noticeable alongside the site when the landscape is viewed from higher ground within the AONB and the site appears to sit in a rural agricultural landscape. It is also suggested that vehicular movements to dwellings along High Loxley Road and Stovold Hill reduce the sense of remoteness and tranquillity, but these roads are not heavily used and only a handful of dwellings sit along them.

5.2.13 Paragraph 3.31 of the LVIA states:

The drilling area of the Site is very intimate as a result of the enclosure of this corner of the field by woodland on two sides to the north and east, and partially to the west. The close proximity of the mature woodland trees screens intervisibility between the Site and Hascombe Hill to the north, whilst field boundary trees filter views to the south, which are further limited by the undulating landscape on High Billingham Farm and its wooded backdrop.

5.2.14 I disagree with this and the visual connectivity with the AONB from Hascombe Hill is illustrated within the montage provided of viewpoints 8 and 9, even though they are based on summer views with vegetation in full leaf. It is also clear that night-time views would be clearly effected by the lighting on site year round, but worse so during winter months.

Surrey Hills Area of Great Landscape Value (AGLV) Review

5.2.15 A review of the Surrey Areas of Great Landscape Value was undertaken to provide an overview of the AGLV across the county and to offer recommendations for the future of the AONB boundaries. The review document was published in 2007.

5.2.16 The site falls within an area of the AGLV that is defined as having some shared characteristics as the AONB.

5.2.17 The Natural Beauty Evaluation was undertaken by Surrey Hills AONB and published in October 2013 on behalf of Surrey County Council. The document was produced to summarise the findings of a natural beauty evaluation, identifying areas which are judged to meet AONB beauty criteria for consideration of designation as part of the Surrey Hills AONB. The sites position within the AGLV was not recommended for change.

Noise Assessment

5.2.18 A Noise Impact Assessment for Hydrocarbon Exploration, Testing, and Appraisal document prepared by Spectrum Acoustic Consultants (April 2019) was submitted as part of the application.

5.2.19 The purpose of the document was to carry out an assessment of the levels of noise created as a result of the site being used; rig mobilisation and demobilisation phases have been excluded from the assessment. This assessment includes the potential noise created by vehicles that are used at the site.

5.2.20 The conclusion of the report (Chapter 8) states that:

During testing and appraisal there may be some minor adverse noise effects during the night time period, however, in all cases, noise levels would not exceed the suggested limits set out by PPG-M for longer term, permanent activities. Therefore, noise levels are considered to be acceptably low.

5.2.21 It can be taken from this that during night-time hours, additional adverse noise effects will be created as a result of the proposed development, thereby effecting the tranquillity of the site and its surroundings.

5.2.22 A Technical Information Note; Tranquillity – An Overview (TIN 01/2017) published by the Landscape Institute, provides information about tranquillity in the landscape.

5.2.23 Paragraph 3.62 of TIN 01/2017 states:

More recently Watts and Pheasant (2015) developed a study to investigate the importance of soundscapes and emotional factors in relation to tranquillity. The findings revealed that adding man-made sounds to a soundscape significantly degraded perceived tranquillity though ratings of wildness were not as affected. Further attempts to then improve the tranquillity rating by adding natural sounds were largely unsuccessful.

5.2.24 This explains that the addition of man-made sounds degrades perceived tranquillity. Therefore, the addition of minor adverse noise effects during the night-time period will have a level of effect on reducing the apparent tranquillity in the local landscape which sits within the AGLV and AONB.

Arboricultural Considerations

5.2.25 The Hascombe Estate has a current licence for clear felling of three blocks of woodland including The Burchetts, and Loxley Furze, to the north and east of the site.

5.2.26 Part of The Burchetts is formed by ancient woodland that sits adjacent to the sites northern boundary.

5.2.27 The landowner has previously felled substantial areas of the vegetation along Dunsfold Road which has had the effect of opening views across the landscape. This may well continue as a

result of the felling license and create more open views into the site and reduce the partial visual barrier effect that the woodland forms to the north.

5.3 Landscape Section Conclusions

5.3.1 I agree that the site and its context will be of a high sensitivity level, given its rural context, position within the AGLV and setting of the AONB.

5.3.2 The site exhibits a number of the key characteristics outlined by studies from national to local level and a clear thread of characteristics can be seen within them.

5.3.3 The AGLV study describes the area in which the site falls as sharing some characteristics with the AONB, suggesting that the area is currently acting as a protective buffer to the AONB.

5.3.4 It is my professional judgement that the proposals when located on site would result in an overall **high** magnitude of change to the existing landscape baseline during the life of the drilling operations (which would last approximately 3 years). This is because the proposals would result in the introduction of elements such as:

- a drilling rig of up to 37 metres in height,
- a workover rig of up to 35 metres in height,
- Additional mobile cranes when required,
- a crane of coil tubing of 25 metres in height, and
- a flare stack of 12 metres in height in the currently rural agricultural fields.

5.3.5 This would result in a **Major/Moderate adverse** (i.e. a material landscape effect).

5.3.6 During the use of the site over the three year period, the magnitude of change may fluctuate, but would fall no lower than **medium**. With a **high** sensitivity combined with a **medium** magnitude of change the assessed outcome would be **Moderate adverse** (i.e. a material landscape effect).

5.3.7 These effects would be noticeable from the AONB, during day and also night-time hours due to the lighting that is to be installed as part of the scheme and the effect of noise created by works on the surrounding tranquillity.

6.0 Landscape Design and Mitigation

- 6.1.1** The layout brought forward is of an industrial nature and does not respond to its rural location.
- 6.1.2** The addition of mining activities in this area would be noticeable from within the AONB, during day and night hours.
- 6.1.3** As the landscape effects would remain significant after an optimal reduction in adverse effect due to the mitigation measures, the site cannot become less than significant in landscape terms.

7.0 Summary Proof and Conclusion

- 7.1.1 I am John-Paul Friend, I am the Director of LVIA Ltd and I specialise in landscape and visual planning issues associated with development and change.
- 7.1.2 I am an associate lecturer at the University of Gloucestershire, where I teach undergraduate and postgraduate students on the Landscape Architecture course, specifically in landscape and visual impact assessment and landscape and environmental planning.
- 7.1.3 The EDP LVIA process was undertaken broadly in accordance with GLVIA, but has some omissions; these have been discussed within the relevant chapters of this proof.

7.2 Landscape Section Conclusions

- 7.2.1 The site exhibits a number of the key characteristics outlined by studies from national to local level and a clear thread of characteristics can be seen within them.
- 7.2.2 I am in agreement that the sensitivity of the site and surrounding context is high.
- 7.2.3 When a logical methodology is followed, the assessed landscape effects will remain materially adverse after mitigation measures have been introduced.
- 7.2.4 The substantial adverse landscape impact caused by the proposed development will be noticed from within the AONB and surrounding landscape within the AGLV during daylight and night-time hours over the three year period of the sites construction, operation and remediation.
- 7.2.5 As the landscape effects remain significant in landscape terms after an optimal reduction in adverse effect due to the mitigation measures, the site cannot become less than significant in landscape terms.
- 7.2.6 I conclude therefore, that although significant landscape and visual impact were generally identified, that the assessed outcomes should have been considered to be higher. The proposed mitigation measures cannot mitigate the potential landscape effects of the proposed development due to its height and the 24 hours lighting required.
- 7.2.7 I respectfully submit that substantial adverse landscape and visual matters associated with this scheme are a reason to withhold planning permission in this case.

John-Paul Friend CMLI
June 2021



Head Office
Bellamy House
Longney
Gloucester
GL2 3SJ
Tel: 07940 749051

Email: jp@lvialtd.com
Website: www.lvialtd.com

LANDSCAPE / TOWNSCAPE & VISUAL IMPACT ASSESSMENT | GREEN BELT ANALYSIS
PROJECT MANAGEMENT | EXPERT WITNESS | LANDSCAPE DESIGN & PLANNING
LANDSCAPE MANAGEMENT



PROOF OF EVIDENCE

Appeal at: Land south of Dunsfold Road and east of High Loxley Road, Dunsfold, Surrey.

REFERENCE: APP/B3600/W/21/3268579
(Application reference WA/2019/0796)

June 2021

Contents

1.0	Summary	3
2.0	Personal	3
3.0	Introduction	5
4.0	National, regional and local policies, guidance and legislation	7
5.0	Planning Balance	10
6.0	The reasons for refusal	17
7.0	Comments on concerns raised by WBC and third parties	20
8.0	Conclusions	26
9.0	APPENDICES	27

1.0 Summary

- 1.1 Arthurs Planning and Development Ltd have been instructed by Waverley Borough Council (WBC) to prepare the Rule 6 Planning Appeal Proof of Evidence (the Statement) to support their initial representations to the determining authority Surrey County Council (SCC). WBC supports the refusal of the application by SCC, however the reasons for refusal did not take into account some of the valid planning reasons suggested and these will be discussed in more detail in this Proof.
- 1.2 The Statement will refer to national, regional and local policies, guidance and legislation before undertaking a planning balance assessment of the case. Within this, I state that I consider that the appeal proposal does not accord with a number of Policies within the up to date local Development Plan. Firstly, I consider the weight which can be afforded to the case for and benefits arising from the appeal scheme. Following this, I consider the planning reasons for refusal and the associated planning concerns arising from the proposed development and summarise the planning balance assessment findings.
- 1.3 I conclude that the need for and benefits arising from the proposed well exploration is not considered to outweigh the harm that would arise.
- 1.4 In addition, I conclude that the cumulative harm caused by the proposed scheme, including to the landscape and visual amenity, is such that it would significantly and demonstrably outweigh the benefits. I also consider the implications of other material planning considerations in the planning balance assessment, particularly in relation to the on-site operation and wider environmental effects of the output.
- 1.5 Representations made by local residents and interested parties will also be referred to, as this will help support the planning case for refusing the proposed development.

2.0 Personal

- 2.1 The Statement has been prepared by Patrick Arthurs, Planning Director with over 30 years of planning experience across the public and private sector. Representing clients on a range of infrastructure, residential, commercial and leisure development projects.
- 2.2 I hold a Bachelor of Arts Degree and Post Graduate Diploma in Urban Planning, which I obtained from the University of Westminster, and a Master of Arts in Urban Design, which I also obtained from the University of Westminster. I have also been a Member of the Royal Town Planning Institute (RTPI) since 1993.
- 2.2 I have worked as an independent freelance planning consultant for some 5 years, working on a range of development projects. During this period I was employed on a temporary contract basis by Waverley Borough Council as Deputy Development Control Manager, January 2019-June 2020. It was during this period that I acted as the case-officer for the

application proposal and co-ordinated the WBC response to SCC. Prior to this, I was a Planning Director for Wilson Bowden Developments, a number of Planning Consultancy practices and a Planning Officer for both Hounslow and Hammersmith and Fulham London Boroughs.

- 2.3 The evidence which I have prepared and provide for this appeal in this proof of evidence is true and has been prepared and is given in accordance with the RTPI Code of Professional Conduct 2016. I can confirm that the opinions expressed are my true and professional opinions.

3.0 Introduction

3.1 This Statement is submitted on behalf of WBC in respect of an appeal by United Kingdom Gas and Oil Ltd (UKOG) (“the Appellant”) regarding Land south of Dunsfold Road and east of High Loxley Road, Dunsfold, Surrey.

3.2 On 15th December 2020, permission was refused by SCC, the determining Authority, for the appeal proposal (LPA ref: WA/2019/0796), which had the following description:

“Construction, operation and decommissioning of a well site for the exploration and appraisal of hydrocarbon minerals from one exploratory borehole (Loxley-1) and one side-track borehole (Loxley - 1z) for a temporary period of three years involving the siting of plant and equipment, the construction of a new access track, a new highway junction with High Loxley Road, highway improvements at the junction of High Loxley Road and Dunsfold Road and the erection of a boundary fence and entrance gates with restoration to agriculture (the ‘Appeal Proposal’).”

3.3 The appeal proposal was reported to the Planning and Regulatory (P&R) Committee on 27th November 2020, the Officer recommendation for approval was overturned by the elected Members. The planning application was first reported to SCC P&R Committee on 29th June 2020, with an officer recommendation for approval subject to conditions, the elected Members also overturned the recommendation and the application was refused. Following the committee it is understood the Applicant objected to the outcome on procedural grounds. WBC Officers observed the Committee and do not agree that any procedural matters arose. The minutes of the meeting record:

*“The Committee REFUSE application WA/2019/0796 due to the reason that it has not yet been demonstrated that there is a **need** for the development nor that the adverse impacts in respect of highways, noise, lighting and air quality will not be significant contrary to policies MC12 [Oil and gas development], MC14 [Reducing the adverse impacts of mineral development] and MC15 [Transport for minerals] of the Surrey Minerals Plan 2011.*

3.4 Members resolved to refuse planning permission at the 27th November 2020 Committee citing the following reasons for refusal:

- 1. It has not been demonstrated that the highway network is of an appropriate standard for use by the traffic generated by the development, or that the traffic generated by the development would not have a significant adverse impact on highway safety contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC15.*
- 2. It has not been demonstrated that the applicant has provided information sufficient for the County Planning Authority to be satisfied that there would be no significant adverse impact on the appearance, quality and character of the landscape and any*

features that contribute towards its distinctiveness, including its designation as an Area of Great Landscape Value, contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC14(iii).

- 3.4 WBC note that in the initial Planning Committee it was felt the 'need' for the oil well was not demonstrated sufficiently to justify and overcome the harm arising from its operations and output. This issue will be considered in greater detail below.
- 3.5 It is the WBC's case that the proposed development is contrary to up to date development plan policy, as well as national policy, and that this conflict is not outweighed by the benefits that the scheme would generate.
- 3.5 The evidence I will present on behalf of the WBC will be on planning matters.
- 3.6 A description of the appeal site and surrounding area has been set out in a Statement of Common Ground, the Applicants and SCC Proof of Evidence and is therefore not duplicated here. This is also the case for the planning history of the site. Copies of all of the Development Plan Policies which are relevant to the appeal have been submitted to the Inspectorate at questionnaire stage and are therefore only duplicated here where they are particularly important to my planning assessment.

4.0 National, Regional and Local Policies, Guidance and Legislation

Statutory Duties

Planning and Compulsory Purchase Act 2004

- 4.1 Paragraph 38(6) of the document states that “if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

Existing Local Policy

Surrey Minerals Plan Core Strategy 2011

- 4.2 The Surrey Minerals Plan Core Strategy 2011, together with the NPPF 2019 is the primary statutory planning framework against which the Appeal Proposals should be considered against. The policies detailed below are referenced in the refusal reasons.

- *Policy MC15.*
- *Policy MC14(iii).*

Waverley Local Plan (Part 1) 2018

- 4.3 The Waverley Local Plan (Part 1)(LPP1) 2018 was fully adopted in February 2018, having been found sound by the Inspectorate. Given that the plan is three years old, it is considered to be up to date, and subject to full weight in planning assessments. Whilst the Waverley Local Plan Policies are not referenced in the SCC Officer Report and reasons for refusal WBC are of the view that they are relevant and should be taken into account in the determination of the Appeal as the implications of the application go beyond solely minerals extraction.

- 4.4 The Policies detailed below also form the planning policy basis on which the application should be considered against, these were not listed in the reasons for refusal, WBC are of the opinion that this is an omission.

- SP1: Presumption of Favour of Sustainable Development
- SP2: Spatial Strategy
- ST1: Sustainable Transport
- AHN4: Gypsies, Travellers and Travelling Showpeople Accommodation
- EE2: Protecting Existing Employment Sites
- RE1: Countryside Beyond the Greenbelt
- RE3: Landscape Character

- NE1: Biodiversity and Geological Conservation
- CC1: Climate Change
- CC3: Renewable Energy Development
- SS7: New settlement at Dunsfold Aerodrome
- SS7A: Dunsfold Aerodrome Design Strategy

Retained Policies of the Waverley Local Plan, 2002

- 4.5 As the Local Plan was adopted in 2002, paragraph 213 of the NPPF applies. This states that: “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).” I consider that Policy is a most important policy for the determination of the appeal. of paragraph 213 of the NPPF.
- 4.6 Local Plan (Part 2)(LPP2) will form the second stage of Waverley's new Local Plan, document will replace the 2002 Local Plan. The pre-submission consultation on LPP2 took place November-2020 to January 2021. Following a review of comments received LPP2 should be submitted to the Secretary of State for Examination later in 2021.
- 4.7 The Policies detailed below also form the planning policy basis on which the application should be considered against, these were not listed in the reasons for refusal, WBC are of the opinion that this is an omission.
- D1: Environmental Implications of Development
 - D2: Compatibility of Uses
 - D5: Nature Conservation
 - C3; Surrey Hills Area of Outstanding Natural beauty and Area of Great Landscape Value
 - C6: Landscape Enhancement
 - H8: Retention of Residential Land and Buildings
 - IC2: Safeguarding Suitably Located and Industrial and Commercial Land
 - IC5: Existing Bad Neighbour Uses
 - RD8: Farm Diversification
 - M17: Servicing

Other relevant documents

Neighbourhood Plan

- 4.8 There is no Neighbourhood Plan that could be applied to the application site.

Land Availability Assessment (LAA) Nov 2020

- 4.9 Dunsfold Aerodrome is identified site 10 within the LAA, the site is included as an allocated site in LPP1.

Climate Emergency Declarations

- 4.10 **Surrey Climate Extinction Motion:** On the 9 July 2019 SCC approved a Councillor motion to declare a climate change emergency, the motion confirmed:

“providing a strong united voice for councils in lobbying for support to address this emergency and sharing best practice across all councils.” A climate change strategy is expected in the spring of 2020 that promotes the reduction in use of carbon fuels and promotes the expansion of renewable technologies. The application for the proposed well is contrary to the principles promoted in the approved motion.

- 4.11 In September 2019, WBC approved a Climate Emergency motion, which sets out the council's aim to become carbon-neutral by 2030. To support this WBC is developing a strategy outlining actions that will help tackle climate change in our borough, to form part of the Local Plan review. The action plan and strategy were adopted by Full Council on 15 December 2020.

5. Planning Balance

Introduction

- 5.1 In order to draw a planning balance in this case I consider the proposals against the framework outlined in Paragraph 11 of the NPPF.
- 5.2 Firstly, I will consider whether the proposal accords with an up to date development plan (part C of Paragraph 11).
- 5.3 Secondly, I will consider whether the policies which are the most important for determining the application are out of date and if matters not listed in the reasons for refusal but were considered by the determining authority should also be factored into the planning balance assessment.
- 5.4 Thirdly, I will consider the weight which can be afforded to the benefits of the scheme.

1 - Whether the proposal accords with the up to date development plan

- 5.5 The proposed development fails to accord with Policies MC15 and MC14(iii) of the Surrey Minerals Plan Core strategy 2011 as stated in the reasons for refusal. In addition WBC consider that the proposals are contrary to Policy SP1, SP2, ST1, AHN4, EE2, RE1, RE3, NE1, CC1, CC3, SS7 and SS7A of the Waverley Local Plan (Part 1) 2018. Policy D1, D2, D5, C3, C6, H8, IC2, IC5, RD8 and M17 of LLP2, 2002.
- 5.6 The above Policies, not all of which are referred to in the Reasons for Refusal, are considered to be up to date for the purposes of paragraph 11. Although produced prior to the 2019 adoption of the extant NPPF, they have been assessed and are considered to be in conformity with the Framework, in accordance with Paragraph 33 of the NPPF.
- 5.7 Given the number, range, and importance of the policies that the proposal fails to comply with, as a matter of judgment, the appeal proposal does not in my view comply with the up to date development plan when taken as a whole. As outlined later in this document, there are not considered to be any other material considerations which outweigh the failure to comply with these Policies. The application of Paragraph 11 (c) of the NPPF does not indicate that permission should be granted.

2. Main Planning Issues Not identified in the Reasons for Refusal

Needs Case

- 5.8 The Applicant in their Statement of Case reaffirmed that the 'need' for the well was to ultimately supply gas and oil from an indigenous source to meet UK demand that was ultimately more sustainable and in the interests of climate change than purchasing the product from alternative sources. The Weald Action Group in their response, 5th April 2021, to the 'needs' case put forward by the Applicant raised a number of key areas of concern, that are summarised below:
- National Energy and Planning Policy is Evolving to ensure a reduction in carbon emissions: The 2020 Energy White Paper (EWP) has climate change at its core and the move away from reliance on fossil fuels. Commitment is targeted at the offshore sector.
 - Demand for gas is falling, by 75% by 2050.
 - Onshore gas has a negligible impact on maintaining secure gas supplies.
 - Onshore gas production will have a negative impact on greenhouse gas emissions.
- 5.9 WBC agree with and support the stance of the Weald Action Group that the 'need' for the drilling operation has not been justified by the applicant. Alternative locations have been considered by the applicant but these are not considered to be comprehensive and the absolute need for the operation in this site adjacent to the Surrey Hills AONB and within AGLV is not justified.
- 5.10 Economy
An economic impact and benefits statement was not included as part of the planning application documents. The Applicant in their Statement of Case claims that the proposed oil well development will result in up to £6 million investment on the site with 'significant expenditure retained in the local or Surrey based economy'. It is not clear how the investment figure is arrived at and it is also unclear how local firms will benefit from its operation. The economic benefits arising from the proposed well operation have, therefore, not been defined so it is not possible to make a planning balance assessment against how the benefits of the scheme can outweigh the identified environmental harm.
- 5.11 What is clear is the potential negative impacts of the well and its operation on the established and valued local businesses that directly adjoin the application site, which include a wedding venue, brewery and farm lands. The Proof of Evidence submitted by Terence O'Rourke, on behalf of the Gordan family at High Billingham Farm, summarises the potential impacts on the family business. These businesses are promoted in part on the landscape quality, tranquillity and unspoilt beauty of the immediate area. The Proof outlines in some detail the negative impact of the oil operation on the wedding venue business, the operational impact on these businesses has not been identified or explored in the application and Appeal documents.
- 5.12 The applicant has sought to justify the drilling operation as a farm diversification activity that would be supported by Policy RD8. As you will see from the policy RD8 below the diversification intended by the policy is other types of farming activity and no adverse

effects would arise from the activity including highways safety and access considerations. The mining operation will be commercial in nature and it will have an adverse impact on the character of the area and its environment, ecology, landscape, highways and amenity of local businesses and residents. As a result the proposed development will be contrary to the policy and is not supported by it.

“POLICY RD8 – Farm Diversification

New uses on agricultural, forestry or horticultural holdings will be permitted where:-

- (a) agriculture, forestry or horticulture remains the principal or dominant use;
- (b) there is no conflict with the principal agricultural, forestry or horticultural use;
- (c) they are accompanied by supporting information e.g. a “Farm Plan”;
- (d) the proposed development will not introduce an activity which will adversely affect the character or amenities of the area;
- (e) the proposed development will not be materially detrimental to the amenities or privacy of nearby properties;
- (f) existing farm buildings which are re-used meet the requirements of Policy RD7 above;
- (g) the amount of traffic likely to be generated would not prejudice highway safety or cause significant harm to the environmental character of country roads; and
- (h) satisfactory vehicular access can be achieved.

In the Green Belt, proposals which require new buildings will be considered in accordance with Policy C1.

In the Countryside beyond the Green Belt, new buildings will only be permitted where no suitable existing buildings are available and where the proposed buildings are small scale and unobtrusively located”.

- 5.13 At both SCC Planning Committees the impact on local businesses and the lack of any assessment or mitigation strategy was discussed at length by the elected Members. Indeed an overall consensus that this important planning consideration was not properly assessed and that harm to the local businesses would arise was reached. WBC expressed it’s disappointment at the time that the negative impact on local businesses was not included as a reason for refusal. The impacts on local business should be reviewed and taken into account at the Appeal Inquiry.
- 5.14 Submissions to the SCC Planning Committee were made from a number of businesses that directly adjoin the application site and will be impacted by its presence and operation as a result of:

- Noise disturbance
- Visual intrusion, particularly for the wedding venue business
- Potential for obstruction to the access for these businesses
- Environmental pollution arising from both smell and impacts on the groundwater and biodiversity
- Impact on local business who supply the wedding venue and other businesses adjoining the site.

- 5.15 The loss to local business is estimated to be in the region of many millions, based on annual turnover, this includes the impact on local supply chains if local businesses were forced to close. By contrast, the claim by the Applicant that the oil well and exploration would benefit and diversify the local rural economy is overstated. The majority of operational staff will need to be experienced and qualified to use the equipment. Anecdotal evidence from the operation at Horse Hill would suggest most of the sub-contractors are from the north of England and external to the immediate Surrey area.
- 5.16 The proposal would result in an adverse impact on the local businesses and economy in conflict with MC14 of the Surrey Minerals Plan 2011, Policy EE2, CC1 and RE3 of the Waverley Local Plan 2018 (Part 1), Policy D1, D2, IC2, IC5 of the Waverley Retained Local Plan 2002, Para 80-84 of NPPF 2019.
- 5.17 Habitat and Ecology
The proposed development will result in the loss of trees and hedgerows on the site, harm will therefore result in not only the historic field patterns but also in the loss of valuable habitat. The trees and hedgerows in the section of the lane where the site access is proposed has already been removed, an indication perhaps of the approach and attitude that both the applicant and the landowner have towards habitat protection.
- 5.18 Mitigation for the loss of trees and hedgerows should be provided up front as part of the scheme and not within the first year and in the restoration phase as proposed by the applicant. A buffer zone of at least 15 m should be provided between the site and the replanted ancient woodland to avoid damage to comply with guidance from Natural England unless robust evidence can be provided to support the case to reduce this to 10m buffer. The proposed well operation is three years with a possible extension, the loss of important habitat and the disturbance caused by the nature of the operation will result in harm to the habitat enjoyed by protected species including bats, dormice and reptiles. Additional enhancements should also be considered to deliver local biodiversity net gains, and mitigate loss of habitat, including a new pond for great crested newt and replacement planting for the areas and hedgerow and trees lost as part of the development.
- 5.19 A more detailed lighting assessment is required which addresses the potential visual impacts, which, for some receptors, could be significant and include further information from a lighting engineer on the effects of different types of lighting in mitigating any effects. As the application site is an undeveloped field close to woodland areas the lighting will have an impact on the flight paths of birds and bats and habitats of nocturnal

- animals, thus resulting in harm that has not been fully assessed and appropriate mitigation suggested.
- 5.20 The proposed works will result in additional noise and movement; this is likely to have a negative impact on the habitat and environment that has previously been unspoilt and enjoys dark sky's at night. The impact of the noise and light on wildlife and their habitat is not fully assessed and understood.
- 5.21 In order to ensure that appropriate safeguards are put in place and that the site is returned to open countryside following the completion of the drilling operation, a bond should be provided by the applicant prior to the commencement of development to cover the cost of reinstatement. The proposed development is of a highly sensitive nature with negative impacts for the environment and adjoining residents and businesses. The applicant should provide a contribution to an independent assessor who would monitor the on-site operations and ensure all necessary conditions and restrictions have been adhered to.
- 5.22 The true nature of the proposed drilling operations is not fully clarified or understood, the difference between the operation described and that of fracking can best be interpreted as marginal. The leaching of chemicals into the watercourse that has the potential for considerable impacts on the local community as well as wildlife and biodiversity is reason alone why the application should be refused.
- 5.23 Waste
The Applicant has demonstrated how it intends to comply with the waste regulations and has confirmed they are in the process of be applying for the appropriate Mining Waste Activity Permit as part of which further details regarding the management of waste streams will be required to be provided to the EA. As part of this permitting the EA will be required to assess the waste streams in greater detail, and further details should be provided on how contamination will be managed in the event of waste spillage on site.
- 5.24 Housing delivery
The proposed exploration mining operations will encroach onto the Dunsfold Aerodrome site, as indicated in plan ZG-UKOG-L1-PA-02, on page 84 of the Hydrocarbon Exploration Testing and Appraisal – Planning Statement and Environmental Report , 19th April 2019, submitted with the application and attached to this letter for ease of reference. The plan shows that the UKOG's drilling operation will occur directly beneath Dunsfold Garden Village.
- 5.25 The proposed exploration operations have the potential to impact on the delivery and viability of the strategically important Dunsfold Garden Village residential development that has been granted planning permission. Environmental searches conducted on behalf of prospective purchasers of property in the area by their legal advisors are already being alerted to the prospect of onshore oil and gas exploration and production.

5.26 The poor neighbour activity proposed would result in an adverse impact on Waverley Borough Councils strategic housing delivery strategy in conflict with Policy SS7 and SS7A Waverley Local Plan 2018 (Part 1), Policy D1, D2, H8, IC2, IC5 Waverley Retained Local Plan 2002 and Para 59-79 of the NPPF 2019.

5.27 Dunsfold Travellers Site

In proposed exploration mining operations will encroach onto the Dunsfold Travellers site. As is the case in Dunsfold Village this activity has the potential to impact on the established living conditions and viability of the travellers' site. The poor neighbour activity proposed would result in an adverse impact on Waverley Borough Councils traveller's accommodation strategy in conflict with Waverley Local Plan 2018 (Part 1) Policy D1, D2, H11, Waverley Retained Local Plan 2002 and the NPPF 2019.

The weight which can be afforded to the benefits of the scheme

5.28 I will now list the key benefits of the scheme, and comment in relation to each and the level of weight which I consider can be afforded to it in the planning balance.

5.29 The key benefit is the provision of gas and oil resources to meet a national need, this is not identified as a specific local need in with the Surrey Waste Plan or the WBC Local Plan. I attribute limited weight to this as a benefit of the scheme.

5.30 The second key benefit of the scheme is the investment in £6m in the oil well drilling infrastructure. Whilst investment in the Waverley Borough is welcomed it is felt that the investment is neither required or indeed wanted as it will result in the production of carbon fuels that harm the environment. As an alternative if the £6m investment were in renewable energy that would make a positive contribution to the reduced use of carbon fuels then this would meet both national and local policy objectives. I attribute limited weight to this as a benefit of the scheme.

5.31 The third key benefit of the scheme construction activities are likely to create jobs and bring some economic benefits, including through GVA and direct employment. These will, however, be transitory and not available once construction is complete and the drilling operations cease. In addition, the site operatives and vehicle rivers are likely to bring economic benefits with some spend on local services and facilities, although this is not defined. Whilst these economic benefits can be afforded some weight, they would not include the creation of permanent jobs and would be limited in extent and must be assessed in terms of the potential loss of existing local jobs as a result of the drilling operation.

Conclusion of planning balance

5.32 In conclusion on my assessment of the planning balance of the scheme, I consider that:

- The proposal is not in accordance with the up to date development plan as required by part c of Paragraph 11 of the NPPF, including when the plan is taken as a whole.
- The benefits of the scheme are considered to be limited and would not outweigh the significant and demonstrable harm created to the site in the open countryside and within an AGLV.
- The scheme would have a negative impact on local businesses and residents as a result of its visual intrusion in the open countryside and loss of amenity from noise and disturbance.
- The Council has considered all material considerations pertinent to the development proposals including any planning benefits which would result.

6.0 The Reasons for Refusal

Refusal Reason No.1: Traffic and Transport

6.1 The Refusal reason states:

"It has not been demonstrated that the highway network is of an appropriate standard for use by the traffic generated by the development, or that the traffic generated by the development would not have a significant adverse impact on highway safety contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC15."

6.2 WBC support this reason for refusal as the chosen access to the site is off the B2130 Dunsfold Road at a very narrow and sharp bend onto a single lane unclassified High Loxley Road. The Applicant claims in their Proof that the vehicles accessing the site are largely confined to the higher classification road network. This will only be the case if adequate management arrangements are put in place but it also does not detract from the fact that Dunsfold Road and High Loxley Lane are not suitable or adequate to accommodate large heavy goods vehicles (HGV's)

6.3 The Applicant technical assessments claim that sufficient visibility splays can be achieved at the proposed access junction onto High Loxley Road, and at the High Loxley Road/Dunsfold Road junction. Swept path analysis indicates the need for localised carriageway widening to enable all construction vehicles, including heavy good's vehicles (HGV) and abnormal indivisible load vehicles (AILV) to safely navigate the route and turn into the unclassified High Loxley Road. The area required for the carriageway widening is on grass verge areas and this area is undesignated land that is thought to have been 'common land'. This designation is unclear, but what is clear is the access at this point is extremely restricted and likely to result in both the degradation of the highways verges and have a negative impact on highway surface.

6.4 MK Transport Planning (MKTP) has undertaken a review of the transport implications of a planning application and a critique of the Transport Statement (TS) that has been prepared by Local Transport Projects Ltd (LTP). If the Inspector is minded to approve the Appeal application then the following conditions should be applied to any planning permission. This would ensure that the planning application is in accordance with the NPPF and that there are no residual severe effects:

- Vehicle movements should be continuously monitored and recorded via CCTV at the High Loxley Road junction with B2130 and within the site access. This information would be used in relation to any complaints to the Local Planning Authority or Highway Authority to demonstrate whether or not there had been a breach and would also ensure that the CTMP is properly enforced;

- A qualified banksman should be available on site so that, in the event of a problem with a heavy goods vehicle accessing the site, the impact on the adjacent highway network is resolved as soon as possible without creating a road safety problem;
 - A regime should be put in place to ensure that the traffic signals are always working to their optimum and that, should they fail, a person is available within a short period of time who is qualified to recommission the temporary traffic signals and continually optimise them to reduce queuing, and
 - The temporary traffic signals should be removed outside of the periods of operation of the site as set out in the TS.
- 6.5 Whilst Waverley BC accept that if the mitigation proposed by condition could help, in part, to address the identified highways safety harm at the dangerous junction there remains a real concern that the traffic signalling and use of a qualified banksman could both fail. In such circumstances this would result in significant disruption and an accident hazard at the key access route to the site, that is acknowledged by all to be a dangerous corner. Waverley BC needs to understand what backup plan is in place to avoid this scenario if it is to remove an objection on highways safety grounds.

Reason 2 – Detrimental to the intrinsic character and beauty of the countryside, the landscape quality of the Area of Great Landscape Value, and the rural character

- 6.6 The Refusal reason states:

“It has not been demonstrated that the applicant has provided information sufficient for the County Planning Authority to be satisfied that there would be no significant adverse impact on the appearance, quality and character of the landscape and any features that contribute towards its distinctiveness, including its designation as an Area of Great Landscape Value, contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC14(iii)”.

- 6.7 The application site is located in undeveloped pasture-land within an area shown as ‘Countryside beyond the Green Belt’ in the adopted Local Plan Part 1 (LPP1) adopted 2018. Policy RE3: Landscape Character requires the protection of the distinctive character of the land defines as either the Surrey Hills Area of Outstanding Natural Beauty (AONB) or Area of Great Landscape Value (AGLV). The application site is outside the AONB but is within its setting but is within the AGLV.
- 6.8 A supporting Proof of Evidence has been prepared by John Paul Friend, HND (LGD) BA Hons Dip LA CMLI, at LVIA Ltd. The Proof concludes that substantial adverse impact to the landscape and visual impact will arise as a result of the proposed development and this cannot be mitigated against given the height of the drilling rig and 24 hour lighting requirement.

- 6.9 The proposal would fail to protect a valued landscape (which is clearly demonstrated by the site's designation as AGLV), or to recognise the intrinsic character and beauty of the open countryside. It would therefore fail to accord with paragraph 170 of the NPPF, SMP Policy MC14 (ii) and WBC LLP1 Policy C3. The visual images provided by the Applicant seek to confirm that the oil rig equipment will not impact on the character and appearance of the landscape. This is simply not the case; the rig and base equipment will be visible within the landscape and the works will result in the removal of established hedgerows. If the application was for the erection of a telecommunications mast or a similar structure of a similar height and impact this would almost certainly be refused, there are a number of precedents of this in the area. The reason quoted is often the unacceptable visual intrusion of a mechanical device in the protected landscape. The benefits to the local community of improved telecommunications is arguably much greater than any oil or gas production, especially in a period when all policy and guidance is promoting the reduction in use of carbon fuels.
- 6.10 WBC considers that the development of this site with the appeal proposal would cause significant harm to the landscape character, beauty and openness of the Countryside beyond the Green Belt and AGLV. A significant industrial style operation will be formed on the site and views to it from adjoining fields and neighbouring properties including High Billingham Farm.

7. Comments on representations made by local residents

7.1 In a letter sent to SCC on 11 Nov 2020, on behalf of the Dunsfold residents, I summarised their main concerns that they had, this is outlined below.

1. "Need for the Oil Well

In response to comments at the Planning committee the Applicant's agent (Zetland) submitted a 'Clarification Statement' on the 19th August 2020, this sought to clarify the need for the development and stated:

"10: THE NEED FOR THE DEVELOPMENT HAS NOT BEEN DEMONSTRATED

2.18 Loxley targets the gas-bearing Portland sandstone and oil-bearing Kimmeridge limestone of the Weald Basin, which is one of only two locations in southern England where trapping structures within the Jurassic rocks allow for the accumulation of commercial hydrocarbon deposits . It is close to the basin centre where the strata are at their thickest and most thermally mature (i.e. conditions most likely to support hydrocarbon reserves). Historic exploration at Godley Bridge and Alford was successful in identifying a prime prospective area (or "sweet spot") known as the Godley Bridge Gas Discovery.

2.19 Loxley will test the Godley Bridge Gas Discovery, in a more optimal geological location (compared to historic locations) whilst simultaneously testing deeper oil & gas potential (the same strategy as Horse Hill). Recovery techniques are constantly evolving and reducing the environmental effects of exploration and a constant downward pressure on the duration of drilling make it feasible to re-visit areas of known potential.

*2.20 These considerations justify a need for exploration consistent with **Surrey Minerals Plan MC14: Protecting Communities and the Environment**. At a national level, oil & gas exploration meets the needs of the UK's **Energy Security Strategy, Gas Generation Strategy and National Policy Statements for Planning & Energy** which find domestic hydrocarbons to be "essential" for the country's needs security advantages and reduces the need for imported gas and oil. and likely to play a "significant role for some time to come... during the transition to a low carbon 43 economy" . Any reasonable counter claim that disputes these policies and guidance would need to be based on verifiable evidence as opposed to personal opinion."*

Para 2.19 and 2.19 simply clarifies that the geology in the area is favourable to having oil and gas potential, this is not in dispute. Para 2.20 suggests that the need for that exploration of this fossil fuels is justified and supported by the National Policy Statements for Planning and Energy. The Dunsfold residents, whilst expressing a 'personal opinion'

that this is not the case, have also backed this up with the rapidly evolving policy position. Surrey County and Waverley Borough have both declared a 'climate emergency' in response to the identified and universally accepted position in relation to the present and emerging climate crises that we all live in.

Regrettably the long awaited Energy White Paper is yet to be published. The Government's public line on 'autumn' has been repeated since the Budget was cancelled, but publication could easily drift into the first quarter of next year.

Timing aside, the White Paper's central aim will be to put the UK on the path towards the decarbonisation of the entire energy system to support a broader political agenda – namely economic recovery. The Government via ministerial statements has already stated it wants to be seen, through this White Paper, to support green infrastructure, green jobs *and* green consumerism.

Undertaking exploration works for carbon fuels at this time is clearly contrary to the emerging and current policy basis. The 'need and benefits' case that has been claimed by the Applicant to overcome the environmental, visual and operational harm that will arise from it is simply no longer the case.

The 'planning balance' assessment should strongly reject the application; the central principle of the National Planning Policy Framework is 'sustainable development' as set out in Section 2. Para 7 of the NPPF states:

"The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs".

It is known that renewable technologies can meet the needs of the present, the continued use of carbon fuels will compromise and indeed harm future generations. The application should therefore be refused as the need for the oil well has not been established and is contrary to

Policy MC12 of the Surrey Minerals Plan 2011,
Policy EE2, CC1 and R3 of Waverley Local Plan 2018 (Part 1)
Policy D1, D2, IC2 and IC5 of the Waverley Retained Local Plan 2002 and the
National Planning Policy Framework 2019 (NPPF)

2. Housing delivery

The proposed exploration mining operations will encroach onto the Dunsfold Aerodrome site, as indicated in plan ZG-UKOG-L1-PA-02, on page 84 of the Hydrocarbon Exploration Testing and Appraisal – Planning Statement and Environmental Report , 19th April 2019, submitted with the application and attached to this letter for ease of reference.

The plan shows that the UKOG’s drilling operation will occur directly beneath Dunsfold Garden Village.

The proposed exploration operations have the potential to impact on the delivery and viability of the strategically important Dunsfold Garden Village residential development that has been granted planning permission. Environmental searches conducted on behalf of prospective purchasers of property in the area by their legal advisors are already being alerted to the prospect of onshore oil and gas exploration and production. This is an extract from an actual environmental search conducted on behalf of a purchaser of a property in the Dunsfold area conducted earlier this summer by Landmark.

Section 3a: Oil and Gas Exploration and Production

Any areas to be explored for their energy potential by the oil & gas industry must be licensed by the Oil and Gas Authority. Such exploration includes areas subject to hydraulic fracturing ("fracking") investigation.

Question	Response
Is the property within 4km of any licences or drilling wells that could indicate that onshore oil and gas exploration and production operations are or could happen in the area?	Yes

The poor neighbour activity proposed would result in an adverse impact on Waverley Borough Councils strategic housing delivery strategy in conflict with **Policy SS7 and SS7A Waverley Local Plan 2018 (Part 1), Policy D1, D2, H8, IC2, IC5 Waverley Retained Local Plan 2002 and Para 59-79 of the NPPF 2019.**

3. Impact on Local Businesses

In response to comments at the Planning committee the Applicant submitted a ‘Clarification Statement’ on the 19th August 2020, this sought to clarify the positive benefits on the local economy arising from the development as:

“Supporting a Prosperous Rural Economy

1.4 The Applicant anticipates the investment at Loxley will be approximately £6 million with significant expenditure retained in the local or Surrey-based economy. In addition, the income derived from farm diversification will secure the long-term viability of the supporting agricultural business, keeping it active within the rural economy and allowing the farmer who is the Loxley site landowner to continue a long tradition of sustainable countryside management.

Final Planning Balance

1.7 The economic effects of a proposal can be material planning considerations. Evidence should be impartial, independently verifiable and more than personal opinion or invective. In the opinion of the Applicant:

- *No evidence has been submitted to substantiate the claim that the proposal would have an adverse effect on the local economy;”*

Submissions have been made to SCC from a number of businesses that directly adjoin the application site and will be impacted by its presence and operation as a result of:

- Noise disturbance
- Visual intrusion, particularly for the wedding venue business
- Potential for obstruction to the access for these businesses
- Environmental pollution arising from both smell and impacts on the groundwater and biodiversity
- Impact on local business who supply the wedding venue and other businesses adjoining the site.

The loss to local business is estimated to be in the region of many millions based on annual turnover if local businesses were forced to close and the resultant impact on local supply chains.

By contrast, the claim by the Applicant that the oil well and exploration would benefit and diversify the local rural economy is grossly overstated. The majority of operational staff will need to be experienced and qualified to use the equipment. Anecdotal evidence from the operation at Horse Hill would suggest most of the sub-contractors are from the north and external to the immediate Surrey area. Even the security staff were contracted in from outside the area.

The proposal would result in an adverse impact on the local businesses and economy in conflict with

**MC14 of the Surrey Minerals Plan 2011,
Policy EE2, CC1 and RE3 of the Waverley Local Plan 2018 (Part 1),
Policy D1, D2, IC2, IC5 of the Waverley Retained Local Plan 2002
Para 80-84 of NPPF 2019.**

4. Landscape Impacts

The application site is located in undeveloped pasture-land within an area shown as ‘Countryside beyond the Green Belt’ in the adopted Local Plan Part 1 (LPP1) adopted 2018. Policy RE3: Landscape Character requires the protection of the distinctive character of the land defines as either the Surrey Hills Are of Outstanding Natural Beauty (AONB) or Area of Great Landscape Value (AGLV). The application site is outside the AONB but is within its setting but is within the AGLV.

The visual images provided by the Applicant seek to confirm that the oil rig equipment will not impact on the character and appearance of the landscape. This is simply not the case; the rig and base equipment will be visible within the landscape and the works will result in the removal of established hedgerows. If the application was for the erection of a telecommunications mast or a similar structure of a similar height and impact this would almost certainly be refused, there are a number of precedents of this in the area. The reason quoted is often the unacceptable visual intrusion of mechanical device in the protected landscape. The benefits to the local community of improved telecommunications is arguably much greater than any oil or gas production, especially in a period when all policy and guidance is promoting the reduction in use of carbon fuels.

5. Ecology and Biodiversity

Policy NE1: Biodiversity and Geological Conservation (LPP1) and policy D1: Environmental Implications of Development a retained policy of Local Plan 2002 (RLP) are fully assessed and where potential harm is identified then appropriate mitigation measures are put in place.

The true nature of the proposed drilling operations is not fully clarified or understood, the difference between the operation described and that of fracking can best be interpreted as marginal. The leaching of chemicals into the watercourse that has the potential for considerable impacts on the local community as well as wildlife and biodiversity is reason alone why the application should be refused.

The delivery of biodiversity net gains to help compensate for the development has also not been fully described. The design and form of the biodiversity net gain should be provided prior to the determination of the application and the management regime secured in a planning agreement. This is not the case.

6. Highways Safety

The proposed entrance to the scheme via the junction at High Loxley Road and the B2130 for large vehicles is agreed by all to be extremely restricted and dangerous.

The Dunsfold residents would also like to point out that the proposed 'temporary traffic light' scheme will be in place for period of 'three years', a long time. It will result in considerable nuisance for all road users when it does operate and an absolute highways safety hazard when it does not. As we are all aware temporary road signalling is prone to faults and breakages on a frequent basis, leaving the repair and maintenance of this to a contractor that claims to be largely absent from the site is really not acceptable.

The level of disruption and highways safety hazard thrust upon the local community is unacceptable given that no local benefits from the scheme whatsoever will arise and against: **Policy ST1 of the Waverley Local Plan 2018 (Part 1), Policy M17 of the Waverley Retained Local Plan 2002, Policy MC15 of the Surrey Minerals Plan 2011 and Policy 109 of the NPPF 2019**

7. Dunsfold Travellers site

In proposed exploration mining operations will encroach onto the Dunsfold Travellers site. As is the case in Dunsfold Village this activity has the potential to impact on the established living conditions and viability of the travellers' site. The poor neighbour activity proposed would result in an adverse impact on Waverley Borough Councils traveller's accommodation strategy in conflict with **Waverley Local Plan 2018 (Part 1) Policy D1, D2, H11, Waverley Retained Local Plan 2002 and the NPPF 2019.**

8.0 Conclusions

- 8.1 This Proof has set out the most important development plan policies which apply to the appeal proposal and considers the weight to be accorded to them dependant on their age and consistency with the NPPF. The majority of the Policies which are considered to be most important to the determination of the appeal are within the SWP and supported by the Local Plan (Part 1) 2018 and retained Local Plan Policies which is considered fully up to date. SCC and WBC have also declared a climate emergency, the proposed development and its output is contrary to the objectives of the declarations.
- 8.2 The Proof assesses the development against existing Development Plan policies within the framework provided by Paragraph 11 of the NPPF. The proposed development is considered to be located in an area which is not suitable for an industrial operation of the scale and form proposed. Access to the site along Dunsfold Road and in particular at the junction with High Loxley Road is not suitable for HGV movements as proposed. It would have a harmful impact on the countryside and the AGLV in which it is located.
- 8.3 The proposal therefore breaches significant policies within the SWP and Local Plan (Part 1) 2018 and is considered to conflict with the development plan as a whole.
- 8.4 WBC has considered the material considerations relevant to this development in order to establish if there are any that indicate that the application should not be determined in accordance with the development plan. These considerations include the NPPF and the PPG, as well as the planning benefits of the proposal and the need for fossil fuels in the Borough and nation-wide.
- 8.5 The benefits arising from the scheme on a local level are considered to be negligible, on a national level they are also negligible. The harm arising from the scheme is considered to be modest to potentially significant. The planning balance assessment concludes that the harm arising from the scheme is not outweighed by the benefits and the mitigation measures proposed by the applicant does not adequately address the identified harm.
- 8.6 In conclusion, I have set out my assessment of the planning balance of the scheme above. On this basis, I conclude that planning permission should be refused and respectfully request that the Inspector dismiss the appeal.

Appendices

Appendix 1 WBC letter to SCC Representation on Application 5 August 2019

Appendix 2 - Dunsfold Residents Representations Letter 11 November 2020

Appendix 3 - WBC Letter to SCC 19th November 2020

Appendix 4 – WBC Letter to SCC 25th November 2020



OPENING STATEMENT

Appeal at: Land south of Dunsfold Road and east of High Loxley Road, Dunsfold, Surrey.

REFERENCE: APP/B3600/W/21/3268579
(Application reference WA/2019/0796)

June 2021

INTRODUCTION

- 1 My name is Patrick Arthurs, I am a Planning Director at Arthurs Planning and Development Ltd, I have been instructed by Waverley Borough Council (WBC) to prepare the Rule 6 Planning Appeal evidence to support their initial representations to the determining authority Surrey County Council (SCC). WBC supports the refusal of the application by SCC, however the reasons for refusal did not take into account some of the valid planning concerns raised before and at the Planning Committee. WBC would ask that the Inspector also considers the planning merits of these issues as outlined in the Planning Balance assessment.
- 2 The key issues that I have identified in my evidence has evolved from the views expressed by the local community, businesses, elected WBC Members and Dunsfold Parish Members.
- 3 In order to fully understand the range of views and concerns of local residents and interested groups, they were invited by Waverley Borough Council to an Executive Listening Panel on the 23rd July 2019. Twenty-one individual speakers attended, the speakers represented adjoining residential properties and businesses, Parish Councils, Borough residents, campaign groups and individuals who have had experience of similar drill sites in the Southeast, made presentations to the Listening Panel. The comments and observations made at the Listening Panel were submitted to Surrey County Council. Approximately 180 representations raising an objection to the proposed development were made.
- 4 Waverley BC are of the opinion, at its heart, this remains a very simple appeal. Due to the continued efforts of all parties over the course of the appeal preparation the range and number of issues between the parties has not narrowed significantly. The key issues which remain between the SCC, WB Council and the Appellant is the acceptability of the acknowledged “noticeable” impact of the appeal scheme on the landscape, particularly the Surrey Hills AONB and the AGLV and the highways safety concerns arising from a mitigation strategy that is prone to both mechanical and human error. Other planning matters that WBD would like the Inspector to consider are raised in the overall planning balance assessment.
- 5 The determination of the landscape and highways safety considerations is undoubtedly a matter of subjective judgment and so the main task of the inquiry is

arguably to establish the correct decision-making framework and ensure all relevant information is considered.

- 6 In applying this information to the decision-making framework, the Council will invite the Inspector to agree with SCC as Minerals Planning Authority, who determined the application not once but twice, and concluded the appeal site was too important within the AGLV and setting of the AONB for development of the nature proposed to take place. It will be contested that the highways solution to secure safe access to the site is simply not practical or deliverable and real highways safety concerns remain. Encroachment onto the grass verges, which is Common Land, by HGV vehicles is inevitable and permission for this has not been sought and is unlikely to be granted.

LANDSCAPE

7. WBC will call an experienced landscape witness, Mr John-Paul Friend, who will demonstrate that the sensitivity of the site and surrounding context is high. There is a strong relationship between the appeal site and the adjoining Surrey Hills AONB, and, given the appeal site's complementary rural character within the area identified as AGLV within the Local Plan, it makes a significant contribution to the special qualities of the AONB that define its character. The recently updated NPPF acknowledges this important relationship, Para 176 states: The scale of development in all National Parks and AONB's should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas"
8. The site exhibits a number of the key characteristics outlined by studies from national to local level and a clear thread of characteristics can be seen within them. Mr Friend identifies the substantial adverse landscape impact caused by the proposed development will be noticed from within the AONB and surrounding landscape within the AGLV during daylight and night- time hours over the three-year period of the sites construction, operation and remediation.
- 9 Mr Friend points in particular to the conflict with three special landscape qualities, defined as (1) wide, unspoilt and expansive panoramic views; (2) areas of high tranquillity, natural nightscapes; and (3) a variety in the setting to the AONB. The identification of the AONB's setting as a special quality in and of itself is further explained in the AONB Management Plan: the AONB's rural hinterland of undeveloped countryside is particularly significant because part of its natural beauty derives from wide panoramic views, and as such the deeply rural character of the land adjoining the AONB forms an "essential setting" to the AONB. As to "tranquillity" as a special quality, Mr Friend will point out that the relevant consideration is "relative", not absolute tranquillity, and because the appeal

development would not conserve and enhance the tranquillity of the AONB or its hinterland, as a matter of common sense, it harms that special quality.

10. Mr Friend has identified a number of locations, including some views from the AONB, where the visual effects of the development would be significantly adverse – and contrary to the applicant’s assessment findings. The Inspector will be invited to consider the impact of the development on these specific views during their site visit.
11. Importantly, both Mr Friend and the SCC landscape witness Liz Brown, considered the impact of the development once mitigation was established. They both concluded that when a logical methodology is followed, the assessed landscape effects will remain materially adverse after mitigation measures have been introduced. The degree of residual harm would remain unacceptable – contrary to the applicant’s assessment. The proposed mitigation measures cannot mitigate the potential landscape effects of the proposed development due to its height and the 24 hours lighting required.
12. As the landscape effects remain significant in landscape terms after an optimal reduction in adverse effect due to the mitigation measures, the site cannot become less than significant in landscape impact terms. The substantial adverse landscape and visual matters associated with this scheme are a reason to withhold planning permission in this case.

PLANNING BALANCE

13. In order to draw a planning balance in this case I consider the proposals against the framework outlined in Paragraph 11 of the NPPF and the up-to-date development plan (part C of Paragraph 11). Matters not listed in the reasons for refusal but were considered by the determining authority should also be factored into the planning balance assessment.
14. The weight which can be afforded to the benefits of the scheme are also assessed and balanced against the identified planning policy impacts.

1 - Whether the proposal accords with the up to date development plan

15. The proposed development fails to accord with Policies MC15 and MC14(iii) of the Surrey Minerals Plan Core strategy 2011 as stated in the reasons for refusal. In addition, WBC consider that the proposals are contrary to Policy SP1, SP2, ST1, AHN4, EE2, RE1, RE3, NE1, CC1, CC3, SS7 and SS7A of the Waverley Local Plan (Part 1) 2018. Policy D1, D2, D5, C6, H8, IC2, IC5, RD8 and M17 of LLP2, 2002.

Needs Case

- 16 The Applicant in their Statement of Case and Proof reaffirmed that the 'need' for the well was to ultimately supply gas and possibly oil from an indigenous source to meet UK demand that was ultimately more sustainable and in the interests of climate change than purchasing the product from alternative sources. The Weald Action Group raised a number of key areas of concern, that are summarised below:
- National Energy and Planning Policy is Evolving to ensure a reduction in carbon emissions: The 2020 Energy White Paper (EWP) has climate change at its core and the move away from reliance on fossil fuels. Commitment is targeted at the offshore sector.
 - 2020 Carbon Budget Report refers to demand for gas is falling, by 75% by 2050.
 - Onshore gas has a negligible impact on maintaining secure gas supplies at 0.5%.
 - Onshore gas production will have a negative impact on greenhouse gas emissions.
 - Fracking Moratorium in 2019 - scaled back on shore production and in some respects confirms drilling on land as being unsuitable in the UK.
 - Rise in renewables reduced oil and gas demand by 20%.
 - Updated NPPF 2021 has sustainable development as a core principle, para 7 now includes reference to the UN 17 Global Goals for Sustainable Development to 2030 – with a shift and greater focus on tackling climate change.
- 17 WBC agree with and support the stance of the Weald Action Group. The need for the operation in this site adjacent to the Surrey Hills AONB and within AGLV is not justified, alternative site selection is not considered to be robust.

Economy

- 18 The Applicant in their Statement of Case claims that the proposed oil well development will result in up to £6 million investment, increased to 7m in proof of evidence, on the site with 'significant expenditure retained in the local or Surrey based economy'. The benefits are felt to be overstated and unfounded.

- 19 What is clear is the potential negative impacts of the well and its operation on the established and valued local businesses that directly adjoin the application site, which include a wedding venue, cancer festival, brewery, and farmlands. Resulting in potential losses of several million £ per annum to the local economy.
- 20 The applicant has sought to justify the drilling operation as a farm diversification activity that would be supported by Policy RD8 (LP 2002). The nature of the operation would not be supported by the policy and the need for it to support the existing farm operation has not been fully justified.
- 21 The proposal would result in an adverse impact on the local businesses and economy in conflict with MC14 of the Surrey Minerals Plan 2011, Policy EE2, CC1 and RE3 of the Waverley Local Plan 2018 (Part 1), Policy D1, D2, IC2, IC5 of the Waverley Retained Local Plan 2002, Para 81-85 of revised NPPF 2021.

Habitat and Ecology

- 22 The proposed development will result in the loss of trees and hedgerows on the site, harm will therefore result in not only the historic field patterns but also in the loss of valuable habitat. Mitigation needs to be enhanced in order to address this.
- 23 Concern remains in relation to lighting and noise impacts on local wildlife and their habitat.
- 24 In order to ensure that appropriate safeguards are put in place and that the site is returned to open countryside following the completion of the drilling operation, a bond should be provided by the applicant prior to the commencement of development to cover the cost of reinstatement.
25. The applicant has argued that there is no/acceptable risk of contamination on the site platform and within the lower ground rock formations as a result of the proposed operations. The very nature of the operation is vulnerable to accidents and as a result chemicals used and minerals extracted could find their way into the watercourse, with impacts on the local community as well as wildlife and biodiversity.

26 Waste

As part of the EA permitting for the operation there is a requirement to assess the waste streams in greater detail, and further details should be provided on how contamination will be managed in the event of waste spillage on site.

Housing delivery

- 27 The proposed exploration mining operations will encroach onto the Dunsfold

Aerodrome site, as indicated in plan ZG-UKOG-L1-PA-02, Hydrocarbon Exploration Testing and Appraisal – Planning Statement and Environmental Report (File 1 of 2), 19th April 2019, submitted with the application and attached to this letter for ease of reference. The plan shows that the UKOG's drilling operation will occur directly beneath Dunsfold Garden Village.

- 28 The proposed exploration operations have the potential to impact on the delivery and viability of the strategically important Dunsfold Garden Village residential development that has been granted planning permission. Environmental searches conducted on behalf of prospective purchasers of property in the area by their legal advisors are already being alerted to the prospect of onshore oil and gas exploration and production.

Dunsfold Travellers Site

- 29 In proposed exploration mining operations will encroach onto the Dunsfold Travellers site. As is the case in Dunsfold Village this activity has the potential to impact on the established living conditions and viability of the travellers' site.

The weight which can be afforded to the benefits of the scheme

- 30 The key benefit is the provision of gas and oil resources to meet a national need.
- 31 The investment of £6/7m in the oil well drilling infrastructure.
- 32 The construction activities are likely to create jobs and bring some economic benefits, including through GVA and direct employment.
- 33 In conclusion of the planning balance assessment I consider that:
- The benefits of the scheme are considered to be limited and would not outweigh the significant and demonstrable harm created to the site in the open countryside and within an AGLV.
 - The scheme would have a negative impact on local businesses and residents as a result of its visual intrusion in the open countryside and loss of amenity from noise and disturbance

CONCLUSION

- 34 As such the appeal proposal conflicts with the development plan, would lead to significant, demonstrable, and unacceptable highways and landscape harm, harm to local residents and business, harm to the ecological and environmental quality of the site and that no material benefits or consideration indicates that permission ought to be determined other than in accordance with the development plan.

- 35 Waverley Borough Council will accordingly request that the SCC decision is respected, and the appeal be dismissed.



CLOSING STATEMENT

Appeal at: Land south of Dunsfold Road and east of High Loxley Road, Dunsfold, Surrey.

REFERENCE: APP/B3600/W/21/3268579
(Application reference WA/2019/0796)

AUGUST 2021

LOXLEY WELL INQUIRY

CLOSING SUBMISSIONS ON BEHALF OF THE WAVERLEY BOROUGH COUNCIL AND DUNSFOLD PARISH COUNCIL

1. The appeal proposal fails to comply with material provisions of the Development Plan and is contrary to the NPPF (revision 2021) for the reasons set out below.
2. Whilst the application is for a temporary period of 3 years, important principles will be set by the grant of permission in relation to the scale and type of development proposed in the planning application. Any future application for oil and gas extraction at the site will rely heavily on the fact that the principle of site access, impact on the AONB and valued countryside, as well as impact on local residents and businesses have been considered acceptable.
3. As a result, local residents' lives and future of local businesses will be greatly impacted.

The Evidence

4. Insofar as there is a tension between the primary evidence on the need for the gas exploration activity, creation of a safe vehicle access, impacts on landscape, and the impact on the amenity of residents and businesses given by the respective witnesses, the evidence provided on behalf of Surrey County Council as the determining Minerals Authority and the Rule 6 Parties (including Waverley BC and Dunsfold Parish Council) should be preferred for the following reasons:

Highways Safety

5. The access to the site is off the B2130 Dunsfold Road at a very narrow and sharp bend onto a single lane unclassified High Loxley Road. The Applicant claims in their Proof and in Evidence in Chief (EiC) that the vehicles accessing the site are largely confined to the higher classification road network. This will only be the case if adequate management arrangements are put in place. However, it does not detract from the fact that Dunsfold Road and High Loxley Lane are not suitable or adequate to accommodate large heavy goods vehicles (HGV's) and abnormal indivisible load vehicles (AILV)
6. As stated by Mr Graham Foulks (GF - SCC Highways Witness) that the additional heavy goods vehicle would be liable to add unacceptably to the poor accident record on the

B2130. The B2130 Dunsfold Road comprises two 90-degree bends which force heavy goods vehicles to cross the centreline of the road – this would compromise highways safety to an unacceptable degree.

7. An alternative assessment for vehicles accessing the site from the west, in the event that the B2130 Dunsfold Road from the A281 Horsham Road is closed, has not been undertaken. As a result, the transport assessment is considered to be incomplete.
8. The Applicant technical assessments and Appeal evidence claims that sufficient visibility splays can be achieved at the proposed access junction onto High Loxley Road, and at the High Loxley Road/Dunsfold Road junction. Swept path analysis indicates the need for localised carriageway widening to enable all construction vehicles, including HGV and AILV to safely navigate the route and turn into the unclassified High Loxley Road – that is between 2.5-3.1 m but will need to accommodate vehicles that are 3.5m wide – as referenced in plan LTP/3134/03/04.01.C and 02.B.
9. The area required for the carriageway widening is on grass verge areas. The grass verge area was classified as ‘common land’ and remains so on SCC mapping system, the applicants Counsel provided a note dated 4 August 2021 to confirm that 3ft (0.91m) of the verge is now highways-maintained land. WBC remains of the view that even if highway-maintained the verges should be retained and that SCC was to do so in the public interest.
10. The proposed Access Layout Plan at Pratts Corner, CD.A3/PA-14, confirms the extent of land required to achieve access from Dunsfold Road into High Loxley Road. As the access is extremely restricted significant, intrusion onto the grass verge areas is required. WBC remains concerned that the scheme as drawn encroached onto Common Land and no measures of provision to protect the grass verges has been made. The scheme as drawn will result in both the degradation of the highways verges and have a negative impact on highways safety at this dangerous junction.
11. As stated by Mr.Foulks in his EiC the provision of the temporary traffic signals at Pratts Corner could pose issues for the safe operation of the local network, the proposal was described as extraordinary and unworkable. There is conflict with Surrey County Council’s Minerals Plan Core Strategy Policy MC15 (ii) because the road is not of a sufficient highway standard to accommodate the development traffic. To put this in context the Carriageway Widening Preliminary Design LTP/3134/03/03.01.C identifies 56 pieces of equipment that have to be placed on and off the road to allow the larger vehicles to turn into and out of High Loxley Lane. No time assessment of this operation was provided in the EiC, but concern must remain at the nature and scale of the operation and the implications if it fails due to technical and human error.
12. As stated by Mr.Foulkes in his EiC there is conflict with Policy MC15 (iii) because the temporary traffic management traffic signals give rise to lengthy cycle times, as well as set

up times, meaning that there could be non-compliance by other road users which could cause extra unnecessary accidents and delays.

13. Last weekend August 8th a car careered off the road into the undergrowth at Pratts Corner, this only helps to emphasise just how dangerous this corner junction is and how the arrangement proposed simply is unworkable in practice. A car also came off the road at one of the 90-degree bends on Dunsfold Road on Thursday 12th August. A more obvious expression of how this stretch of road is presently considered dangerous and unsuited to HGV and AILV vehicles is difficult to imagine.



Landscape

14. Both Elisabeth Brown (EB) and John-Paul Friends (JPF), Landscape PoE are detailed, thorough and measured documents. Both witnesses dealt thoroughly with the policy framework setting out the nature and constraints of the site, within the local, and district landscape. They set out their conclusions on issues of landscape harm and visual impact respectively. It is my view that they did not seek to exaggerate SCC or WBC's case and grappled with elements where their judgment simply differed from that of Mr Will Gardener (WG), EDP (the applicants landscape witness).
15. WG in his PoE was carefully selective in his treatment of the applicable guidance, and in a number of cases simply wrong in his approach to it. The errors in his approach were ones not only of understanding and applying policy but also related to matters of substantive analysis of the impacts of the proposed scheme.

16. In relation to the NPPF WG is not accurate in his interpretation to the Para 174 assessment. Both LB and JPF concluded in the EiC that using the guidance contained in GLVIA Box 5.1 to help in the identification of 'valued landscapes' the site must be considered as such. There were no material factors that could possibly exclude the application site from being considered as a 'valued landscape' within the AGLV and that the Para 174 assessment would confirm the scheme would result in harm to this 'valued landscape'.
17. The recently updated NPPF acknowledges the important relationship that open countryside has in the setting of the AONB, Para 176 states: "The scale of development in all National Parks and AONB's should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas". The strong and obvious relationship between the appeal site and the adjoining Surrey Hills AONB was established in JPF and EB EiC and PE and, given the appeal site's complementary rural character within the area identified as AGLV within the Local Plan, it makes a significant contribution to the special qualities of the AONB that define its character.
18. JPF and EB assessments conclude that substantial adverse landscape impact caused by the proposed development will be noticed from within the AONB and surrounding landscape within the AGLV during daylight and night- time hours over the three-year period of the site's operation. It is difficult to comprehend how the proposed operations listed below cannot have an obvious and harmful impact on the AONB, AGLV and 'valued landscape':
- a 37m and 35m drilling rigs, complete with lighting (the Brighton Pier Booster!),
 - the raised well compound complete with 4m high fencing that measures 126m x 93m (equivalent to 2 football pitches),
 - 25m high coil tubing unit,
 - 9m high mobile lighting towers,
 - Up to 12 m high shrouded flares,
 - Temporary storage tanks, portable cabins and amenity facilities up to 3m high,
 - Removal of 55-60m of existing hedge on High Loxley Road to achieve access to the application site – with accompanying hardstanding area with access gates and portacabin
 - Temporary access arrangements at Pratts Corner will be adjacent to the AONB and will introduce an urbanising element to the rural character of the landscape.
19. Mr Friend points in particular to the conflict with three special landscape qualities, defined as (1) wide, unspoilt and expansive panoramic views; (2) areas of high tranquillity, natural nightscapes; and (3) a variety in the setting to the AONB. The identification of the AONB's setting as a special quality in and of itself is further explained in the AONB Management Plan: the AONB's rural hinterland of undeveloped countryside is particularly significant because part of its natural beauty derives from wide panoramic views, and as such the

deeply rural character of the land adjoining the AONB forms an “essential setting” to the AONB. JPF confirmed that the tranquillity consideration is “relative”, absolute tranquillity is not a requirement. The appeal development would not conserve and enhance the tranquillity of the AONB or its hinterland, as a matter of common sense, it must therefore harm that special quality.

20. MPF and EB have identified a number of additional locations, including some views from the AONB, where the visual effects of the development would be significantly adverse and contrary to the applicant’s assessment findings. Indeed, public footpath FP277 was identified as not having been identified on views by EB; this path connects Hascombe Hill with Dunsfold and Cranleigh and is considered to have specific ‘rarity’ value.
21. The tree felling licence granted at the Burchetts wood was not taken into account in the original assessments. MPF and EB have identified that this would further expose the proposed exploration site to the wider countryside and AONB, resulting in harm. The Hascombe Estate confirmed the timescale and programme for felling will commence in the Autumn, access will be provided from Thatchedhouse Farm.
22. Importantly, both JPF and EB considered the impact of the development once mitigation was established. They both concluded that when a logical methodology is followed, the assessed landscape effects will remain materially adverse after mitigation measures have been introduced. The degree of residual harm would remain unacceptable – contrary to the applicant’s assessment. The proposed mitigation measures cannot mitigate the potential landscape effects of the proposed development due to its height, footprint and the 24 hours lighting required. During the use of the site for drilling operations the magnitude of change may fluctuate but will never fall below medium. On a site defined as having a sensitivity rating to change as high, the outcome would be moderate adverse, resulting in a material landscape effect – and not minor material as suggested by the applicant.
23. The temporal impacts including the site retention were discussed at length by all of the landscape witnesses. Both JPF and EB were of the opinion that even if the mitigation landscape planting, described in Phase 4, were to be successful that the period from the commenced of development until the mitigation of landscape harm is at an acceptable level was 10+ years. As a result, the impacts of the operation are medium to long term and not short-term as suggested.

The Planning Balance

24. The harm demonstrated by the highways and landscape evidence is entitled to substantial weight. The harm of the kind described in the evidence is credible and fully justified, it substantiates the stated reasons for refusal alone. However, as presented at the Inquiry additional planning reasons should also be considered as part of the wider Planning Balance assessment. These are summarised below.

25. The proposed development fails to accord with Policies MC15 and MC14(iii) of the Surrey Minerals Plan Core strategy 2011 as stated in the reasons for refusal. In addition, WBC consider that the proposals are contrary to Policy SP1, SP2, ST1, AHN4, EE2, RE1, RE3, NE1, CC1, CC3, SS7 and SS7A of the Waverley Local Plan (Part 1) 2018. Policy D1, D2, D5, C6, H8, IC2, IC5, RD8 and M17 of LLP2, 2002.

Needs Case

26. The Applicant in their PoE and EiC reaffirmed that the 'need' for the well was to ultimately supply gas and possibly oil from an indigenous source to meet UK demand that was ultimately more sustainable and in the interests of climate change than purchasing the product from alternative sources. The Weald Action Group raised a number of key areas of concern, that are summarised below:
- National Energy and Planning Policy is Evolving to ensure a reduction in carbon emissions: The 2020 Energy White Paper (EWP) has climate change at its core and the move away from reliance on fossil fuels. Commitment is targeted at the offshore sector.
 - 2020 Carbon Budget Report refers to demand for gas is falling by 75% by 2050.
 - Onshore gas has a negligible impact on maintaining secure gas supplies at 0.5%.
 - Onshore gas production will have a negative impact on greenhouse gas emissions.
 - Fracking Moratorium in 2019 - scaled back on shore production and in some respects confirms drilling on land as being unsuitable in the UK.
 - Rise in renewables reduced oil and gas demand by 20%.
 - Updated NPPF 2021 has sustainable development as a core principle, para 7 now includes reference to the UN 17 Global Goals for Sustainable Development to 2030 – with a shift and greater focus on tackling climate change.
27. **Post EiC hearings note:** [[On the 10th August 2021 a sober assessment of our planet's future was delivered by the UN's Intergovernmental Panel on Climate Change (IPCC), a group of scientists whose findings are endorsed by the world's governments. The landmark study warns of increasingly extreme heatwaves, droughts and flooding, and a key temperature limit being broken in just over a decade. The report "is a code red for humanity", says the UN chief. Their report is the first major review of the science of climate change since 2013.
28. Scientists say a catastrophe can be avoided if the world acts fast. There is hope that deep cuts in emissions of greenhouse gases could stabilise rising temperatures. The scientists are more hopeful that if we can cut global emissions in half by 2030 and reach net zero by the middle of this century, we can halt and possibly reverse the rise in temperatures. Echoing the scientists' findings, UN Secretary General António Guterres said: "If we combine forces now, we can avert climate catastrophe. But, as today's report makes clear,

there is no time for delay and no room for excuses. I count on government leaders and all stakeholders to ensure COP26 is a success."

29. One of the key findings in the IPCC report is that emissions of methane have made a huge contribution to current warming. The study suggested that 30-50% of the current rise in temperatures is down to this powerful, but short-lived gas. Major sources of methane include agriculture, and leaks from oil and gas production and landfills. A further reduction in the exploration and mining of gas and oil has been made possible as renewable energy, biofuel and hydrogen technologies and outputs have developed and output increased significantly in the past ten years.]]
30. WBC agree with and support the stance of the Weald Action Group. Climate Emergencies have been declared by both SCC and WBV, the lag and inconsistency in the policy approach of the Minerals Local Plan and Local Plan will be addressed as part of plan reviews in line with the NPPF guidance. The need for the operation in this site adjacent to the Surrey Hills AONB and within AGLV is not justified, in fact it is contrary to the very core sustainability principles of the newly published NPPF 2021
31. The alternative site selection is not considered to be robust, the absolute need to utilise this site has not been justified. In cross examination SS confirmed that the application site location was 'less than optimal'. The expert witnesses confirmed that no specialist landscape and highways input into the original site selection process was provided. It was suggested that the site selection was 'opportunistic' in nature and based on which landowner would be open to an agreement. SS could neither confirm nor deny this suggestion.

Local Economy

32. Mr Tom Gordan (TG) from High Billingshurst Farm (wedding venue) and Mr Ashley Herman (AH) from Thatchedhouse Farm (Cancer Charity and Brewery) provided evidence in relation to the potential negative impacts of the well and its operation on the established and valued local businesses that directly adjoin the application site. The drilling operation and lorry movements will be directly visible from both properties that operate on the unique selling point of their peaceful and unspoilt county location looking across open fields and up to the AONB. The proposed operation will result in potential loss of several million £ per annum to the local economy.
33. The applicant has sought to justify the drilling operation as a farm diversification activity that would be supported by Policy RD8 (LP 2002). The nature of the operation would not be supported by the policy and the need for it to support the existing farm operation has not been fully justified.
34. The proposal would result in an adverse impact on the local businesses and economy in conflict with MC14 of the Surrey Minerals Plan 2011, Policy EE2, CC1 and RE3 of the

Waverley Local Plan 2018 (Part 1), Policy D1, D2, IC2, IC5 of the Waverley Retained Local Plan 2002, Para 81-85 of revised NPPF 2021.

Impact on Amenity

35. Whilst WBC accept that if there is strict compliance with the suggested planning conditions the negative impacts arising from noise, air and water pollution can be managed to acceptable levels. However, harm will nonetheless arise due to the industrial nature of the proposed exploration and its close proximity to sensitive residential and business receptors.
36. These properties presently enjoy a peaceful country location where both daytime and night time noise and air pollution levels are very low. The operation of the drill, generators, flares and vehicle movements will demonstrably alter this in a negative way. These impacts should be considered as part of the overall planning balance assessment.

Housing delivery

37. The proposed exploration mining operations will encroach onto the Dunsfold Aerodrome site, as confirmed by Mr. Kris Bone (KK) UKOG, and indicated in plan ZG-UKOG-L1-PA-02, Hydrocarbon Exploration Testing and Appraisal – UKOG’s drilling operation will occur directly beneath Dunsfold Garden Village. In fact, it is this location that is the desired area for gas and oil extraction.
38. The proposed exploration operations have the potential to impact on the delivery and viability of the strategically important Dunsfold Garden Village residential development that has been granted planning permission. Environmental searches conducted on behalf of prospective purchasers of property in the area by their legal advisors are already being alerted to the prospect of onshore oil and gas exploration and production. The perception of operations associated with gas and oil extraction under the site may be a deterrent to some purchasers – even if fracking is not part of the extraction process.

Dunsfold Travellers Site

39. In proposed exploration mining operations will encroach onto the Dunsfold travellers site. As is the case in Dunsfold Village this activity has the potential to impact on the established living conditions and general amenity at the travellers’ site.

Site Bond

40. WBC have requested a bond is provided to ensure the highway and indeed the site is returned to its present state. Suring EIC SS confirmed the less than robust financial standing of UKOG and NM confirmed that action had been taken to enforce site restoration at the Markwells Wood site in West Sussex. In view of this uncertainty the Inspector is

requested to consider the need for a bond at the site to ensure the highway and landscape is restored to a satisfactory state within the timescales agreed in the event that the Appeal is allowed.

The Benefits of the Scheme

41. The key benefit of the proposed operation output as suggested by the applicant is the provision of gas and oil resources to meet a national need. Alternatives to meeting the nations energy needs in a more sustainable form are already available. The production and use of fossil fuels will harm the environment; this is now an undisputed fact. Any appraisal of the national benefit of these resources must be balanced against the cost to wider society and the harm to the fragile environment we live in – in accordance with NPPF 2021.
42. The Applicant in their PoE and EiC claims that the proposed oil well development will result in up to £6-7 million investment on the site with ‘significant expenditure retained in the local or Surrey based economy’. The benefits of the investment on a national level will be minor and the positive impact on the local Surrey and South-East area limited.
43. SS and NM in their EiC confirmed that the stated benefits in kind arising from the exploration operation were not based on any confirmed monitoring of local impacts. The claim should, therefore, be excluded from any assessment.

Conclusion

1. The inspector is respectfully invited to dismiss the appeal.



Department for Levelling Up,
Housing & Communities

Mr Grant Anderson
Hill Dickinson
50 Fountain Street
Manchester M2 2AS

Our ref: APP/B3600/W/21/3268579
Your ref: WA/2019/0796

7 June 2022

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY UKOG (234) LTD
LAND SOUTH OF DUNSFOLD ROAD AND EAST OF HIGH LOXLEY ROAD,
DUNSFOLD, SURREY
APPLICATION REF: WA/2019/0796**

This decision was made by the Minister of State for Housing, Stuart Andrew MP, on behalf of the Secretary of State, and signed on his behalf

1. I am directed by the Secretary of State to say that consideration has been given to the report of Mike Robins MSc BCc (Hons) MRTPI, who held a public local inquiry which opened on 27 July 2021 into your client's appeal against the decision of Surrey County Council to refuse your client's application for planning permission for the construction, operation and decommissioning of a well site for the exploration and appraisal of hydrocarbon minerals from one exploratory borehole (Loxley-1) and one side - track borehole (Loxley - 1z) for a temporary period of three years involving the siting of plant and equipment, the construction of a new access track, a new highway junction with High Loxley Road, highway improvements at the junction of High Loxley Road and Dunsfold Road and the erection of a boundary fence and entrance gates with restoration to agriculture, in accordance with application Ref. WA/2019/0796, dated 26 April 2019.
2. On 5 January 2022, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

5. One representation has been received since the Inquiry, as set out at Annex A. A copy of this letter may be obtained on request to the email address at the foot of the first page of this letter.
6. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties.

Costs

7. An application for for a partial award of costs has been made by your client against Surrey County Council (SCC) (IR1.1). This application is the subject of a separate decision letter.

Policy and statutory considerations

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan consists of the Surrey Minerals Plan adopted 2011 (SMP); the Waverley Borough Local Plan Part 1: Strategic Policies and Sites, adopted February 2018 (the WLP); and the Waverley Borough Council Local Plan (Saved Policies) 2002 (LP2002). The Secretary of State considers that relevant development plan policies to the appeal are those set out in the Statement of Common Ground (SoCG) (IR3.14).
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Overarching National Policy Statement for Energy (EN1) (IR3.7-3.10), The Energy White Paper (IR3.11) and the Climate Change Committee (CCC) advice (IR3.12).

Emerging plan

11. The emerging plan comprises the emerging Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies. The Secretary of State considers that the emerging policies of most relevance to this case include those set out in the Statement of Common Ground (SoCG) (IR3.14).
12. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The emerging Plan has been submitted for Examination with adoption

scheduled for September/October 2022. As the Plan has yet to be examined, the Secretary of State considers that it and its emerging policies carry limited weight.

Main issues

13. The Secretary of State agrees that the main issues are those set out by the Inspector at IR 11.2.

Landscape Character and Appearance

14. The Secretary of State agrees with the Inspector's analysis of the landscape and visual context at IR11.3-11.9, and further agrees with the Inspector's analysis of landscape and visual sensitivity at IR11.10-11.21. He agrees with the Inspector's conclusions at IR11.21 that overall this cannot be considered a valued landscape in Framework terms. Like the Inspector he finds it is a landscape that is clearly valued by local residents and the associated businesses and agrees that it has value from its function as an AGLV, and as setting to, and buffer on the edge of the AONB (IR11.112), He also agrees (IR11.21) that it retains protection, both in policy terms and within the Framework.

Landscape and Visual Effects

15. For the reasons given at IR11.22-11.45, the Secretary of State agrees that there would be a significant level of landscape and visual impacts from the proposal, dependent on a number of factors, particularly including the period of operation and, allowing for restoration, its reversibility (IR11.45).

Timeframes

16. For the reasons given at IR11.46-11.52, the Secretary of State agrees that the effects of the proposal would be short term, and that while there may be evidence of the construction elements and hedgerow loss for a period after the end of the temporary permission, very significant improvement should have been made and the level of harm accordingly reduced (IR11.52). However, he further agrees that there are significant harms to the character and appearance of the landscape from the proposal, and that while the scale of this harm is tempered by its short-term nature, the harm is to the AONB, its setting, and the AGLV (IR11.53).

The Site Investigation Report

17. The Secretary of State agrees with the Inspector's analysis of the Site Investigation Report at IR11.54-11.62. He further agrees with his conclusions at IR11.64 that it has not been demonstrated that the site has been selected to minimise adverse environmental impacts and therefore conflicts with SMP Policy MC12. For the reasons given at IR11.64 the Secretary of State agrees that the weight given to this conflict is tempered by an acknowledgement that there would be environmental constraints associated with sites within an area that would meet the significant technical constraints.

Conclusion on Landscape and Visual Impacts

18. The Secretary of State agrees for the reasons given IR11.22-11.64 and at IR11.112 that the proposal would result in harm to the landscape character and appearance of the area and degrade the qualities of the setting of the AONB (IR11.112). He further agrees that while there are only limited effects on the AONB itself, it is of a high sensitivity (IR11.112). As such he agrees that the proposal conflicts with SMP Policy MC14

(IR11.63) and WLP policies in that regard (IR11.113). However, he further agrees for the reasons given at IR11.63, 11.113 and 11.129 that the weight given to this harm is tempered by the short-term nature of the proposals.

Effect on Living Conditions and Local Businesses

19. For the reasons given at IR11.66-11.71 the Secretary of State agrees with the Inspector that while there would be some change in the noise environment, assessed against the predicted noise levels, with conditional controls to ensure compliance with those levels, there is nothing to suggest that the site would not meet the expected guidance standard during the temporary period of operations (IR11.71). Similarly, with respect to vibration, for the reasons given at IR11.72 he agrees with the Inspector that this will not be significant during the drilling phases. Furthermore, during construction and reprofiling of the site there may be some vibration but the Secretary of State, like the Inspector, finds no reason to consider that the effects would be perceived at distance to the nearest receptors.
20. For the reasons given at IR11.73-11.74 in respect of the Trew Fields Festival, the Secretary of State agrees that the proposal would not compromise the festival (IR11.74).
21. In respect to the wedding business at High Billingham Farm, the Secretary of State agrees, for the reasons given at IR11.75-11.79, that in light of the temporary nature of the proposal, and the mitigation measures that would be secured through conditions, the potential for negative perceptions of the venue would contribute a moderate level of additional weight to the harm to the overall character and appearance of the area. He further agrees that in this regard the proposal would be contrary to Policy MC14 of the SMP in this regard (IR11.79).

Conclusion on Landscape Character and Appearance and Effect on Living Conditions and Local Businesses

22. For the reasons given above, and at IR11.129, the Secretary of State agrees with the Inspector that the harms he has identified can be tempered by their short-term nature and by mitigation through conditions, specifically those associated with noise, lighting and the coordinated working with neighbouring businesses. He further agrees that the weight given to the harms, while significant for short periods such as when the drilling rigs are in place, can nonetheless be considered overall as moderate.

Highway Matters

23. In respect of traffic generation projected for the scheme, for the reasons given at IR11.80-11.103 the Secretary of State agrees with the Inspector's conclusions that the proposed traffic management, which can be further assessed under conditions and highways approvals, has been shown to be acceptable in terms of highways safety and the local road network. He further agrees the proposal would comply in this regard with SMP Policy MC15 which seeks that arrangements for site access and traffic generated by the development would not have any significant adverse impacts on highway safety or the effective operation of the highway network (IR11.103)

Downstream Impacts

24. With regards to the Court of Appeal's judgment in *R (Sarah Finch) v Surrey County Council (2) Horse Hill Developments Ltd (3) SofS Levelling-Up, Housing and Communities*, handed down 17 February 2022, the Secretary of State has considered IR

1.8 and 1.9 and the representations on this case and does not consider that the project as described in paragraph 1 and in light of the evidence in this case, gives rise to the need to consider environmental effects liable to result from the hypothetical eventual use of any hydrocarbons. He agrees with the Inspector that granting permission for this proposal does not create any presumption in favour of consent for subsequent phases (IR11.117).

Benefits

25. For the reasons given at IR11.114-11.115 and IR11.128 the Secretary of State agrees with the Inspector that the operation in terms of exploration and possible production, would contribute to the economy in terms of jobs and potentially some local spend and agrees that the weight to be given to this benefit is limited (IR11.128).
26. Whilst the Secretary of State has considered the exploratory and appraisal application before him on its own merits, for the reasons given at IR11.116 the Secretary of State agrees that exploration and appraisal are a necessary part of mineral development and without it, the currently acknowledged benefits of production cannot be realised. For the reasons given at IR11.117-11.127 the Secretary of State agrees that there is a reasonable likelihood of confirming a viable resource for extraction, and that while the proposal would not, in itself, deliver commercial quantities of gas, nonetheless, there are positive benefits that must accrue from the exploration/appraisal phase (IR11.127). He further agrees (IR11.129) that the overall thrust of government policy, as well as the vision of the SMP, are supportive of the utilisation of mineral resources within acceptable environmental constraints. While he has had regard to the Inspector's analysis at IR11.127 and acknowledges that the project is not itself an extraction project, and would be short term, he considers that the exploration/appraisal phase is a necessary precursor to extraction without which it would not be possible to identify the extent and viability of the resource so as to consider and possibly achieve the potential benefits. Whilst he again agrees with the Inspector that granting permission for this proposal does not create any presumption in favour of consent for subsequent phases (IR11.117), the Secretary of State affords great weight to the benefits of the proposed development in line with the Framework.

Other Matters

27. For the reasons given at IR11.104-11.105 the Secretary of State agrees that in relation to effects on Dunsfold Park it is appropriate to give little weight to the suggestion that the proposals could affect the development (IR11.105). Similarly, for the reasons given at IR11.106 he agrees that there will be no material harm arising from the proposal on the nearby gypsy and traveller community.
28. For the reasons given at IR11.107 in respect of environmental impacts on ecology, the Secretary of State agrees with the Inspector and is satisfied that the Ecological Appraisal, along with conditions are sufficient to address this matter. For the reasons given at IR11.108 in relation to groundwater and air pollution the Secretary of State agrees with the Inspector that there is no evidence that there would be harmful emissions from the well either before or during operations.
29. In relation to the matter of common land, the Secretary of State is in agreement with the Inspector for the reasons given at IR11.109-11.110 that the proposed junction alterations do not conflict with land registered as common land.

30. For the reasons given at IR11.111 regarding the financial situation of the operator to complete restoration the Secretary of State agrees with the Inspector in attaching no weight to this line of argument.

Planning conditions

31. The Secretary of State has given consideration to the Inspector's analysis at IR10.1-10.14, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning balance and overall conclusion

32. For the reasons given above, the Secretary of State considers that the appeal scheme is in conflict with SMP Policies MC12 and MC14 relating to oil and gas development and minimising the impact of mineral development, and is in conflict with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

33. Weighing against the appeal are harm to the landscape character and appearance of the area, including degrading the qualities of the setting of the AONB and failure to demonstrate the site has been selected to minimise adverse impacts; and harm to local businesses. The Secretary of State affords these matters collectively moderate weight.

34. In favour of the appeal the Secretary of State affords the benefits of the gas exploration/appraisal phase great weight, and the economic benefits limited weight.

35. Overall, the Secretary of State considers that the material considerations in this case indicate a decision which is not in line with the development plan – i.e. a grant of permission.

36. The Secretary of State therefore concludes that the appeal should be allowed, and planning permission granted, subject to conditions.

Formal decision

37. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for the construction, operation and decommissioning of a well site for the exploration and appraisal of hydrocarbon minerals from one exploratory borehole (Loxley-1) and one side-track borehole (Loxley - 1z) for a temporary period of three years involving the siting of plant and equipment, the construction of a new access track, a new highway junction with High Loxley Road, highway improvements at the junction of High Loxley Road and Dunsfold Road and the erection of a boundary fence and entrance gates with restoration to agriculture, in accordance with application Ref. WA/2019/0796, dated 26 April 2019.

38. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

39. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
40. A copy of this letter has been sent to Surrey County Council, Waverley Borough Council, Alford Parish Council and Dunsfold Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Phil Barber

This decision was made by the Minister of State for Housing, Stuart Andrew MP, on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
Hill Dickinson	13 April 2022

Annex B List of conditions

Approved Plans and Drawings

- 1) The development hereby permitted shall be carried out in all respects in accordance with the following plans/drawings:

DRAWING NO	REV	TITLE	DATE
ZG-UKOG-L1-PA-01	0	Site Location Plan	March 2019
ZG-UKOG-L1-PA-02	0	Location Plan	March 2019
ZG-UKOG-L1-PA-03	0	Existing Site Plan (Composite)	March 2019
ZG-UKOG-L1-PA-04	0	Existing Site Plan 1 of 3 (Well Site to Burchetts SW Corner)	March 2019
ZG-UKOG-L1-PA-05	0	Existing Site Plan 2 of 3 (Burchetts SW Corner to Burchetts NW Corner)	March 2019
ZG-UKOG-L1-PA-06	0	Existing Site Plan 3 of 3 (Burchetts NW Corner to High Loxley Road)	March 2019
ZG-UKOG-L1-PA-07	0	Existing Sections Plan (Well Site)	March 2019
ZG-UKOG-L1-PA-08	1	Proposed Construction Layout Plan 1 of 4 (Well Site)	December 2019
ZG-UKOG-L1-PA-09	1	Proposed Construction Layout Plan 2 of 4 (Well Site to Burchetts SW Corner)	December 2019
ZG-UKOG-L1-PA-10	0	Proposed Construction Layout Plan 3 of 4 (Burchetts SW Corner to Burchetts NW Corner)	March 2019
ZG-UKOG-L1-PA-11	0	Proposed Construction Layout Plan 4 of 4 (Burchetts NW Corner to High Loxley Road)	March 2019
ZG-UKOG-L1-PA-12	1	Proposed Construction Sections Plan	December 2019
ZG-UKOG-L1-PA-13	0	Proposed Access Layout Plan - High Loxley Road	March 2019
ZG-UKOG-L1-PA-14	0	Proposed Access Layout Plan - Pratts Corner	March 2019
ZG-UKOG-L1-PA-15	1	Drilling Mode Layout Plan	December 2019
ZG-UKOG-L1-PA-16	1	Section Through Drilling Mode Layout Plan (BDF Rig 28 - Height 37m)	December 2019
ZG-UKOG-L1-PA-17	0	Section Through BDF Rig 28 Drilling Rig (Height 37m)	March 2019
ZG-UKOG-L1-PA-18	0	Section Through BDF Rig 51 Drilling Rig (Height 38m)	March 2019
ZG-UKOG-L1-PA-19	1	Initial Flow Testing Mode Layout Plan	December 2019
ZG-UKOG-L1-PA-20	1	Section Through Initial Flow Testing Mode Layout Plan	December 2019
ZG-UKOG-L1-PA-21	1	Section Through PWWS MOOR 475 Workover Rig (Height 35m)	May 2019
ZG-UKOG-L1-PA-22	0	Section Through PWWS IDECO BIR H35 Workover Rig (Height 34m)	March 2019
ZG-UKOG-L1-PA-23	1	Extended Well Testing Mode Layout Plan (with Temporary Noise Mitigation)	December 2019
ZG-UKOG-L1-PA-24	1	Section Through Extended Well Testing Mode Layout Plan	December 2019
ZG-UKOG-L1-PA-25	1	Retention Mode Layout Plan	December 2019
ZG-UKOG-L1-PA-26	1	Section Through Retention Mode Layout Plan	December 2019
ZG-UKOG-L1-PA-27	1	Proposed Well Site Fencing & Gates Section Plan	December 2019
ZG-UKOG-L1-PA-28	0	Proposed Entrance Fencing, Gates & Security Cabin Section Plan	March 2019
ZG-UKOG-L1-PA-29	0	Proposed Restoration Layout Plan 1 of 5 (Well Site)	March 2019
ZG-UKOG-L1-PA-30	0	Proposed Restoration Layout Plan 2 of 5 (Well Site to Burchetts SW Corner)	March 2019
ZG-UKOG-L1-PA-31	0	Proposed Restoration Layout Plan 3 of 5 (Burchetts SW Corner to Burchetts NW Corner)	March 2019
ZG-UKOG-L1-PA-32	0	Proposed Restoration Layout Plan 4 of 5 (Burchetts NW Corner to High Loxley Road)	March 2019

ZG-UKOG-L1-PA-33	0	Proposed Restoration Sections Plan 5 of 5 (Well Site)	March 2019
6033.504	A	Wellsite Construction Details Sheet 2	13 February 2019
SK-04	B	Post-mitigation Scheme of Lighting Layout	1 November 2019

- 2) From the date that any works commence in association with the development hereby permitted until the cessation of the development/completion of the operations to which it refers, a copy of this permission including all documents hereby approved and any documents subsequently approved in accordance with this permission, shall be available to the site manager, and shall be made available to any person(s) given the responsibility for the management or control of operations.

Commencement

- 3) The development hereby permitted shall be implemented before the expiration of 3 years from the date of this permission. The developer shall notify the County Planning Authority in writing within seven working days of the commencement of the implementation of the planning permission.

Time Limits

- 4) The development hereby permitted shall be for a limited period only, expiring 3 years from the date of the implementation of the planning permission referred to in Condition 3. By this date, all buildings, plant and machinery (both fixed and otherwise) and any engineering works connected therewith, on or related to the application site (including any hard surface constructed for any purpose), shall be removed from the application site and the site shall be reinstated in accordance with the restoration details set out in Condition 31. Notwithstanding this, any plant or equipment required to make the site safe in accordance with the Oil & Gas Authority general arrangement requirements at the time and agreed with the County Planning Authority may remain in position.
- 5) Prior written notification of the date of commencement for each phase of development works hereby permitted (Phases 1-4 as described at Section 3 of the Planning Statement and Environmental Report dated 19 April 2019, including workovers and side-tracks) shall be sent in writing to the County Planning Authority not less than seven days before such commencement.

Hours of Operation

- 6) With the exception of drilling, workovers, extended well tests and short-term testing, no lights shall be illuminated nor shall any operations or activities authorised or required by this permission, take place other than during the hours of:
- 07:00 to 19:00 hours on Monday to Friday;
 - 09:00 to 13:00 hours on Saturday.

Apart from the exceptions referred to above, there shall be no working at any time on Sundays, Bank Holidays, Public or National Holidays.

Highways, Traffic and Access

- 7) a. No development shall commence until a scheme has been submitted to and approved by the County Planning Authority (including the entering into of an agreement under s. 278 of the Highways Act 1980) for the carrying out and completion of the proposed access road within the site, including its junction with High Loxley Road, any highway works at the junction of High Loxley Road and Dunsfold Road and any carriageway widening works on High Loxley Road between

the site access and the junction of High Loxley Road and Dunsfold Road ("the Initial Highway Works"). The junction of the site and High Loxley Road shall be provided with 2.4m x 70m visibility splays in both the leading and trailing traffic directions in accordance with drawing number LTP/3134/03/05.01 REV B dated 10 October 2018 and, thereafter, the visibility splays shall be kept permanently clear of any obstruction above 0.6m high. Any works to the highway necessary to accommodate the development hereby permitted shall use flush set concrete retainers incorporating a ribbed surface to demarcate the edge of the carriageway.

b. No development shall commence until an agreement under s.278 of the Highways Act 1980 (in such form as may be agreed with the County highways authority) has been entered into providing for the permanent closure of the site access onto High Loxley Road, the full reinstatement of any curbs and verges, the removal of the highway works at the junction of High Loxley Road and Dunsfold Road and any carriageway widening works on High Loxley Road between the site access and the junction of High Loxley Road and Dunsfold Road and the full reinstatement of the highway, and providing for such works to be undertaken prior to the expiry of the time specified in condition 4 for the duration of the planning permission.

- 8) No operations associated with the well site compound shall take place unless and until the proposed access road within the site including its junction with High Loxley Road, any highway works at the junction of High Loxley Road and Dunsfold Road and any carriageway widening works on High Loxley Road between the site access and the junction of High Loxley Road and Dunsfold Road have been constructed in accordance with the scheme approved pursuant to condition 7(a). No other development shall begin before the junction works and the new access road within the site have been completed in accordance with the approved scheme.
- 9) Prior to the commencement of the development hereby permitted, a Transport Management Plan, in accordance with the submitted Framework Construction Transport Management Plan (dated September 2019), shall be submitted to and approved in writing by the County Planning Authority. The plan shall cover all phases of the development and include:
 - a) Parking for vehicles of site personnel, operatives and visitors;
 - b) Loading and unloading of plant and materials;
 - c) Storage of plant and materials;
 - d) Programme of works for each phase;
 - e) Provision of boundary hoarding behind any visibility zones;
 - f) Measures to manage and enforce HGV deliveries during permitted hours of operation and HGV routing so as to ensure that all heavy goods vehicles access and egress the site to and from the east via the B2130 signalised junction with the A281.
 - g) Measures to prevent the deposit of materials on the highway;
 - h) The carrying out of a 'Pre' construction condition survey of the highway with subsequent 'Post' construction condition surveys to be undertaken once every 6 months after the development has commenced:
 - i) between the site entrance on High Loxley Road and the junction between High Loxley Road and Dunsfold Road; and
 - ii) the section of Dunsfold Road situated 50 metres either side of the junction between High Loxley Road and Dunsfold Road;
 - i) On-site turning for construction vehicles;

- j) Abnormal Load Traffic Management Plan;
- k) Having consulted with High Billingham Farm the submission of traffic management measures, by phase, for the cumulative traffic flows generated by the development hereby permitted and High Billingham Farm during an 'event' (as defined by Waverley Borough Council Decision Notice WA/2020/0220 dated 26th March 2020). The measures shall be designed to minimise the use of traffic signals or optimise signal operation in the interests of the free flow of traffic within High Loxley Road;
- l) Measures for traffic management by phase at the High Loxley Road/Dunsfold Common Road/Dunsfold Road junctions;
- m) Measures for traffic management by phase at the junction of the site access track and High Loxley Road; and
- n) Final details of the placement, specification and design of all road traffic signage by phase. Only the approved details shall thereafter be implemented, retained and used by each phase whenever operations are undertaken.
- o) Details of maintenance and testing of signalling equipment and banksman training

Only the approved details shall be implemented as part of the development.

- 10) No operations hereby permitted shall commence until a speed limit reduction to 40 mph has been implemented at the following locations:
- a) High Loxley Road for a distance of 275m from its junction with Dunsfold Road;
 - b) Dunsfold Common Road for a distance of 360m from its junction with Dunsfold Road;
 - c) Dunsfold Road for a distance of 195m to the west of its junction with Dunsfold Common Road;
 - d) Dunsfold Road for a distance of 399m to the east of its junction with High Loxley Road.

The speed limit reduction shall be implemented and thereafter maintained throughout all phases of the proposed development.

- 11) There shall be:
- a) no more than 20 two-way (10 in - 10 out) HGV movements to or from the site in any one day. The site operator shall maintain accurate records of the number of HGVs accessing and egressing the site daily and shall make these available to the County Planning Authority on request; and
 - b) no HGV movements to or from the site taking place outside of the hours of 09:00-17:00 Monday-Thursday, 09:00-13:00 on a Friday and a Saturday and all day on Sundays, Bank Holidays, Public or National Holidays.

Noise and Vibration

- 12) Prior to the commencement of the development hereby permitted, a scheme of noise mitigation shall be submitted to and approved in writing by the County Planning Authority. The mitigation measures will ensure that the noise levels set out in Conditions 14 and 15 are met. The approved mitigation shall be put in place prior to any operations taking place and shall be retained and maintained for the duration of the works.

- 13) Prior to the commencement of the development hereby permitted, a noise monitoring plan (NMP) shall be submitted to and approved in writing by the County Planning Authority, taking into account the noise limits set out in Conditions 14 and 15. The NMP shall include a methodology for undertaking noise surveys, with the results of the monitoring reported to the County Planning Authority within 14 days of monitoring. Should the site fail to comply with the noise limits, within 14 days of notification of any breach of the noise limits, the applicant shall submit a scheme for the approval in writing by the County Planning Authority to attenuate noise levels to the required level which shall be implemented within 7 days of the County Planning Authority issuing approval for the scheme, or the source of noise shall cease until such a scheme is in place. Noise monitoring shall only be undertaken by those competent to do so (i.e. Member of Associate grade of the Institute of Acoustics).
- 14) For operations such as site preparation and reinstatement, the level of noise arising from any operation, plant or machinery on the site, when measured at, or recalculated as at, a height of 1.2 metres above ground level and 3.5 metres from the façade of a residential property or other noise sensitive building that faces the site shall not exceed 65 dB L_{Aeq} during any 30-minute period between the hours of 0700 to 1900 Monday to Friday and 0900 to 1300 hours on a Saturday and at no other time. No temporary work causing audible noise at any noise sensitive receptor is permitted at any other time including Sunday, Bank Holiday or National Holiday.
- 15) For operations other than as set out in Condition 14, including drilling, testing and appraisal, maintenance workover and flaring, the daytime and evening noise levels (0700 hours to 2200 hours Monday to Friday and 0900 hours to 1300 hours Saturdays) shall not exceed 48 dB L_{Aeq} , 30 minutes. At all other times, the noise levels shall not exceed 42 dB L_{Aeq} , 30 minutes. These noise limits apply 3.5 metres from the façade of any affected property.
- 16) Between the hours of 19:00 to 07:00 inclusive, no tripping shall be undertaken, nor shall casing be cemented except in cases of emergency.
- 17) All plant and machinery shall be adequately maintained and silenced in accordance with the manufacturer's recommendations at all times.

Lighting

- 18) The development hereby permitted shall be undertaken in accordance with the measures for mitigating the impact of lighting outlined in Section 7.1 of the submitted Lighting Assessment dated November 2019.
- 19) Operational lighting shall be installed in accordance with Drawing No SK-04 Rev B Post Mitigation Scheme of Lighting Layout dated 1st November 2019. All lighting required for operations and maintenance will be locally switched and manually operated on an 'as required' basis and luminaires over cabins/stores doors will be controlled by 'presence detection' with a manual override.
- 20) Obstacle lights shall be placed as close as possible to the top of the drilling rig and workover rig (and any crane deployed in workover activity outside of daylight hours). These obstacle lights must be steady red lights with a minimum intensity of 200 candelas. Lights must be visible from all directions and illuminated at all times. Unserviceable lamps must be replaced as soon as possible after failure and in any event within 24 hours.

Water Environment

- 21) Prior to the commencement of the development hereby permitted, details of the design of a surface water drainage scheme shall be submitted to and approved in writing by the County Planning Authority. The design must satisfy the SuDS

Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, National Planning Policy Framework and Ministerial Statement on SuDS. The required drainage details shall include:

- a) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features including the proposed High Density Polyethylene membrane to be incorporated into the construction of the well site, silt traps and inspection chambers;
 - b) Details of how the drainage system will be protected during construction and how run-off (including any pollutants) from the development site will be managed before the drainage system is operational;
 - c) Details of how surface water levels within the well site will be monitored and how operations will be managed during periods of saturation;
 - d) Details of drainage management responsibilities and maintenance regimes for the drainage system; and
 - e) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off-site will be protected.
- 22) Prior to the commencement of drilling, testing and appraisal, a verification report carried out by a qualified drainage engineer must be submitted to and approved in writing by the County Planning Authority. This must demonstrate that the approved surface water drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements including surface water attenuation devices/areas, flow restriction devices and outfalls.

Geotechnical Issues

- 23) The 'Area of hardstanding for access, cabins and car parking' shown on Drawing No: ZG- UKOG-L1-PA-08 Rev 1 Proposed Construction Layout Plan 1 of 4 (Well Site) dated December 2019, shall be retained and maintained for these designated purposes and no HGV parking or storage of consumables, fuel, process chemicals and/or mechanical/electrical plant is permitted in this area.
- 24) Prior to the commencement of the development hereby permitted, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the County Planning Authority. The plan shall include:
- a) Soil Conservation and Management Plan, for the protection and conservation of excavated material supported by design methodology inclusive of the means of extraction, methods of storage and maintenance of soils in accordance with guidance provided by the Defra 'Code of practice for the sustainable use of soils on construction sites' and the measures adopted for reinstatement and restoration;
 - b) Slope Stability Assurance Plan, for the level working platform and the integrity of the impermeable membrane liner supported by methodology inclusive of a timed programme of ground investigations to inform the geotechnical and

hydrogeological parameters used in the final design and construction of the proposed earthworks;

- c) Construction Quality Assurance Plan, for the construction of retaining structures (i.e. perimeter bunding and earthworks) and containing structures (i.e. perimeter ditches and the impermeable membrane) inclusive of final design details and methods of membrane sealing (i.e. with drilling cellars, 'rathole' or 'mousehole', pavements, floor slabs and foundations) supported by design methodology and details of any further geotechnical assessments to be performed; and
 - d) Construction Quality Monitoring Plan, for the testing, inspection and maintenance of retaining and containing structures together with details of the placement and design of any groundwater monitoring wells to be installed.
- 25) Prior to the commencement of drilling, testing and appraisal, a Construction Environment Management Plan (CEMP) Verification Report shall be submitted to and approved in writing by the County Planning Authority. The verification report should include:
- a) Details that demonstrate compliance with the CEMP;
 - b) Justification for any changes or deviations from the agreed CEMP;
 - c) The results and location plans of all field and laboratory testing, including certificates of compliance, and inspection records;
 - d) Post-construction load testing to demonstrate the stability of retaining structures, containing structures and earthworks;
 - e) Any other site-specific information considered relevant to proving the integrity of the construction works; and
 - f) Provision of details of any changes including 'as-built' plans and sections of the approved CEMP, as identified under (b) above.
- 26) Prior to the commencement of the development hereby permitted, a Pre-development Baseline Geochemical Testing Report shall be submitted to and approved in writing by the County Planning Authority. The testing methodology shall comprise as a minimum the following:
- a) The collection of soil samples on the exposed soil formation after the well site and access track have been excavated to the final formation level. Sampling of the well site compound will adopt a grid pattern (not greater than 20m spacing) and sampling shall be carried out prior to the laying of the membrane and placement of any crushed rock hardstanding, slabs or foundations;
 - b) The locations and elevations of the sampling locations shall be recorded accurately;
 - c) The methodology shall set out the range of potential contaminants to be tested for relevant to the proposed works, test methods, and limits of detection; and

- d) Details of the testing laboratory to be used and the accreditation status for each test.
- 27) Prior to the commencement of restoration works a Post-Development Geochemical Inspection and Testing Report shall be submitted to and approved in writing by the County Planning Authority. The report shall present details of:
- a) The results of geochemical analysis of soil samples collected from the exposed soil formations adjacent to the sampling point locations adopted for the Pre-Development Baseline Geochemical Testing Report approved pursuant to Condition 26 after removal of the infrastructure and before the replacement of any restoration soils to allow for independent verification and site inspection prior to restoration if necessary;
 - b) Comparison of the laboratory results for the 'Pre' and 'Post' development phases; and
 - c) If contamination is identified, a Contaminated Land Risk Assessment Report inclusive of a strategy for the design and implementation of any remediation required.
- 28) All excavated topsoil and subsoil shall be permanently retained on the site for subsequent use in restoration. No soils or soil making material for use in the restoration shall be brought onto the site, unless required by an approved site remediation scheme.

Ecology and Biodiversity

- 29) Prior to the commencement of the development hereby permitted, an initial Landscape, Environment and Biodiversity Restoration and Enhancement Plan shall be submitted to and approved in writing by the County Planning Authority. The plan shall include:
- a) Year 1: Environmental Reinstatement and Enhancement Plan, as recorded within the Loxley Well Site Landscape, Environment and Biodiversity Restoration and Enhancement Plan (Section 2, EDP Report 4788_r002c dated October 2019) inclusive of the replacement of trees and hedgerows removed during construction works, a programme to retain and protect existing trees and hedgerows and a timed programme for the planting of new trees and hedgerows and the creation of new biodiversity habitat; and
 - b) Precautionary Method Working Statements for great crested newts and reptiles, as recorded within the Loxley Well Site Ecological Impact Assessment (Chapter 6: Mitigation, Aecom Project No. 60555556 dated December 2018).

The approved plan shall be implemented in full and those protection measures that are required to be retained shall be maintained in a functional condition for the duration of the development and any agreed aftercare period.

Archaeology and Heritage

- 30) Prior to the commencement of the development hereby permitted, a programme of archaeological work in accordance with a Written Scheme of Investigation shall be carried out, submitted to and approved in writing by the County Planning Authority.

Restoration

- 31) Within 12 months of the implementation of this permission or prior to well site decommissioning (whichever is the sooner) a Final Landscape, Environment and

Biodiversity Restoration and Enhancement Plan shall be submitted to the County Planning Authority for approval in writing. The plan shall include:

- a) Landscape Restoration, Biodiversity and Environmental Enhancement, as recorded within the Loxley Well Site Landscape, Environment and Biodiversity Restoration and Enhancement Plan (Section 2, EDP Report 4788_r002c dated October 2019) designed to deliver biodiversity and wider environmental net-gain making use of native species and reflecting the historic use of the site as worked agricultural land and forestry;
- b) The ecological surveys performed to support the Loxley Well Site Ecological Impact Assessment (Aecom Project No. 60555556 dated December 2018) shall be repeated to establish the ecological baseline required to inform the plan and ensure that there are no adverse impacts on habitats and species;
- c) Slope Restoration Plan supported by methodology inclusive of any further ground investigations required to inform the geotechnical and hydrogeological parameters used in the final design and construction of the earthworks required to restore the site to its pre-development state; and
- d) Soil Restoration Plan: inclusive of measures to cultivate and improve the soils prior to re-spreading and restoration and measures to ensure aftercare for a period of 5 years post development completion.

The plan as approved shall be carried out in full and all planting implemented pursuant to this permission shall be maintained in good, healthy condition and be protected from damage for five years from the completion of site restoration. During that period any trees or shrubs which die, or are severely damaged or diseased shall be replaced in the next available planting season with others of a similar size and species.

- 32) The restored land shall be brought to the required standard for agriculture and woodland use. The applicant shall notify the County Planning Authority in writing within seven days once the planting or seeding has been completed and within one year from the date of notification a meeting shall take place, to be attended by representatives of the applicant, the landowners (or their successors in title) and the County Planning Authority, to monitor the success of the aftercare. Annual meetings will then be arranged and held within the period of five years from the commencement of aftercare.



Report to the Secretary of State

by **Mike Robins MSc BSc(Hons) MRTPI**

fgan Inspector appointed by the Secretary of State

Date 8 March 2022

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL MADE BY

UKOG (234) LTD

against

SURREY COUNTY COUNCIL

CONTENTS	PAGE
GLOSSARY.....	3
Procedural and Preliminary Matters.....	4
The Site and Surroundings.....	5
Background and Planning Policy	6
The Proposal	8
The Case for the Appellant.....	10
The Case for Surrey County Council	40
The Case for Waverly District Council and the Parish Council.....	55
The Case for other persons appearing at the Inquiry	63
Written Representations	77
Conditions	79
Inspector’s Conclusions	81
Inspector’s Recommendations	104
APPENDIX 1 Appearances at the Inquiry.....	105
APPENDIX 2 Documents submitted during the Inquiry	107
APPENDIX 3 Core documents	109
APPENDIX 4 Recommended conditions should permission be granted..	129

GLOSSARY

Agency	Environment Agency
AGLV	Area of Great Landscape Value
AILV	Abnormal indivisible load vehicles
AONB	Surrey Hills Area of Outstanding Natural Beauty.
APC	Alfold Parish Council
CCC	Climate Change Committee
DPC	Dunsfold Parish Council
Framework NPPF	National Planning Policy Framework (July 2021)
GLVIA3	Guidelines for Landscape and Visual Impact Assessment (3rd Edition)
HA	Highway Authority, Surrey County Council
HE	Hascombe Estates
HGV	Heavy Goods Vehicle
HSE	Health and Safety Executive
LGD	The Loxley Gas Deposit
LNG	Liquified Natural Gas
LP 2002	Waverley Borough Council Local Plan (Saved Policies) 2002
LVIA	Landscape and Visual Impact Assessment
NMP	Noise Monitoring Plan
OGA	UK Oil and Gas Authority
PEDL	Petroleum Exploration and Development Licence 234
PPG	The National Planning Practice Guidance
PROW	Public right of way / Footpath
RSA	Road Safety Audit
SCC	Surrey County Council
SIR	Site Identification Report
SMP	Surrey Minerals Plan 2011
SoCG	Statements of Common Ground
TMP	Traffic Management Plan
WLP	Waverley Local Plan 2018
ZTV	Zone of Theoretical Visibility

File Ref: APP/B3600/W/21/3268579

**Land South of Dunsfold Road and East of High Loxley Road,
Dunsfold, Surrey**

- 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 UKOG (234) Ltd against the decision of Surrey County Council.
- The application Ref WA/2019/0796, dated 26 April 2019, was refused by notice dated 15 December 2020.
- The development proposed is the construction, operation and decommissioning of a well site for the exploration and appraisal of hydrocarbon minerals from one exploratory borehole (Loxley-1) and one side - track borehole (Loxley - 1z) for a temporary period of three years involving the siting of plant and equipment, the construction of a new access track, a new highway junction with High Loxley Road, highway improvements at the junction of High Loxley Road and Dunsfold Road and the erection of a boundary fence and entrance gates with restoration to agriculture.

Summary of Recommendation: That the appeal be allowed.

Procedural and Preliminary Matters

- 1.1 At the Inquiry, an application for partial costs was made by UKOG (234) Ltd against Surrey County Council (SCC). This application is the subject of a separate Report.
- 1.2 As a consequence of the ongoing pandemic, the Inquiry was held virtually and sat for 9 days. The proceedings were live-streamed in addition to the PINS' Teams platform. This allowed all those who wished to participate and/or observe to do so.
- 1.3 I was able to carry out an unaccompanied site visit on the 23 July 2021 to the general area, including publicly accessible viewpoints. After the end of the presentation of evidence, I carried out an accompanied site visit on 12 August 2021, following an agreed itinerary, including access to the appeal site, High Billingham Farm and Thatched House Farm. At this visit, I also viewed the road network surrounding the site, including Hook House Road, and revisited the main viewpoints within the Surrey Hills Area of Outstanding Natural Beauty (AONB).
- 1.4 Prior to the Inquiry, Waverley Borough Council (WBC), at the time reported as being in association with Alfold Parish Council and also, when presenting to the Inquiry, with Dunsfold Parish Council, sought and were granted Rule 6 status and took a full part in the Inquiry, including presenting evidence on landscape and planning matters.
- 1.5 On the 5 January 2022, the Secretary of State for Levelling Up, Housing and Communities (the Secretary of State), under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, directed that he would determine the appeal. Accordingly, this is now presented as a Report and recommendation for subsequent consideration. The reason for this direction is that the appeal involves proposals giving rise to substantial regional or national controversy.
- 1.6 Statements of Common Ground (SoCG) were submitted to address both the overarching scheme and specific matters, including landscape and transport

matters. These and all other documents associated with the scheme were made available virtually and can be accessed on Core Documents for Land South of Dunsfold Road and East of High Loxley Road Public Inquiry - Surrey County Council (<https://customer.surreycc.gov.uk/loxley-inquiry-core-docs>).

- 1.7 Notwithstanding the submission of a draft agreement, made under section 106 of the Town and Country Planning Act 1990, to address re-instatement of highway works, following discussions with the Council and agreement on the wording of conditions, this has not been pursued. I deal with this in more detail under the conditions section below.
- 1.8 Following dismissal in the Court of Appeal of *R(Finch on behalf of the Weald Action Group & Others) v. Surrey County Council (& Others) [2022] EWCA Civ 187*, the main parties were given an opportunity to comment on any relevance to the current appeal¹. It is noted that the Council did not choose to add further comment, WBC opined that the end use of gas associated with the proposal should be included in the assessment of impacts and the appellant noted that the matter had been addressed in *Preston New Road Action Group and Frackman v Secretary of State for Communities and Local Government [2018] Env LR*, and that the Court of Appeal's decision had no implication for the appeal proposal.
- 1.9 The Court of Appeal's decision, comprising a related applicant and a site relatively close to this proposal, which had been referred to in evidence, was shared for comment with the main parties for completeness. Nonetheless, the recommendation is that, as it refers to the production of fossil fuels rather than exploration or appraisal stage of a resource, it is not of direct relevance. I have set out my reasoning and recommendations on that basis.

The Site and Surroundings

- 2.1 The appeal site forms part of a large agricultural field in use for grazing. The proposed access would cross this and adjacent fields, predominantly along the field boundaries, to join the main road network on High Loxley Road. This connects to Dunsfold Road, the B2130, at a junction known as Pratts Corner. The Dunsfold Road defines the southern edge of the AONB and the site itself lies within an Area of Great Landscape Value (AGLV). At the time of the Inquiry, the site had screening to the north and east by mature woodland, known as The Burchett's.
- 2.2 There are traditional farmhouses, with associated dwellings and buildings, to the north at Thatched House Farm, which includes a micro-brewery and festival site, to the west at High Loxley, and to the south at High Billingham Farm, which is a wedding venue. All include Grade II listed structures.
- 2.3 Approximately 800m to the south and east lies Dunsfold Aerodrome, also the site of a car test track, which has outline permission for a major Garden Village development of 1800 homes and further facilities, and is also

¹ ID187

referred to as Dunsfold Park.

Background and Planning Policy

- 3.1 The appellant was granted a Petroleum Exploration Development Licence (PEDL) in 2008 covering the proposed scheme area, PEDL234. This allows for the right for exploration and extraction of oil or gas for a period of 30 years.
- 3.2 The evidence presented to this Inquiry confirms that this licence covers an area where conventional gas reserves are identified in typical anticlinal accumulations. Although questions continued to be put before and at the Inquiry regarding the extraction methodology, I have no substantive evidence challenging the appellant's position, a position accepted by SCC, that they are seeking to exploit a conventional resource without high volume hydraulic fracturing, or 'fracking'.
- 3.3 In the 1980s, wells at Godley Bridge (GB-1, GB-2 and GB-2z) and at Alford (A-1) indicated a gas deposit extending west to east, the Loxley Gas Deposit (LGD). Analysis indicated a crestal area, that is the area at the top of the anticlinal feature where the gas reservoir is closest to the surface, lying near to Dunsfold Aerodrome. A previous well at Broadford Bridge indicated a possible secondary reservoir lying underneath the Loxley deposit.
- 3.4 The proposal before this Inquiry is therefore, the further exploration of these deposits to determine commercial viability. To do this, the appellant reports that it is necessary to drill as close as possible to the crestal area to determine the extent of the gas column, either from the initial well, Loxley-1, reported as a deviated well, or a side-track well, Loxley-1z.
- 3.5 This is a period of considerable and rapid change in the energy industry. Climate change concerns are driving a transition from fossil fuels to renewable and low carbon sources. I am very conscious of the considerable concern of many objecting to this proposal that the exploration and production of new fossil fuel resources should not be contemplated today, irrespective of the licences granted by the government, through the Oil and Gas Authority.
- 3.6 While I address the main issues against policy below, it is nonetheless important to understand the current policy position on this matter specifically.
- 3.7 The Overarching National Policy Statement for Energy (EN1) set out, in 2011, that the UK must reduce its dependence on fossil fuels, which nonetheless were considered to still be needed as part of the transition to a low carbon economy. The development plan for this area includes the Surrey Minerals Plan 2011 (the SMP) in which Policy MC12 deals specifically with Oil and Gas Development. This plan was informed by a Climate Change Strategy from 2008, but I am conscious that this has been updated in 2020, and the new strategy refers to a 'climate emergency' and delivering net zero carbon by 2050. Nonetheless, the SMP identifies the Weald Basin as one of only two locations in southern England where commercial deposits of hydrocarbon are thought to exist and noted a

number of exploration and production sites across the County.

- 3.8 It recognises three separate stages of development, exploration, appraisal and production, and the expectation that exploratory wells will consider locations minimising their intrusion, controlling vehicular activity and routeing and controlling noise and light emissions. The policy itself requires that the drilling of boreholes for any of these phases will only be permitted where the authority is satisfied that, in the context of the geological structure being investigated, the site has been selected to minimise adverse impacts on the environment.
- 3.9 This separation of the three stages of development is consistent with the more recent national policy and guidance. The National Planning Policy Framework (the Framework), recently updated in July 2021, does set out that the planning system should support the transition to a low carbon future, but still requires that mineral planning authorities plan positively for the three phases of development, and differentiates specific requirements only for coal. It records the need to ensure there is a sufficient supply of minerals for the energy that the country needs and that great weight should be given to the benefits of mineral extraction, including to the economy, although it explicitly sets out expectations regarding the natural environment, noise, restoration and aftercare, amongst other matters.
- 3.10 As I said above, this is a rapidly changing area and the latest government position is perhaps most clearly set out in the Energy White Paper 2020. Although I note the recent publication of the Government's Net Zero Strategy², this does not change the position as regards conventional gas production; that it will continue to play a part in the transition from a fossil fuel economy to one based on clean energy.
- 3.11 The Energy White Paper, while it acknowledged that onshore gas represents a much smaller proportion of the domestic supply to potential offshore sources, still clearly states the transitional importance of natural gas supplies. While it projects a decrease in production of up to 80% by 2050, the projection for demand is forecast to reduce but continue for 'decades to come'. That gas will come from somewhere, and currently the UK is reliant on imports, both by pipeline from Europe and as Liquefied Natural Gas (LNG) by sea.
- 3.12 As recently as March 2021³, the Climate Change Committee (CCC) advice to the Secretary of State for Business, Energy and Industrial Strategy (BEIS), in addressing the context for onshore petroleum production in the UK, noted that even if consumption falls in line with the recommended path, there will be a challenge to meet the UK's fossil fuel demand, given the decline in North Sea production. It is suggested that this means the UK will continue to need additional gas supplies beyond that available from Europe and the North Sea until 2045 and potentially beyond 2050. This also identified a role for fossil gas with Carbon Capture and Storage (CCS) to assist in scaling up hydrogen use.

² Net Zero Strategy – Build Back Greener – BEIS October 2021

³ CD.J4

- 3.13 While there are some more recent approaches set out in the government's Net Zero Strategy and the CCC's independent assessment of that strategy, documents that were produced after the closure of the Inquiry, they have not introduced any new measures or indicated any change in the strategic approach to natural gas at this time.
- 3.14 The full list of policies relevant to the appeal are set out in the SoCG. In particular the Council's reasons for refusal alleged non-compliance with SMP Policies MC12 (oil and gas development), MC14(iii) (reducing the adverse impacts of mineral development) and Policy MC15 (transport for minerals). WBC also set out their consideration of non-compliance with a range of policies in the Waverley Borough Council Local Plan (Saved Policies) 2002 (LP 2002), the Waverley Local Plan (Part 1) 2018 (the WLP) and the emerging Local Plan Part 2.

The Proposal

- 4.1 The proposal includes a compound area within which a drilling rig will be located for part of the time, an access track and ancillary development, including a new access off High Loxley Road. It is proposed for a temporary period of three years. The access provision includes some improvements to the Dunsfold Road junction, a large, gated entrance from High Loxley Road and up to 1 km of access track around the edge of fields leading to the proposed site compound.
- 4.2 Four phases are proposed, including access and well construction (14 weeks⁴); drilling testing and appraisal (60 weeks); well plugging, abandonment and decommissioning (5 weeks); and site restoration (5 weeks). This represents approximately 19 months, but the appellant highlights matters of contract tendering and preparation, drill rig delays, assessment periods, decision taking and other matters, which they say means that a reasonable period is three years, although some opportunities for reductions in the timescale are possible.
- 4.3 Heavy good vehicles (HGVs) are likely to be involved in all four of the phases but would vary in frequency, with a proposed maximum of up to 10 movements per day. The initial proposal is to obtain results utilising a deviated well, Loxley - 1, which should represent a maximum of 12 weeks on site, but were the side-track well also be required, Loxley - 1z, then, in direct answer to my question, a drilling rig could be on site for a maximum of 20 weeks in all. Additional use of a crane or workover rig could extend the presence of such tall structures on the site for an additional 10 weeks.
- 4.4 The probability of success quoted by the appellant is 60-70%, and 30-40% for the secondary target. Independent analysis⁵ was quoted as suggesting a resource of some 44-70 billion cubic feet (bcf), with some 78% falling within the appellant's licenced area. This, it was reported, would be the second largest gas accumulation found in UK onshore history and could result in annual production rates of 4-5 bcf, sufficient to generate electricity for some 200,000 homes, described by the appellant as a meaningful

⁴ Figures from SoCG

⁵ Xodus Group Ltd

regional project size.

The Case for the Appellant

5.1 The full submission made by the appellant can be found at CD.K10, the material points are as follows:

Introduction

5.2 The Framework paragraph 215 (repeating earlier guidance) requires that minerals authorities should: "*clearly distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for;...*".

5.3 This project covers two of those phases, exploration and appraisal⁶. Such an approach (applying for permission for more than one phase) is recognised to be appropriate by the Planning Practice Guidance (PPG)⁷.

5.4 As is common ground between the appellant and SCC, the proposals stand to be assessed on their own terms and merits and not as an application for a permission to produce hydrocarbons. Equally, this is not a proposal for fracking; questions on this arose from a lack of understanding as to what fracking actually is⁸. WBC had clearly not read UKOG's evidence since, as was pointed out, this is an application for conventional hydrocarbon exploration and the geological strata targeted here are already fractured.

5.5 On the other hand, while the benefits of production cannot be obtained by the current proposals if permitted, it cannot be ignored that this application is an essential prerequisite to securing such benefits and without it they cannot be obtained. The application should therefore be viewed in that context and in the light of the fact that Government energy policy requires the continuation of a secure energy supply and the production of gas, notwithstanding climate change issues and the move towards Net Zero by 2050.

5.6 As was explained, the target resource, the Loxley Gas Deposit (LGD), has already been "discovered"; it is already known from four wells drilled in the 1980s that there is conventional gas within the Portland sandstone layer in this area. However, the legacy wells did not establish commercial viability for the LGD because they did not encounter gas at a sufficient thickness. The appellant holds PEDL 234, a licence issued by the OGA for a period of 30 years. The licence commits them to seek energy minerals within the licence area for a period of 30 years and, in order to retain the licence, the appellant has a commitment to the OGA to drill a borehole to investigate what is believed to be the central crestal area of the LGD and to do so before 31 December 2023.

5.7 The primary objective of the project is therefore quite specific, the appellant wishes to determine whether the LGD will be commercially viable

⁶ See the description of the development in the application form [CD.A2/1].

⁷ See PPG Minerals 094, Reference ID: 27-094-20140306

⁸ WBC seemed to think it used explosives when in fact it uses liquid under high pressure.

by drilling it within a “target zone”, which is the area which has been identified, following a detailed analysis of subsurface data using modern analytical tools, as the central area of the LGD’s anticlinal feature. That is the area of the Deposit lying closest to the surface. This target zone has now been mapped⁹. There is also a secondary target at a greater depth within the underlying Kimmeridge formation.

5.8 The development for which planning permission is sought is to be strictly time limited. The total project period is to be limited by proposed condition 4 and through the description of development to no more than three years. It is not accepted by the appellant that to limit the lifetime of the permission to 20 months is prudent and, despite assertions to the contrary, SCCs planning witness agreed in oral evidence that the period is a matter for the choice of the operator. As the appellant explained, three years is the period considered reasonably required to carry out the various phases of works described and to build in flexibility for delays and issues arising as well as allowing time for appraisal of the results. Those, largely consecutive, phases would comprise:

- The construction of the access and well site. This would include minor highway improvements at the junction of Dunsfold Road and High Loxley Road, the construction of a new junction within High Loxley Road, the installation of up to 1km of new compacted-stone access track within the Site, and then the construction of a compacted-stone well site with an impermeable membrane, perimeter surface run off containment ditch and drilling cellar to accommodate a conductor casing. Security fencing would be erected around the well site and at the entrance gates but would not be along the lengths of the access track (Phase 1).
- The mobilisation and demobilisation of plant and machinery ancillary for the drilling of one borehole (Loxley-1), one side-track borehole (Loxley-1z) and the subsequent appraisal by initial and extended well testing (Phase 2).
- Following the end of testing, the removal of all surface equipment followed by well suspension, plugging and abandonment (Phase 3).
- Restoration of the site to its original appearance and use followed by a period of aftercare (Phase 4).

5.9 The specific time periods for each phase are not fixed. It is the intention of the appellant to undertake the programme of works as quickly as possible but it is acknowledged¹⁰ that there is significant potential for contingencies. Nonetheless, if the operation can be concluded earlier then it will.

5.10 However, to understand the likely worst case in terms of environmental effects, the appellant has presented robust estimates of the particular periods of each phase and subphase. As is apparent, the drilling rig, two

⁹ Mr Sanderson PoE – Figure 9, p17

¹⁰ Mr Bone in oral evidence

different options for which are shown on the plans¹¹ will be in place for a relatively small proportion of the total time period. The initial drilling will require the rig on site for up to 12 weeks¹² and Loxley-1z would require another period of up to 8 weeks¹³. There may be other periods when a workover rig or crane may be needed but overall it is estimated that the period when either a crane or a rig is required would not exceed 30 weeks during Phase 2 and three weeks in Phase 3¹⁴. At other times, the impact of the Appeal Proposals will be reduced.

Time period for the development (Condition 4)

- 5.11 In its SoC at paragraph 25, SCC raised for the first time a new contention that the overall period of three years was not justified. At that stage, it was suggested that the proposal should be limited to a period of 18 months, a position which has now been amended (in EIC) to 20 months. This point, which does not appear to have any basis in the consideration of the Committee, was not raised at any stage by officers in their consultation with the appellant and is in fact inconsistent with the approach taken on other sites such as Horse Hill. SCC planning witness accepted it was not raised by members.
- 5.12 It is also not clear that the issue goes anywhere, given that SCC argued that the Appeal Proposals would be unacceptable whether or not the revised Condition 4 was accepted by the Inspector. Moreover, SCC's landscape and highways evidence did not consider the implications of a shorter period as opposed to what was sought. It is unclear on what basis or on whose authority this new point was advanced. For the reasons given, the appellant argues that it is a bad point.
- 5.13 Moreover, the underlying factual premise behind SCC's position is flawed.
- If permission is to be granted it must be for a period that will realistically enable the appellant to achieve its project objectives and give sufficient flexibility to deal with circumstances, as they may arise, even if there is a reasonable prospect of the timescales being less. It is not a question of simply adding together the anticipated durations of the various phases.
 - The length of time needed must be principally a matter for the appellant because it is only they who have sufficient knowledge of the operations to judge whether a period of time is adequate or not. This was accepted in cross examination.
 - The appellant's witness gave detailed evidence in his proof and orally that 20 months would not be long enough. Although he was challenged on aspects of the time periods which he had allowed for in presenting his view, there was no getting around the basic point that it is inherent

¹¹ CD.A3/17 and 18

¹² KB proof at

§2.3

¹³ KB proof at §2.6

¹⁴ See PS Table 3, p 17.

to a project of this kind (where specialist equipment is being used, there are a number of detailed regulatory regimes operating, and the operators are drilling exploratory wells at over 1km depth below the surface) that delays and problems can arise. Procurement and contracting cannot be carried out entirely in advance (as explained in response to SCC cross-examination) and would certainly need to be done post the commencement of the development through the implementation of the site access works. Following this, there also needs to be sufficient time for the appraisal and review of material acquired during the testing phase, for obtaining further consents from the OGA or HSE (which could not be finally sought until a rig was selected and/or might need to be changed following rig selection¹⁵) and for unforeseen operational delays of issues in the procurement process/with the availability of specialist equipment which are beyond the control for UKOG.

- Particular criticism was made in cross examination in relation to the 26 weeks which is identified for "site retention", by which the appellant means a period in which the site can be put into a retention mode¹⁶ to consider results from the testing and to determine whether to make an application for planning permission for a production facility. SCC suggested this as evidence of inconsistency, going so far as to suggest that a longer period should have been sought¹⁷. However, it is nothing of the kind. In response to questions from the Inspector it was accepted that it was (a) reasonable to allow the appellant a period to analyse the results of testing and to decide whether to go ahead and apply for a production consent and (b) that he was not qualified to assist the Inspector as to the appropriate period for that consideration. In this respect, the Inspector will be assisted by the evidence of the appellant's witness who explained how they have sought to strike a pragmatic and prudent balance between the desire to complete the project within the shortest possible period, which is desirable not only as a way to minimise environmental impacts but as a way to reduce cost, and the need to make sure that sufficient time is available.

5.14 It follows that SCC's suggestion that the Appeal Proposals should be restricted to 20 months by the imposition of a more onerous form of condition 4 is not acceptable and should be rejected.

5.15 The Appeal Proposal, as applied for, therefore stands to be assessed against the development plan and other material considerations. These can be summarised, it is argued, by reference to a number of central submissions including the sustainability of the Appeal Proposal:

5.16 National and local policy both recognise a compelling need for the exploration and exploitation of new gas reserves. This case is not reduced or at odds with the imperative to reduce carbon emissions but is in fact an

¹⁵ As explained by KB

¹⁶ As shown on Application Plans 25 and 26 [CD.A28/25-26]

¹⁷ Contrary to SCC's primary case that a maximum period of 20 months should be imposed through condition 4

essential plank of the Government's strategy to meet zero-carbon in 2050. It is incorrect, as some interested parties suggested, that Government policy is restricted to offshore domestic gas production. Offshore production forms a major element in that policy but onshore gas is also part of the supply. This is clear from the Energy White Paper which recognises the critical role which the domestic oil and gas sector has as a whole:

"The UK's domestic oil and gas industry has a critical role in maintaining the country's energy security and is a major contributor to our economy. Much of the crude oil from the North Sea basin is exported, with the UK making extensive use of strong trading links to meet domestic refinery demand. Domestic production still met 46 per cent of the country's supply of gas in 2019, with the vast majority of this supplied from North Sea offshore production with a smaller proportion from the onshore oil and gas sector."
(*emphasis added*)

- 5.17 Reliance on domestic gas supply is the most efficient use of resources by virtue of proximity to the end user, the displacement of higher emissions intensity LNG and avoiding the emissions incurred in transportation. It would also allow UK regulators control over the exploration and appraisal process in the best interests of climate change mitigation and would bring significant costs savings over an imported equivalent.
- 5.18 Hydrocarbons can only be extracted where they are found and, although directional drilling for gas offers some opportunity to search for a location over a wider area, there are limitations imposed by geology and site sensitivity.
- 5.19 Within these parameters, the appellant has sought and succeeded in securing a site which offers an opportunity to minimise the inevitable impacts of a development of this kind, and has successfully developed the scheme, with, it is argued, the detailed involvement of SCC officers, to mitigate such impacts to an acceptable level. The highways impacts fall far short of substantiating a valid reason for refusal and the residual landscape impacts, while real, are short-term and reversible.
- 5.20 In this light, and for the reasons advanced by the expert witnesses for UKOG and the benefits of the Appeal Proposal, the appellant states that the reasons for refusal fail to take account of the policy significance of the proposals, mistake and overstate the objections raised and should be tested against the experienced judgment of SCC officers who twice recommended the grant of permission.

Need for the Development

- 5.21 The need for domestic gas exploration is clearly established in national policy and is not seriously disputed by any of the main parties. The appellant is the holder of PEDL 234 from the OGA which imposes an obligation on them to seek to appraise the commercial viability of the LGD. The LGD is estimated to have a mean case recoverable resource of 44 billion cubic feet and an upside case of 70 billion cubic feet; which would

make it the second largest gas accumulation found in the UK's on-shore history¹⁸.

5.22 Such projects form an essential part of the process of establishing onshore gas production which, in common with other mineral extraction other than coal, is to be given great weight in accordance with the Framework paragraph 211. The Framework, in its revised form, retains the principle that great weight should be given to the benefits of mineral extraction (p211) and reminds decision-makers (p209) that: "It is essential that there is a sufficient supply of minerals to provide the...energy... that the country needs. Since minerals are a finite natural resource and can *only be worked where they are found, best use needs to be made of them to secure their long-term conservation.*"

5.23 Framework paragraph 215, whilst encouraging decision-makers to distinguish between the different phases of onshore gas development, also states that mineral authorities should "*plan positively*" for them.

5.24 Beyond the Framework, there is a range of policy statements which make clear that the expansion of the UK's gas capacity is a matter of national priority. As set out section 7 in the SoCG (planning) [CD.E4], SCC and the appellant are agreed that:

- The Appeal proposal will meet the aspirations of the Government energy policy including as contained in AES 2013;
- The roadmap to carbon neutrality as envisaged by the CCC provides that onshore gas has a significant role to play during the transition to a low carbon economy; and
- Within that context, the UK Government states it is critical that the UK retains good access to gas in particular.

5.25 SCC also agrees that its own Climate Change Strategy is not predicated upon restricting hydrocarbon exploration:

"At a local level, SCC's Climate Change Strategy is not predicated upon restricting hydrocarbon exploration. At a national level, the Climate Change Act 2008 (2050 Target Amendment) Order 2019, is not predicated upon restricting hydrocarbon exploration. It is informed by the Committee on Climate Change that find by 2050 the UK will still consume almost 70% of the gas we do today to support a hydrogen-based economy. Within this context the UK Government state it is 'critical' that we continue to have good access to gas. Given the continuing role of gas in providing for the UK's energy needs during the transition to a low carbon economy, the extraction of hydrocarbons is consistent with national climate change mitigation policy."

5.26 It is also agreed, at SoCG s7.1c, that there is no conflict with WLP Policy CC1, and at s7.1d, that the location of the Site accords with SMP MC1.

¹⁸ Mr Sanderson Proof at 3.4

- 5.27 The appellant's planning evidence points to other national policy documents, in particular the Energy White Paper (Dec 2020)¹⁹, which confirm that the UK will rely on natural gas "for decades to come". The SMP itself recognises the role which Surrey has to play in this, noting that the Weald Basin is "one of only two locations in southern England where commercial deposits of hydrocarbons are thought to exist" [CD.C1 s3.16]. Without being permitted to explore and appraise gas discoveries such as those here, onshore gas production as anticipated by Government policy cannot realistically continue.
- 5.28 This powerful national case for hydrocarbon exploration and extraction forms the starting point for the consideration of the appeal.

Site Location and Search

- 5.29 It is a commonplace that mineral reserves can only be investigated and extracted where they are found²⁰. This is recognised by the SMP which notes that some of the PEDL licensed areas in Surrey lie wholly or partially within the AONB²¹. Even for sites within the AONB, it does not suggest that those applications should be refused but states that development should be confined to sites where the impacts are capable of suitable mitigation²².
- 5.30 SCC and WBC have sought to argue that alternative sites should have been considered for the Appeal Proposals, with SCC focusing on sites "further to the east"²³.
- 5.31 In considering this argument, which was not raised by the Committee, it is important to begin by recognising that in law there is no general requirement for decision-makers to consider alternatives in respect of planning applications outside of EIA or certain specific kinds of development such as communications masts. This was addressed by Carnwath L.J. (as he then was) in *Derbyshire Dales District Council v Secretary of State for Communities and Local Government* [2010] 1 P. & C.R. 19 (cited at P70.01.12 of the Planning Encyclopedia). Further, absent clear planning objections to the scheme in question, alternative schemes will normally be irrelevant: see *R. (Langley Park School for Girls Governing Body) v Bromley London Borough Council* [2010] 1 P. & C. R. 10 at s44. Nonetheless, even where relevant, an alternative can only attract material weight if there is a real possibility of it eventuating. As Auld LJ and the Court of Appeal held in *R (Mount Cook) v Westminster CC* [2017] PTSR 1166:

"32. In my view, where application proposals, if permitted and given effect to, would amount to a preservation or enhancement in planning terms, only in exceptional circumstances would it be relevant for a decision-maker to consider alternative proposals, not themselves the subject of a planning application under consideration at the same time (for example, in multiple

¹⁹ <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

²⁰ See Framework 209

²¹ CD.C1 at s3.19

²² CD.C1 at s5.40

²³ SCC SoC at s18

*change of use applications for retail superstores called in by the Secretary of State for joint public inquiry and report). And, even in an exceptional case, for such alternative proposals to be a candidate for consideration as a material consideration, there must be at least a likelihood or real possibility of them eventuating in the foreseeable future if the application were to be refused. I say "likelihood" or "real possibility", as the words tend to be used interchangeably in some of the authorities... If it were merely a matter of a bare possibility, planning authorities and decision-makers would constantly have to look over their shoulders *1179 before granting any planning application against the possibility of some alternative planning outcome, however ill-defined and however unlikely of achievement. Otherwise they would be open to challenge by way of judicial review for failing to have regard to a material consideration or of not giving it sufficient weight, however remote." (emphasis added)*

- 5.32 In this policy context, there is some basis for considering the way in which the site has been identified which is found at Policy MC12²⁴. That policy sets out the need for the decision-maker to be satisfied that site selection has sought to minimise adverse effects on the environment. MC12 does not require a site selection exercise to be undertaken and only requires it should be shown that adverse effects have been minimised. It is putting too much on the words "*has been selected to minimise*" to suggest a site selection exercise demonstrating there are no viable alternatives is required and this is made clear not only by the language used but by the contrast in paragraph 5.42 of the SMP with regard to "gas storage underground" only.
- 5.33 This was the specific requirement in relation to which the Site Identification Report (SIR) was prepared. This was not some kind of "contrived" post-facto justification (as put to in cross examination) but was in fact a record of the wider site search process carried out on behalf of the appellant. That process was not targeted at finding the "least-worst site", as was put by SCC on the basis, the appellant argues, of an entirely unjustified rewriting of the policy which sought to impose a much higher test than the policy contains, but was about finding areas of lesser environmental and policy constraint within an area where the technical requirements of the project could be met.
- 5.34 As acknowledged by the appellant's witnesses, the starting point has been to recognise the technical requirements for the wells given their purpose:
- The intention is to confirm the commercial viability of the LGD. This requires Loxley-1 to enter the primary and secondary targets in their Crestal Areas - which are broadly located under Dunsfold Aerodrome²⁵.
 - There is some scope for directional drilling to reach those targets, which has been taken into account, as suggested by Policy MC12. However, the technical constraints and the risks associated with longer range directional drilling are significant and it is a consequence of a longer deviation that it "*will mean a longer drilling phase*"²⁶, which will in turn

²⁴ CD.C1 pp. 37-38

²⁵ Mr Sanderson's proof Fig.9

²⁶ CD.C1 at s5.38

increase the environmental impacts of the project in question. This basic proposition was not challenged by SCC.

- 5.35 However, the appellant's planning witness was also clear that his has been an "inclusive"²⁷ approach which led him to identify some sites within Table 3 of the SIR which are even outside of the area of search, being 500m beyond the further extent of the LGD²⁸, which was identified as the likely zone within which technical requirements could be met. He had located those sites primarily through a desktop assessment which began by overlaying different forms of environmental constraint as well as rough buffer zones around residential properties of between 300-350m set back. This then formed the basis for a series of site visits in February to June 2018 through which he formed a judgment as to which sites were likely to be feasible in environmental terms, reducing the range of options to 6. From the 6 residual locations identified as demonstrating a high degree of suitability, two were made available and the option with the lowest anticipated level of environmental impact selected: see section 6 of the SIR.
- 5.36 There was detailed cross examination in relation to this process and a number of criticisms were made about the extent to which the SIR itself contains a complete record of the assessment carried out. The appellant explained that the site search and selection process was more extensive and inclusive than the SIR explains. SCC would appear to ignore the fact that sites were considered beyond 500m and indeed beyond 1km, and applied a site sieve and investigated even unpromising sites at that distance. SCC again chose to ignore the detailed explanations given in evidence of the wider nature of the site selection exercise and how it was selected or the fact that at no stage did SCC officers ask for further information after receipt of the SIR nor had SCC instructed their own witness or anyone else to identify a single additional site. It is surprising, if the approach of UKOG was as hopeless as SCC seeks to characterise, that not a single concern was raised in the 2 years from the submission of the application. The approach by SCC at Inquiry was a wholly opportunistic one and ultimately misconceived when NM explained the position.
- 5.37 However, the SIR is not a formal requirement of Policy MC12 or any other policy and does not constitute a comparative assessment of sites. The lower-case text to the SMP only suggests the need for "*potential locations for wellheads*" to be "*assessed thoroughly*" in the case of underground gas storage (5.42). Contrast 5.37, which sets out key considerations to be considered in general, and which, in the appellant's view, were in fact considered.
- 5.38 The policy question is whether the site has been selected to minimise adverse environmental impacts and both the SIR and the appellant's evidence demonstrates that in the appellant's view it has. There was nothing from either SCC or WBC to indicate that other sites might be

²⁷ Mr Moore in response to cross-examination

²⁸ The Inspector will note that this is 500m beyond the maximum extent of the LGD (as shown on SS's Fig 8), not from the edge of the target Crestal Area.

available which would have a smaller environmental impact, or even that any particular sites had been overlooked. Although SCC's SoC suggested that "*the question arises why a site could not be selected further to the east*"²⁹ this was not followed up in their evidence and it was confirmed in cross examination that they had not considered any alternative. The appellant's detailed explanation of why eastern sites would not be feasible was not challenged. SCC's only point was to suggest that the area of search could be extended if the allowance was made for further directional drilling but this is inconsistent with the technical evidence with respect to the constraints on such drilling and, in any event, there is nothing to suggest that such a search would yield additional options. Further, as the appellant explained, to extend the directional drilling further from the crestal area would have greater impacts since a larger rig would be needed and the exploration and appraisal operations would take longer. There would also be increased risk that the critical rock core samples would be compromised.

5.39 It is submitted by the appellant that the Site has been selected to minimise adverse impacts, having regard to the physical constraints of the geology and the location of the maximum gas concentration.

Reasons for refusal

5.40 The planning application for planning permission was accepted by SCC on 28 May 2019, following extensive pre-application consultation with the minerals planning and highways teams going back to March 2018 and June 2018 respectively³⁰. Further information was submitted at the request of officers and on 29 June 2020 the application was reported to Committee with a recommendation to approve³¹.

5.41 Notwithstanding the recommendation, the Committee resolved to refuse on the basis that in their view "*it has not yet been demonstrated that there is a need for the development nor that the adverse impacts in respect of highways, noise, lighting and air quality will not be significant contrary to policies MC12 [Oil and gas development], MC14 [Reducing the adverse impacts of mineral development] and MC15 [Transport for minerals] of the Surrey Minerals Plan 2011.*"

5.42 Following representations from the appellant and others, SCC accepted that the resolution was invalid and agreed to remit the matter to the Committee.

5.43 In order to address the Committee's concerns, the appellant submitted further information³², which specifically addressed the issues raised by the putative reasons for refusal. Officers reported the matter to Committee on 29 November 2020 with a further recommendation to approve³³.

5.44 Notwithstanding that reinforced recommendation to approve, the Committee again resolved to refuse permission. The final reasons for

²⁹ SCC Statement of Case §18

³⁰ CD.A4/1

³¹ CD.B3 and B4

³² CD.A34

³³ CD.B6 and B7

refusal were that:

"1. It has not been demonstrated that the highway network is of an appropriate standard for use by the traffic generated by the development, or that the traffic generated by the development would not have a significant adverse impact on highway safety contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC15.

2. It has not been demonstrated that the applicant has provided information sufficient for the County Planning Authority to be satisfied that there would be no significant adverse impact on the appearance, quality and character of the landscape and any features that contribute towards its distinctiveness, including its designation as an Area of Great Landscape Value, contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC14(iii)."

5.45 These reasons for refusal were in direct conflict with the advice of officers and, as summarised below, they do not stand up to close scrutiny. Moreover, it is to be noted that they did not allege breaches of policy as such but only alleged failures to demonstrate compliance. Despite this, SCC's evidence at the Inquiry largely accepted that the evidence presented in support of the Application was adequate but instead sought to establish the existence of breaches and thus extended beyond the reasons given by the Committee.

Highways

5.46 The potential impact of Appeal Proposals upon the road network was an issue that was identified at the very earliest stage of considering the Site and consultation was undertaken with the Highway Authority (HA) from June 2018, including a site visit on 26 July 2018³⁴. Since that time, the proposals have been subject to detailed discussion and assessment by the HA on technical and safety grounds including:

- Multiple pre-application discussions following the July 2018 site visits including feedback on specific aspects of the scheme.
- The production of an independent Stage 1/Stage 2 Road Safety Audit (RSA) by the HA in Dec 2018.
- Formal consultation responses to the application on 29 July 2019³⁵ and 20 February 2020³⁶.
- Extensive further feedback on issues raised between February and November 2020, including specific responses to the concerns raised at the June Committee meeting³⁷.

5.47 WBC has not raised highways objections yet they sought to give evidence in

³⁴ CD.A4.1 pg 8

³⁵ CD.L11/1

³⁶ CD.L11/2

³⁷ CD.L31/1

closing submission about a recent incident, which it is submitted should be ignored and/or given no significance. There is no basis for making any assumptions with regard to that incident without any evidence as to the circumstances.

5.48 This advice led officers to inform the Committee that the HA's overall assessment was that the proposals were supported by a "realistic and robust" assessment and were capable of delivering safe and suitable access:

"The Highway Authority considers the submitted technical information provides a realistic and robust assessment, such that the Highway Authority is satisfied, subject to the recommended highway conditions and informatives being imposed on any permission granted, that safe and suitable access for all vehicles, including HGVs and abnormal load deliveries, can be provided."

Members had no additional technical or expert highways evidence before them when they refused permission.

5.49 Following the exchange of evidence, a SoCG with SCC was agreed (WBC having declined to call any highways evidence) which recorded that:

- There is no objection regarding the suitability of the network in respect of any vehicles smaller than HGV (s2.6);
- HGV numbers (s2.9) and hours of operation can be controlled (s2.10), and routing in accordance with the TMP [CD.A23] will mean that no objections arise regarding any routes to the north-west or south-west of Pratts Corner (s2.7);
- The advisory signage on Dunsfold Road/B2130 which currently "Unsuitable for HGVs" does not relate to any concern over the suitability of the section of that road between Pratts Corner and the A281 (s2.13);
- Beyond the junction with Dunsfold Road, there are no concerns in relation to the A281 or other major roads (s2.8);
- The agreed conditions will avoid cumulative impacts with High Billingham Farm (s2.11); and
- There is no objection in relation to sustainable transport policies (s2.2).

5.50 The remaining areas of dispute therefore relate solely to the suitability of High Loxley Road and Dunsfold Road and, specifically, whether these roads or the measures which will be put in place to manage traffic on them will give rise to significant safety concerns. These were issues which were at the heart of the HA's consideration including through the RSA³⁸. As was agreed in cross examination, given their statutory responsibilities for roads and highway safety, the HA officers were likely to have adopted a cautious approach.

³⁸ Agreed by GF in XX