



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.

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## **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.



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# 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

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**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**

**APPEAL MADE BY**

**UKOG (234) LTD**

**against**

**SURREY COUNTY COUNCIL**

Inquiry Opened (Virtual) on 27 July 2021  
Site Visit 12 August 2021

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

File Ref: WA/2019/0796  
Appeal Ref: APP/B3600/W/21/3268579

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**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.**

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**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 appeal<sup>1</sup>. 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

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<sup>1</sup> 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 Strategy<sup>2</sup>, 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 2021<sup>3</sup>, 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.

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<sup>2</sup> Net Zero Strategy – Build Back Greener – BEIS October 2021

<sup>3</sup> 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 weeks<sup>4</sup>); 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 analysis<sup>5</sup> 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

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<sup>4</sup> Figures from SoCG

<sup>5</sup> 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 appraisal<sup>6</sup>. Such an approach (applying for permission for more than one phase) is recognised to be appropriate by the Planning Practice Guidance (PPG)<sup>7</sup>.

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 is<sup>8</sup>. 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

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

<sup>7</sup> See PPG Minerals 094, Reference ID: 27-094-20140306

<sup>8</sup> 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 mapped<sup>9</sup>. 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 acknowledged<sup>10</sup> 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

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<sup>9</sup> Mr Sanderson PoE – Figure 9, p17

<sup>10</sup> Mr Bone in oral evidence

different options for which are shown on the plans<sup>11</sup> 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 weeks<sup>12</sup> and Loxley-1z would require another period of up to 8 weeks<sup>13</sup>. 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 3<sup>14</sup>. 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

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<sup>11</sup> CD.A3/17 and 18

<sup>12</sup> KB proof at

§2.3

<sup>13</sup> KB proof at §2.6

<sup>14</sup> 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 selection<sup>15</sup>) 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 mode<sup>16</sup> 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 sought<sup>17</sup>. 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

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<sup>15</sup> As explained by KB

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

<sup>17</sup> 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 history<sup>18</sup>.

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.

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<sup>18</sup> 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)<sup>19</sup>, 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 found<sup>20</sup>. This is recognised by the SMP which notes that some of the PEDL licensed areas in Surrey lie wholly or partially within the AONB<sup>21</sup>. 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 mitigation<sup>22</sup>.
- 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"<sup>23</sup>.
- 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

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

<sup>20</sup> See Framework 209

<sup>21</sup> CD.C1 at s3.19

<sup>22</sup> CD.C1 at s5.40

<sup>23</sup> 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 MC12<sup>24</sup>. 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 Aerodrome<sup>25</sup>.
  - 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*"<sup>26</sup>, which will in turn

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<sup>24</sup> CD.C1 pp. 37-38

<sup>25</sup> Mr Sanderson's proof Fig.9

<sup>26</sup> 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"<sup>27</sup> 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 LGD<sup>28</sup>, 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

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<sup>27</sup> Mr Moore in response to cross-examination

<sup>28</sup> 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*"<sup>29</sup> 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 respectively<sup>30</sup>. Further information was submitted at the request of officers and on 29 June 2020 the application was reported to Committee with a recommendation to approve<sup>31</sup>.

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 information<sup>32</sup>, 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 approve<sup>33</sup>.

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

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<sup>29</sup> SCC Statement of Case §18

<sup>30</sup> CD.A4/1

<sup>31</sup> CD.B3 and B4

<sup>32</sup> CD.A34

<sup>33</sup> 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 2018<sup>34</sup>. 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 2019<sup>35</sup> and 20 February 2020<sup>36</sup>.
- Extensive further feedback on issues raised between February and November 2020, including specific responses to the concerns raised at the June Committee meeting<sup>37</sup>.

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

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<sup>34</sup> CD.A4.1 pg 8

<sup>35</sup> CD.L11/1

<sup>36</sup> CD.L11/2

<sup>37</sup> 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 RSA<sup>38</sup>. 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.

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<sup>38</sup> Agreed by GF in XX



- 5.51 To explain the Committee's rejection of that technical advice, SCC relies on the evidence of their witness, instructed in mid to late May 2021 (sometime after their other witnesses) and it is agreed that neither he nor any other expert gave advice to the Committee to support a highways reason for refusal. It is submitted that this evidence is not strong and generalised and is insufficient to substantiate SCC's highways reason for refusal.
- 5.52 From the appellant's viewpoint it was striking, given the detailed level of analysis which SCC as HA had already carried out, that SCC did not discuss their concerns with highway officers. As a highways expert representing the very same authority, this was, it is argued, a serious omission. As agreed in cross examination, the highways officers not only are those who have regular involvement for the roads in question (and thereby a base of knowledge which extends beyond the 2.5 months since the witness was instructed) but also have specific duties and responsibilities for highways safety. This was particularly egregious given that their case rested on specific assertions about the safety of a section of road in their care, the section of the Dunsfold Road between Pratts Corner and the A281, and on the adequacy of the temporary signals and turning arrangements into High Loxley Road which they would be responsible for regulating.
- 5.53 SCC's approach did not question the technical judgments of the SCC highways officers nor did it consider that they had incorrectly applied the guidelines. More significantly, it did not challenge the RSA undertaken by the HA nor had one been undertaken. It was accepted that, if necessary, further RSAs could be undertaken as part of the s.278 process. Rather, SCC now sought to present their approach as being informed by "caution", and that of the HA and the appellant as being hamstrung by reliance on the "guidelines" but, as the evidence shows and was accepted in cross examination, there was no basis for suggesting that the HA or appellant had done anything other than consider all of the data available. The appellant argues that there was no foundation at all for SCC's view that officers had only applied "the guidelines" and not their judgment overall and their contentions, when examined, do not stand up.
- 5.54 In relation to the specific points advanced:
- The suggestion was that the additional temporary requirements on the highway to manage the traffic safely, such as traffic lights, cones and signage, presented a novelty to drivers and was a safety hazard particularly if, for example, the lights malfunctioned.
  - However, this does not bear examination since there is no reason to suppose that such matters will not be approached safely by road users. It was not suggested there would not be good visibility of the lights and signage as drivers approached the junction with High Loxley Road, and they are a frequent presence on roads in any event, as they have been recently on the Dunsfold Road. Malfunctioning traffic lights is nothing particular to these proposals, and can be managed as in other cases.
  - The numbers of HGVs added to the network, to be controlled by condition, is a small percentage of those already on it and will include periods when there are none at all. While there may be fewer larger

HGVs on the network, it is notable that SCC did not survey usage but relied on earlier work for the High Billingham Farm permission<sup>39</sup>. That other count already shows a significant number of larger HGVs amongst the larger total number of HGVs<sup>40</sup> on the network and those coming to site are limited to the short periods of setting up and dismantling the rig and in any event cannot exceed the maximum of 10 HGVs (20 movements) coming to the Site each day. The effect of the additional numbers of HGVs was exaggerated by SCC witnesses generally in the light of the agreed traffic count data<sup>41</sup>.

- The principal footing on which SCC sought to contend that the Dunsfold Road was unsafe was by comparison with the national road accident statistics at Appendix A to their transport proof. However, the comparisons sought have no reasonable statistical justification for the manner in which they sought to use them. The line of figures relied upon relates to "other rural roads" but there is nothing to show that they are comparable or along what lengths. The total numbers of accidents on the relevant section of the Dunsfold Road are low and, as their witness accepted, choosing a longer stretch of the road might significantly change the picture. The fact that there was debate as to the possible significance of annual changes between 5 and 1 Personal Injury Collisions serves to underscore the numerical sensitivity of the issue. In response to questions seeking any guidance where the national accident statistics were utilised, SCC's witness relied on the COBA 2020 User Manual Part 2 (Chapters 3 to 5)<sup>42</sup>. However, this document, which relates to the cost-benefit analysis of trunk road schemes and links, and which ascribes a monetary value to accident savings, has no application whatsoever to the assessment of accidents in safety terms. It is not adopted in a single piece of road safety guidance, which would be bound to be the case were national statistics considered to be relevant or reliance on this issue. As the opening words of Chapter 3, s3.1 make clear:

*"The benefits from a reduction in the number and severity of accidents constitute an important element in the appraisal of trunk road schemes. It is necessary to put a money value on accident savings so that they are given an appropriate valuation relative to that given to construction costs and to time and vehicle operating cost savings."*

As the appellant maintained, this analysis is of little utility applied to a stretch of road of this kind and should be treated with caution. It remains the case that there is no road safety guidance which advises the use of the national accident statistics in the manner presented by SCC and reliance on it casts further doubt on the reliability of the judgments reached. As accepted, the previous road safety record for Dunsfold Road and the HGV access route was at the heart of the HA's consideration. That consideration was based on the industry-standard

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<sup>39</sup> CD.A31

<sup>40</sup> The High Billingham Farm counts appeared lower than the agreed ATC counts referred to in the SoCG.

<sup>41</sup> Transport SoCG 2.4

<sup>42</sup> CD.J6



approach of analysing recorded collisions and their circumstances at specific locations, rather than comparison to any national statistics. Reliance on these matters was misconceived and unreasonable. The appellant contends that SCC's continued reliance on the UK statistics simply underlines the unreasonable reliance placed on irrelevant statistics and a focus on 1 year post-improvements.

- SCC's witness relied on accident records which had been considered by the HA officers but those records provided no support for their position given the absence of any accident records involving HGVs other than a horse lorry, which is not a type of vehicle which will be used at the Site. It was accepted that that the records showed that the lorry had not been at fault. It was also agreed that 5 years without HGV accident was not just a matter of good luck. Accordingly, SCC also sought to rely on anecdotal evidence of non-injury collisions, at least as demonstrating that there was some form of evidence which had not been investigated. However, this was also an unwarranted complaint and lacked any objective investigation or assessment. The anecdotal sources had been raised prior to the Committee decision and were referred to in the Officer's Report. They are inconsistent also with Alfold Parish Council (APC) suggesting one accident per year<sup>43</sup> in contrast to a single resident's allegation that there have been two to three per month<sup>44</sup>. Moreover, none were said to involve turning manoeuvres or HGVs. The HA did not consider it appropriate to investigate further, which would not be normal in any event, nor did SCC's witness take steps to verify the claims made. In the appellant's view, such evidence forms an unreliable basis for the assessment of road safety and should be given limited weight. The reality is that SCC sought to rely on inconsistent information which had not even been investigated.
- SCC's closing comments doubles down on this evidence and continues to exaggerate what will be a small number of amendments and is wrong with regard to the number of abnormal indivisible load vehicles (AILVs), which are set out in the appellant's evidence. The definition of HGV given by SCC in s60 (line 6) is incorrect as the figures wrongly only account for larger 4+ axle HGVs, not all HGV sizes (many of which are 2 or 3 axle) and the fact that a range would operate with regard to the Site.
- It is misconceived to suggest that the RSA was not complied with in that there are a few instances where the appellant has not followed the recommendation proposed. However, as the RSA itself makes plain:

*"The recommendations in this report refer to possible solutions to overcome a safety problem. There may be other acceptable ways in*

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<sup>43</sup> CD.L2/2

<sup>44</sup> See SW rebuttal appendix 2

*which to overcome these. The audit team will be pleased to discuss any alternative solutions."*

- Read fairly, and as made clear in the Officer Report, it is clear that the RSA process resulted in a number of changes to the proposals, which have made them safer and which have allowed the HA to reach a view that the proposals are acceptable in highways terms.

5.55 The appellant submits that no significant highways impacts arise, consistently with the position agreed with the HA prior to the Committee decision.

#### Visual and Landscape Effects

5.56 As in relation to highways, SCC's second reason for refusal asserts that the appellant had not provided "sufficient" information to demonstrate that there will not be significant adverse impacts on the landscape. Although this position is nominally maintained<sup>45</sup>, in the appellant's view, it lacks credibility and did not appear to be pursued with any vigour. In addition to the detailed plans and design statement, the application was supported by:

- The Landscape and Visual Impact Assessment (LVIA);
- Additional information and visualisations provided at the request of officers; [CD.A27]
- A Light Impact Assessment [CD.A16] which was followed by further clarificatory information including a revised assessment [CD.A24]; and
- An outline Landscape, Environment and Biodiversity Restoration and Enhancement Plan [CD.A21/2], which set out a mitigation and restoration plan that includes replacement planting from Year 1 of the development.

5.57 No objection to the proposal on the grounds of insufficient evidence was raised by the County Landscaping Consultant or the Surrey Hills AONB Planning Adviser<sup>46</sup>; nor by SCC's planning officers who were able to give detailed consideration to all the issues raised on the application<sup>47</sup>.

5.58 Much of SCC's closing focuses on statutory and policy requirements which are not disputed and nor is the value ascribed to the setting of the AONB. SCC does not appear to have noted section 7 of the appellant's proof which specifically focusses on the setting of the AONB. It also appeared to overlook the LVIA which also deals with this issue and does not overlook the wider landscape and context<sup>48</sup>.

5.59 The LVIA was prepared by a colleague of our witness and sets out a thorough and transparent assessment of the effects of the proposal. It was

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<sup>45</sup> Ms Brown PoE EB - s8.2

<sup>46</sup> Officer Report - s82 and s87

<sup>47</sup> Officer Report - s300-370

<sup>48</sup> For Example : LVIA at Section 3, ss4.5-4.23, s6.1 (noting the importance of Hascombe Hill), ss6.8-6.18

subject to internal peer review<sup>49</sup> and, in accordance with the Guidelines for Landscape and Visual Impact Assessment (3rd Edition) (GLVIA3), it sets out its methodology in full at Appendix EDP 250 and presents its conclusions in respect of each receptor through the tables at Appendix EDP 6<sup>51</sup>. Landscape and visual receptors were identified by reference to a 2km study area<sup>52</sup> and a baseline ZTV exercise, and the LVIA makes clear that the assessment is carried out by reference to the 'worst case' winter views, albeit that it explains that winter photography was not possible due to the timescales of the planning application (s4.4). While this point is repeated by SCC in closing, they are unable to explain why their own witness did not do so given their lengthy involvement in the case and the attempt to characterise that evidence as comprehensive is misconceived given the large number of issues which had to be added in chief to plug the considerable gaps in evidence. Notably, the appellant states, given the nature of the application, the LVIA was explicit that its judgments as to the magnitude of effects were reached taking into account not only the geographical extent and scale of change which the receptor would experience but also the duration of the change and its reversibility, and the terms used are defined carefully<sup>53</sup>. It also judged, taking account of the proximity of the AONB and the AGLV designation, that the landscape and visual receptors should (in the main) be accorded a 'high' or 'very high' sensitivity. The LVIA's methodology<sup>54</sup>, including the identification of the study area<sup>55</sup> and approach to sensitivity<sup>56</sup>, is now agreed by all the main parties.

5.60 Whilst the assessment of impacts will be informed by the Inspector's own assessment from his site visits and the plans, the following observations are made with respect to the evidence heard at the Inquiry.

5.61 At the Inquiry, it became clear that the main issues as between the main party's witnesses are the extent of the effects in visual and landscape terms and the length of time it would take until after restoration to achieve neutral effects. There was little between them in terms of the assessment of the sensitivity of the receptors, for example. It is common ground between them that following restoration, the landscape and visual effects will be neutral (subject to the timescale for this). That must be the starting point for consideration of the evidence SCC advances, given it is accepted that the effects will be reversed following restoration. However, it finds little if any consideration in their proof despite its obvious relevance and the terms of GLVIA3 paras. 5.51-5.52. There was no consideration by SCC's landscape witness before cross examination of the fact that the reversal of effects would be progressive, ending with the planting of new hedgerow

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<sup>49</sup> LVIA pg 4

<sup>50</sup> CD.A9/2

<sup>51</sup> CD.A9/3

<sup>52</sup> See Plan EDP L1

<sup>53</sup> Appendix EDP 2, see in particular A2.24-25.

<sup>54</sup> Landscape SoCG §3.2

<sup>55</sup> Landscape SoCG §4.1

<sup>56</sup> Landscape SOCG §6.2-4

when the site access was removed.

5.62 It is argued that a curious aspect of SCC's landscape and visual evidence was that much of what was put in cross examination and the extensive evidence in chief of their witness was material which received scant or no attention in the evidence. Even though some of the appellant's evidence was disputed (e.g. valued landscape) there was no rebuttal and the first time that SCC's position was clarified was in cross examination. The lack of discussion or even reference in their proof to the short duration of the permission, the relevance of duration and reversibility of effects (no more than a limited discussion of the retention phase at s6.13) and the application of Framework p174 on "valued landscape" (no more than a paragraph reference) is stark. In cross examination, it was asserted this was inherent because of the reference to the permission being temporary. However, there was no such reference in the proof to this, still less any discussion of its obvious materiality.

5.63 As for the accounting for duration as an inherent element of their assessment, this is far from obvious and lacked the transparent explanation of judgments required by the best practice guidance in GLVIA3, for example, pp. 21-22. Indeed, it is doubtful that it would be correct to treat it as inherent given it merited a response but only in the limited context of s6.13. It is simply inconsistent to claim that it was implicit and considered generally when it appears neither in the description of development in Section 6 of the landscape proof of evidence, nor in Appendix B2, and is only referred to in the proof in order to dispute its relevance at s6.13. The better explanation is that it was not properly considered in accordance with good practice which may explain the disagreement with the appellant over the assessment of impacts.

5.64 Another reason exists to doubt SCC's explanation, namely the dispute over the use of "temporary" and "short-term" which turned out to be obviously ill-considered when the witness appeared to be unaware of the fact the terminology had been explained (following best practice) in the LVIA App 2, A2.24. The reference to other passages in GLVIA3 turned out to be passages dealing with the classification of effects of all descriptions for the purposes of the EIA Regulations. It still fails to explain the lack of consideration of GLVIA3 paras. 5.51-5.52 and Figs. 5.1 and 6.1.

5.65 Against this background, there was a stark contrast in terms of the transparency and rigour which each expert's work displayed:

- The appellant's evidence drew on the LVIA which had been reviewed in detail following instruction and first visits to the site. The appellant's witness adopted the methodology used, including its definition of terms, and concluded that the professional views reached were ones from which he did not significantly differ. As with the LVIA, his written proof followed a careful structure focusing on the issues in dispute and was supported by appropriate additional evidence in the form of additional

plans and sections (WG proof Vol 2) and ZTV drawings (WG Rebuttal Part 2).

- By contrast SCC's witnesses' evidence displayed no clear methodology but tried to avoid the issue by saying that she had adopted that set out by EDP in the LVIA. That this was neither plausible nor correct became apparent in cross examination, where the witness had to be shown the definitions of temporary and short-term which had been used and of which she was plainly not aware: see above and LVIA App 2, A2.2. She was unwilling to acknowledge the role of gradation in duration of effects or of the importance which reversibility has in informing judgments on magnitude.
- The witness was also opaque as to how she had reached her judgments. Her evidence was supported by a significant number of ZTVs (which she drew on to identify a wide range of additional "receptors") but she accepted in cross examination that these were of "limited value" – something borne out by the fact that a large proportion<sup>57</sup> of her additional visual receptors were judged by her to experience no effect. Where she asserted that additional effects would arise which had not been taken into account in the LVIA these were often unsupported by proper evidence which would allow her judgments to be confirmed, for example she presented no photographic evidence at all to support her contention that there would be Major/Moderate adverse effects on FP277 (in circumstances where the LVIA had not identified any effects<sup>58</sup>) nor did she provide any winter views despite having been instructed since February 2021 and her complaint that the appellant should have done so.
- Perhaps more starkly, the appellant contends, her willingness to reach judgments as to the magnitude of effect on the Raswell and Lodge Farm (her visual receptors 16 and 17) gives rise to serious concern about her overall approach given that (a) the only evidence she provides to evidence such impacts are her photos from the site towards the receptors (SSC 13 and 11) which, as she agreed in cross examination, do nothing to explain what the scale of change experienced at the receptor may be and (b) it emerged in cross examination that she had never actually visited either location, there was no access to Raswell and she had made her assessment from the road not the receptor.
- Her willingness to make such judgments without any proper basis or explanation suggests that her focus has been on raising objections to the Appeal Proposals, rather than on providing a balanced and objective description and assessment.
- This tendency can also be seen in her failure to engage with RPS, SCC's landscape consultants, or with officers, or with the appellant's landscape witness. Despite having been instructed since February 2021,

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<sup>57</sup> See CD.I9, Table B.4, visual receptors 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 29, 30, 34 and Bryn Mawr and Stovoldshill Farm

<sup>58</sup> A difference in judgments which EB highlighted in EiC

she accepted that she had made no attempt to discuss her views with SCC's advisers or to verify her understanding of the information which had been presented. Likewise, although in her proof at s3.1(8) she raised concerns about the accuracy of the visualisations which EDP had presented at the Application stage<sup>59</sup>, her technical criticisms were not explored with EDP before the point was raised on 29 June 2021 and she maintained the point in her oral evidence despite detailed rebuttal from the appellant, which explained that the visualisations had been prepared on the basis of on-site surveying work and detailed computer modelling<sup>60</sup>. Her willingness to do so on the basis of out of scale sections derived from data sets of markedly lower accuracy tells against her providing a proper objective assessment to the Inquiry as did her emphasis on the rural tranquillity of the general locality of the Site from High Billingham Farm which wholly ignored (as did SCC in closing) the activity to be generated by the expansion of wedding functions there for 75 events per annum (generating over 200 days of activity when the days for setting up and removal are taken into account) and the noise levels fixed for the weddings being significantly in excess of the agreed noise limits to be applied to any permission granted on this appeal. This can be seen if comparison of conditions 3-5 of CD.E19 and proposed conditions 16-17. The documents relied upon by SCC in closing predated the permission for High Billingham Farm and they simply ignored the changes.

5.66 Given these weaknesses, as noted already, and the acceptance that a neutral effect would be achieved following restoration, the main area of concern with SCC's evidence is the lack of any clear consideration of the reversibility and limited duration of the proposals as an important aspect of the determination of magnitude of the landscape and visual effects (GLVIA3 figs. 5.1 and 6.1 and ss5.51 and 5.52). As the appellant's witness explained, the fact that the whole of the development can be restored to at least a neutral landscape position within a period of three years (or thereabouts) is plainly key to the proper assessment of its effects. Likewise, it must be important to note the differences between the durations which different phases may have and the interplay between that duration and the scale or size of the effects will arise during it. For SCC, it is not clear whether there has been any proper consideration of duration: something which would be an obvious reason for her greater assessment of the significance of the effects. SCC's landscape witness was unable, in cross examination, to point to a single place in her evidence where she had taken duration into account (even though it is spelled out in the LVIA) and her 'clutching at the straw' of the description of the development as temporary (a) is not referred to in her proof and (b) ran contrary to her claim that the proposals were not temporary. Moreover, her only reference to duration at s6.13 was to misunderstand the "retention" period and to reject the limited duration issue:

*"The appellant's assessment of effects relies heavily on the temporary nature of the anticipated effects in reaching the conclusion that these*

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<sup>59</sup> CD.A27

<sup>60</sup> At WG Rebuttal §§1.13-1.15 and Appendix WG1.



*should be considered acceptable in determining the appeal, notwithstanding that the application includes the potential for the site to be retained for further use. The retention option in the application is at odds with appellant's LVIA assessment that there would be zero effects after the application period (appellant's LVIA Part 1 paragraph 6.11)."* (emphasis added)

This suggests that when drafting her evidence she took the line which was to treat the Appeal Proposal 'as if' the works were authorised to be retained beyond the life of the permission. Although she disowned that approach, her failure to explain or identify duration as a key aspect of the proposals casts real doubt on her judgments.

5.67 Other aspects of this evidence also suggest that she has overstated the likely effects:

- In response to cross examination, she held to her assessment that it would take 5-10 years for the scheme to achieve neutrality of impact following the restoration works and planting. In holding this position, she seemed to ignore the fact that the site would have progressively had all infrastructure removed and be restored to agriculture; or that the roadworks on HLR and at the junction will have been removed<sup>61</sup>. The hedge would be in place and growing in a double row and it is submitted that there is nothing to suggest (a) that such replanting is not consistent with agricultural use, (b) the initial growth of the hedge would not be sufficient to reduce residual impacts significantly. Looking at the landscape more broadly it is clear that hedge cutting and replanting is not unknown and it is hard to see what residual effects will persist. Again, the insistence on the 5-10 years appears unrealistic and she insisted that she had adopted a worst case. If a realistic view is taken, it must be the case that the effects will be very largely removed and reversed by the end of the permission rather than the time for the hedgerow to mature.
- In evidence in chief she emphasised tranquillity as a key aspect of the landscape baseline but, as she accepted in cross examination, she had not taken account of the impact of the wedding venue at High Billingham Farm, nor its extended operations pursuant to the extended permission. The grant of planning permission for up to 75 events per year, with a far more generous maximum noise limitation than as proposed for the appeal site<sup>62</sup>, will not only directly disturb local tranquillity but will lead to significant additional traffic movements for guests (Mr Gordon suggested up to 250 guests per event), staff and caterers etc both on the days on which weddings are scheduled and the days around it.
- The emphasis on disruption caused by vehicle movements (picking up on SCC advocate's focus on HGVs "trundling across the landscape", which was not in their proof) and the "highway clutter" was exaggerated given the close controls to be imposed on the number of

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<sup>61</sup> See draft conditions 4, 7 and 33

<sup>62</sup> See condition 4 of the CD.E19

movements per day (a maximum of 20 two-way trips) and the high baseline for traffic movements in the landscape which already exists and the limited time in which these matters will occur.

- Similarly, her focus on highways signals and other “clutter” lacked realism given that they are (a) reversible and (b) not significantly different from other kinds of roadworks which are common both in the area and across the country.

5.68 WBC’s witness also took an exaggerated approach to the landscape evidence, although, as he freely admitted, his evidence was not founded on a detailed assessment of particular receptors and his overall judgment went no further than to record that the proposal would give rise to noticeable adverse effects in landscape terms. He made some criticisms of the LVIA but these, in the appellant’s view went nowhere: his comment on winter views failed to acknowledge that the issue had been directly addressed within the LVIA; and his suggestion that night-time images were needed does not explain why the LVIA had not sufficiently addressed the issue through its reliance on the Lighting Impact Assessment<sup>63</sup>.

5.69 The appellant’s evidence took all of these aspects of the Appeal Proposals into account but in a more proportionate manner. It does not dispute that the proposals will give rise to impacts but considers that in landscape terms they will be comparatively low and will not give rise to more than limited effects on the landscape setting of the AONB. This took account of the proposed felling of Burchett’s Wood as a worst case scenario but concluded that this would not substantially change the overall assessments in the LVIA given the benefits of topography, proposed mitigation in the form of the screening fence, and the planting that would remain within the Appeal Site boundary. To that might be added the likelihood that any felling, or “thinning” as it is described in the last paragraph of CD.J8, appears unlikely to remove the screening currently provided given the Hascombe Estates’ (HE) commitment to avoid disturbing (a) the undesignated heritage assets<sup>64</sup> (see CD.J8) and (b) the ancient woodland<sup>65</sup> (CD.L27/1) as is set out in the appellant’s Response note. Whether or not the proposed felling will actually take place (which the appellant doubts) it seems clear from the recent letter that the clear felling of the wood in its entirety is unlikely within the three year period of the proposed development. JSCC’s attempts to make something of the significance of felling<sup>66</sup> in closing ignores the fact the issue was discussed in correspondence between SCC, the AONB Board, as was put in cross examination to their landscape witness, who appeared unaware of it, and was fully taking into account by SCC officers in recommending the grant of permission: see Officer Report ss311, 320-325.

5.70 The appellant’s landscape witness was also the only one to offer a proper analysis of the question of whether the local landscape amounts to a valued

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<sup>63</sup> See LVIA §3.21

<sup>64</sup> For possible extent see Mr Moore’s Rebuttal Figure 10

<sup>65</sup> For possible extent see Mr Moore’s Rebuttal Figure 9

<sup>66</sup> and an attempt to make something of ash dieback when the arboriculture report provides no basis for assuming the trees are at risk during the lifetime of the proposed permission.



landscape for the purpose of Framework p174 a). As set out in Section 4 of the landscape proof of evidence, a structured and objective assessment of the site's value does not indicate that the site possesses "something such as physical attributes that raise it above the ordinary"<sup>67</sup> and the history of the AGLV designation does not reveal that this designation is founded on any specific identification of landscape quality, distinct from the role which the AGLV has traditionally played as a placeholder and buffer for the AONB and future AONB review. The setting of the AONB is now specifically protected by the recent Framework changes and there is agreement as to the sensitivity of the setting in any event between the landscape witnesses. This position was largely echoed by WBC's witness who accepted in cross examination that the only characteristic which he had identified as being "out of the ordinary" in respect of the local landscape was its "interconnectivity" (by which he meant visual interconnectivity<sup>68</sup>) with the AONB. However, as the *Stroud District Council v Secretary of State for Communities and Local Government v Gladman Developments Limited* [2015] EWHC 488 (Admin) judgment confirmed (at s17), merely being within the setting of another landscape is unlikely to amount to a demonstrable physical characteristic capable of demonstrating that a landscape should be treated as valued. SCC's questions in cross examination and in closing continued to ignore s13 of the *Stroud* judgment and their witnesses' approach was similar. Although she maintained that there were other physical qualities which took the landscape out of the ordinary, it is submitted that, as the AGLV Review has recognised, the immediate landscape to the east of High Loxley Road is in fact of a lower quality than other parts of the Surrey Hills area.

5.71 In any event, it is clear that all the witnesses have treated the sensitivity of the landscape in the same way; whether or not the site is within a valued landscape for the purposes of Framework paragraph 174a) will need to be taken account in the planning balance but it is not otherwise determinative.

#### Other objections

5.72 Other points have been raised by WBC and interested persons. These have been addressed through the evidence (both written and oral). The key points as they emerged at the Inquiry are responded to as follows.

#### Impact on High Billingham Farm

5.73 In addition to the landscape witnesses, evidence was given by Mr Gordon and WBC in relation to the impact which the Appeal Proposals might have on the wedding events business which is currently operating there under a section 73 permission granted on 11 December 2020.

5.74 Mr Gordon's evidence to the Inquiry is on the basis that the Appeal Proposal will have a significantly urbanising effect on High Loxley Road and the outlook to his property, which the appellant shows is not correct.

5.75 Although he focused on the impact on High Loxley Road as the "main

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<sup>67</sup> Cleve Park decision, cited in Mr Gardiner's proof at 4.31.

<sup>68</sup> Mr Friend in response to Inspector's questions

impact” in his oral evidence<sup>69</sup>, it is clear that only a small portion of High Loxley Road will be affected by the widening and junction works and the creation of the access. These impacts, the appellant argues, will be limited to the life of the permission and that portion will not be visible from High Billingham Farm itself. The number of daily HGV movements is limited in any event and will not occur for all periods of the permission.

5.76 The potential impact on clientele travelling to and from events is largely mitigated by condition 13, which (following amendment to address Mr Gordon’s evidence to the June 2020 Committee) is now proposed to restrict HGV movements to before 1300 on both Friday and Saturdays.

5.77 Impacts outside of those times can, if necessary, be mitigated by liaison with the operators of High Billingham Farm pursuant to condition 9(k) which also provides a mechanism for ensuring that traffic management signals are programmed so that they are not there when guests arrive. In any event, this kind of signalling would not be an unusual feature in the context of this part of the countryside.

5.78 The operational noise generated by the Appeal Proposals will be low and is conditioned to a level which will keep it far below the volumes permitted at the wedding venue. It is clear that Mr Gordon’s permission entitles his functions to generate much higher noise levels than those that will be permitted on the appeal site<sup>70</sup>.

5.79 The visual impact from having a rig on site (whether drilling or workover) will be of limited duration and in all probability for significantly less than a year. Further, while it will be partially visible from the northern side of High Billingham Farm in at least some of the viewpoints identified, it is to be noted that there is no evidence before the Inquiry that it will be visible from the area which actually has permission for use as a wedding venue: see permission plan at CD.E19/2. This may be capable of clarification on the site visit, but it is telling that none of the photos used by Mr Gordon or SCC<sup>71</sup> to describe the impact are from the permitted wedding venue location itself.

5.80 Any impacts in terms of loss of revenue and resulting effect on the local economy (which was the focus of WBC’s evidence) will of course be dependent on significant harm to the popularity and therefore viability of the business. There is no evidence that such harm would arise.

#### Impact on Thatched House Farm

5.81 The visual impact of the scheme on Thatched House Farm was assessed as part of the LVIA and within the appellant’s evidence. It was judged that a moderate adverse effect would arise. The noise impacts were assessed

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<sup>69</sup> In response to questions from the appellant. He sought to row back from this position in his email to the Inquiry following evidence [CD.J3]

<sup>70</sup> CD.E19 conditions 3-5

<sup>71</sup> CD.I95 - See SSC1-6 at Appendix D.2 to Ms Brown’s proof.

within the Noise Impact Assessment<sup>72</sup> which concluded that no adverse or significant adverse effects would arise. Mr Herman criticised that assessment on the basis that the appellant's measurements for the distance between the well site and Thatched House Farm were inaccurate. This is not the case. As is clearly set out, Thatched House Farm has been measured to be 320m between the centre of the well site and the exterior wall of the receptor. This is the relevant metric, representing as it does the distance between the acoustic centre of the noise producing activity (which, as can be seen from the plans, the drilling activity may even be centred slightly further south) and the receptor itself. Moreover, the proposed conditions limit the noise both during the day and at night and the noise limits are to be judged from a point 3.5m from the façade of Thatched House Farm as a sensitive receptor and the distance is therefore irrelevant since the noise levels must be met in that close proximity to Mr Herman's property.

5.82 The proposed felling of Burchett's Wood may, if it goes ahead, increase impacts on Thatched House Farm<sup>73</sup>. This issue was specifically addressed at the Committee stage by the introduction of proposals for the 4m high screening fence along the northern boundary and a 4m high security fence along the eastern boundary, both with camouflage netting<sup>74</sup>; the appellant also committed to placing benign non-operational plant along the same boundaries in the event that the felling were to occur. In reliance upon this, officers advising Committee (see Officer Report s349 and s458) were content that the felling would not give rise to significant additional impacts. Officers also considered the impacts on Thatched House Farm in terms of heritage: see Officer Report s605.

5.83 It is notable the SCC Officers, when reiterating their recommendation to approve in November 2020, and having considered the further representations made, stated at p.4 of the Update Sheet:

*"Officers are satisfied that the impact on local businesses, the environment, climate change and residential amenity have been fully addressed in the Officer report attached at Annex 1. These issues have been taken into account in the conclusions and recommendation contained in the Officer report. In particular, the applicant has agreed to abide by Informative 21. This advises the applicant to have particular regard for the residents and businesses that neighbour the site, particularly Thatched House Farm to the north and High Billingham Farm to the south. The informative also advises the applicant to liaise with neighbours to ensure the impacts of the development are minimised and maintained at acceptable levels. Officers are satisfied that this represents a sufficient and proportionate response to the impact of the development on local businesses and immediate neighbours..."*

## Impact on Other Housing/Housing Delivery

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<sup>72</sup> CD.A10

<sup>73</sup> CD.A26/2

<sup>74</sup> See Application plan PA-16 Rev 1 CD.A28/16

5.84 Both Mr Herman and WBC also sought to argue that the Appeal Proposals may have an adverse effect on the delivery of housing at Dunsfold Aerodrome. This appeared to be on the basis of an inference that directional exploratory drilling will discourage prospective purchasers<sup>75</sup>. No evidence was presented to evidence this discouraging effect and, as the appellant explained, the reality is that there can be no surface impacts from directionally drilling a borehole of some 6-8 inches at a distance of some 1km or so below the surface<sup>76</sup>. While it is not suggested that significant public concerns about the risks of drilling could never be a material consideration, it is clear that any concerns which prospective purchasers would have here would not be material given that (a) such concerns would be baseless and (b) the concerns are plainly at nowhere near a high enough level to discourage the occupation of such dwellings. The appellant referred to 13 other gas and oil fields in Surrey and Hampshire which also extract under significant residential centres. The owner of the site, Dunsfold Airport Ltd, has not raised any such concerns in its representation<sup>77</sup>.

### Climate Change

5.85 Climate change arguments were raised by Ms Clough and Ms Finch. This was squarely addressed by the appellant's planning witness, who demonstrates that continued reliance on gas forms an essential part of the Government's continued thinking on energy and climate change mitigation<sup>78</sup>. As the appellant explained, the provision of domestic gas obviates the need for LNG imports, which is, in practice, the likely replacement for any shortfall in domestic supply given the willingness of Germany (for example) to pay higher prices for pipeline gas. The calculations at Table 4<sup>79</sup> show the level of pre-combustion carbon which would be saved on the base or upside cases for future Loxley gas production on the basis of a comparison with LNG imports.

5.86 That this is an appropriate comparator is confirmed by page 3 of the CCC's letter of 31 March 2021 [CD.J4] which, although mainly focused on the case for shale gas extraction confirms that the choice at the margin for shortfalls in fossil gas is likely to be between shale gas and LNG:

*"For fossil gas, the choice at the margin to fill this gap is likely to be between shale gas and imported liquefied natural gas (LNG), some of which may come from shale gas produced elsewhere in the world. We judge, therefore, that LNG is the appropriate comparator for UK onshore shale gas production when considering the implications for GHG emissions."*

### Other Environmental Risks

5.87 In the course of their evidence and questions, WBC made a number of points relating to other potential risks of the Appeal Proposals including the risks of breaches of the environmental permit through unauthorised

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<sup>75</sup> Mr Arthurs proof at §5.25.

<sup>76</sup> Mr Sanderson, in response to Inspector's questions

<sup>77</sup> CD.L17

<sup>78</sup> see Mr Moore's proof at 3.29, 4.3 and 4.6-4.7

<sup>79</sup> Mr Sanderson's Proof

emissions to air or ground and even the possible risk of some kind of explosion in the well-bore.

5.88 These points, which were predicated on the “possibility” of breaches occurring, are not material to this Appeal. Emissions and substance control are covered by the Environmental Permit, dated 26th June 2020 [CD.G1]; other matters in relation to well design and construction will be a matter for the HSE.

5.89 Paragraph 112 of the PPG confirms the long-established approach to matters which are covered by other regulatory regimes:

*"Some issues may be covered by other regulatory regimes but may be relevant to mineral planning authorities in specific circumstances. For example, the Environment Agency has responsibility for ensuring that risk to groundwater is appropriately identified and mitigated. Where an Environmental Statement is required, mineral planning authorities can and do play a role in preventing pollution of the water environment from hydrocarbon extraction, principally through controlling the methods of site construction and operation, robustness of storage facilities, and in tackling surface water drainage issues.*

*There exist a number of issues which are covered by other regulatory regimes and mineral planning authorities should assume that these regimes will operate effectively. Whilst these issues may be put before mineral planning authorities, they should not need to carry out their own assessment as they can rely on the assessment of other regulatory bodies. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body:*

....

- *Well design and construction – the Health and Safety Executive are responsible for enforcement of legislation concerning well design and construction. Before design and construction operators must assess and take account of the geological strata, and fluids within them, as well as any hazards that the strata may contain;*
- *Well integrity during operation – under health and safety legislation the integrity of the well is subject to examination by independent qualified experts throughout its operation, from design through construction and until final plugging at the end of operation;*
- *...*
- *Operation of surface equipment on the well pad – whilst planning conditions may be imposed to prevent run-off of any liquid from the pad, and to control any impact on local amenity (such as noise), the actual operation of the site’s equipment should not be of concern to mineral planning authorities as these are controlled by the Environment Agency and the Health and Safety Executive;*
- *...*
- *Flaring or venting of any gas produced as part of the exploratory*

*phase will be subject to Department of Energy and Climate Change controls and will be regulated by the Environment Agency. Mineral planning authorities will, however, need to consider how issues of noise and visual impact will be addressed;*"

5.90 It follows that the speculative concerns raised by WBC, which appeared to run together with their repeated references to fracking despite it forming absolutely no part of the proposals, are not relevant.

#### Common Land

5.91 Despite agreement in the Highways SoCG to the contrary (at s2.5), WBC repeatedly asserted that works to the junction of Dunsfold Road and HLR would involve work to or use of common land without following the correct procedures. This is not the only example where WBC unreasonably sought to depart from the SoCG which Mr Arthurs himself had signed on behalf of WBC and APC. He continues this unreasonable approach in his closing at paragraphs 9 and 10 and has simply failed to recognise the significance of agreement in the SoCG. The appellant has addressed this issue through the note submitted as CD.J7. There is no need to further rehearse the issues which are straightforward other than to comment that it is extraordinary for a public authority (whether acting as a Rule 6 party or otherwise) to continue to raise allegations in this manner. The point was raised by WBC directly with SCC in August 2019 (See CD.50/1) and June 2020 (see CD.32/1). It was addressed by the HA directly and then in the Officer Report at s284. There was therefore no rational basis for WBC's suggestion that new matters had arisen which justified renegeing on the signed position in the SoCG.

#### Policy Compliance and Balance

5.92 The benefits of the scheme and the degree of policy compliance were addressed in the appellant's evidence and were largely unchallenged. The merits of the exploratory and assessment phase must be considered fairly and SSC's "*have cake and eat it*" assertion simply undervalues the compliance with national planning and energy policy and meeting them requires these phases.

5.93 Within the development plan, the SMP is the principal or dominant plan against which the Appeal Proposals fall to be assessed as it contains the most relevant and specific guidance for an application of this nature.

5.94 SCC identify conflict in respect of Policy MC14(iii) and Policy MC15 on the basis of significant adverse impacts in terms of landscape and highway safety. This is disputed, but even if there were some residual conflict the appellant is clear that it would be outweighed by the benefits generated by the Appeal Proposals together with other material considerations. Those considerations and benefits are summarised in evidence and include, at their heart, the recognised need for onshore gas exploration, which is discussed above.

5.95 WBC took a much more scattergun approach to the allegation of policy conflict, identifying some 22 policies which were alleged to be breached, two of which, it was later accepted in cross examination had actually been



superseded. The appellant has addressed each of these allegations<sup>80</sup> and it is not proposed to repeat the reasons why no additional development plan conflict arises. Nearly all of the allegations, such as breach of Policy CC1 of the WLP or Policies D1, D2, IC2 and IC5 of the LP 2002, fall away as a result of the factual issues discussed above: that is the impact on climate change mitigation or impact on local businesses. Others, such as the alleged conflict with Policy RD8 (Farm Diversification) proceed on a misunderstanding of the basis on which the Appeal Proposals have been justified and are, in any event, not breached. Again, it is submitted that any conflict would be outweighed by the benefits generated by the Appeal Proposals together with other material considerations.

5.96 It is to be noted that neither SCC or WBC set out or acknowledge any consideration of the benefits of the scheme beyond making the limited point that most of the benefits are concerned with securing the chance of a successful production facility. This is plainly correct though it tends to undervalue the importance of that opportunity. As acknowledged above the project is not itself a production project but it is an essential prerequisite for the delivery of such projects in the future. This is a material benefit deserving of great weight in the planning balance given the importance of hydrocarbons in latest Government policy including the recently reissued Framework.

#### Conditions

5.97 Draft conditions have been agreed between the appellant and SCC initially in the SoCG (with areas of disagreement highlighted) and discussed further on Day 8 of the Inquiry. For the purposes of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the appellant hereby records its agreement to the imposition of the pre-commencement conditions set out (or to any variations of them imposed by the Inspector which are to substantially similar effect).

5.98 The Inspector will note that both parties consider that the revised wording for conditions 7 and 8 are sufficient to address the issue of securing post-restoration highway works and that there is, accordingly, no need for a s.106 agreement.

5.99 As explained at the conditions and s.106 session, this is plainly the right approach. Framework paragraph 55 provides that planning obligations should only be used where it is not possible to address unacceptable impacts through a condition, but here (a) a s.106 would be unable to secure the off-site works on land within the control of the HA (b) any agreement to agree would be enforceable such that (c) the only mechanism which can be used is the same "Grampian" style obligation that can equally be contained within the conditions. As such, this is that unusual case where the conditions actually provide better security for SCC than a s.106. Paragraph 10 of the PPG<sup>81</sup> is designed to prevent the use of "Arsenal" conditions (where the condition related to a s.106, the content of which might be unclear) but there is no transparency concern here: the form of

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<sup>80</sup> Mr Moore's proof - section 5

<sup>81</sup> Use of Conditions paragraph 010 Reference ID: 21a-010-20190723

the highways restoration works has already been agreed with the HA and is the subject of detailed evidence before the Inquiry.

## Conclusion

5.100 In conclusion, the appellant, UKOG, requests that its proposals should be granted planning permission and the appeal allowed.



## The Case for Surrey County Council

6.1 The full submission made by SCC can be found at CD.K8, the material points are as follows:

### Landscape

- 6.2 In considering the impact on the landscape, it is important to remember that the appeal site does not just consist of the drilling area. It extends to include the access track across open fields, the access onto High Loxley Road and the highway works at Pratts Corner.
- 6.3 The entrance to the site access will involve the removal of hedgerow and other significant vegetation loss along High Loxley Road, and the introduction of a utilitarian security cabin, gates and fencing and a passing place for HGVs, will change the rural character of this single rural, lane which is a valued, sensitive link between important recreational routes.
- 6.4 The use of the site access itself by HGVs trundling across an open field in plain view from the AONB will be discordant in the landscape.
- 6.5 The development at the well site will involve extensive earthworks, structures and fencing that are all alien, uncharacteristic and not in keeping with the layout, massing, traditional vernacular form, materials and boundary treatment of the existing rural built environment of the AGLV. The height and scale of proposed vertical structures, including rigs and a crane will stand out beyond any existing tree cover and will adversely affect visual amenity, and views from the AONB, as accepted by the appellant.
- 6.6 All this, coupled with the industrial activity and required night time lighting, will detract from the tranquil and intimate character of the area.
- 6.7 These effects have to be considered in the context of the status of the landscape in policy terms.
- 6.8 All parties accept that the whole appeal site is within the setting of the AONB. This point is significant in statutory and policy terms for a number of reasons, as accepted by the appellant's landscape witness in cross examination.
- 6.9 First, statutory provisions, including s.85 of the Countryside and Rights of Way Act 2000, require that '*in exercising or performing any functions in relation to, or so as to affect land*' in AONBs, relevant authorities '*shall have regard*' to the purposes for which these areas are designated. The PPG<sup>82</sup> makes clear that this duty applies not just to sites within the AONB but is relevant in considering development proposals that are situated outside AONB boundaries, but which might have an impact on their setting or protection.

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<sup>82</sup> CD.F2 ID8-039-20190721

- 6.10 Furthermore, the PPG recognises<sup>83</sup> that land within the setting of the AONB *“often makes an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important”* (as is the case with the view from Hascombe Hill) and *“where the landscape character of land within and adjoining the designated area is complementary.”*
- 6.11 Additionally, there is a further emphasised importance to AONB setting, and the great weight to be accorded to harm to it, in the new addition to the Framework (para 176), discussed in the planning balance section below.
- 6.12 The landscape area within which the site sits is not just important in views to and from the AONB, but it also has a number of shared characteristics with the AONB. The site is within the amber part of area W6 of the AGLV review document<sup>84</sup>. The applicable descriptor for the relevant area in the table at p.38 of CDE.24 is:
- “This area has a number of shared characteristics with the Wooded Weald AONB but the landscape is more open and its condition in parts is beginning to break down. The influence of Dunsfold aerodrome is also a factor.”*
- 6.13 The appellant’s landscape witness accepted that the detracting factors mentioned in that description do not apply to the appeal site. This is clear from the appellant’s Plan EDP L3 in the LVIA (CD A9/6) which clearly describes the appeal site as:
- “a generally tranquil landscape despite proximity of Dunsfold Road and Dunsfold Aerodrome due to the strong sense of enclosure by undulating topography and overlying woodland, tree belts and hedgerows.”*
- 6.14 Accordingly, there is no sense of the condition of the landscape in this location ‘beginning to break down’.
- 6.15 The AGLV Review document, 2007 (at CDE.24), in common with the AONB Masterplan, also recognises the framed, seated view from Hascombe Hill, from which the proposed development will be visible, as a strategic view (para 6.7, p.36).
- 6.16 In addition to being within the setting of the AONB, the site is in an AGLV designated under WLP Policy RE3. The policy text protects the setting of the AONB (at para (i)) and states (at para (ii)) that the AGLV is to be retained for its own sake and as a buffer until there is a review of the AONB boundary (see also explanatory text at 13.32 to 13.36).
- 6.17 No such review of the AONB has been completed. Whilst there was a study undertaken in 2013 which recommended that the area to the West of High Loxley Road be included in the AONB, this plainly pre-dated (by five years) the adoption of Policy RE3 and cannot logically reduce the weight to be

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<sup>83</sup> CD.F2 ID8-042-20190721

<sup>84</sup> CD.E24 (note: Mr Gardiner accepted that it had been wrongly classified as area W8 in the LVIA at para 2.32 and in para 4.18 of his proof).

afforded to the AGLV under that later policy. Policy RE3 has full weight at this time and cannot properly be described as a mere 'placeholder'.

6.18 Both the WLP (at para 13.29) and the PPG (at ID8-040) make clear that the AONB Management Plan is another important material consideration. The applicable management plan in this case is the Surrey Hills AONB Management Plan (2020 – 2025) (CD.D2). The importance of the AGLV is recognised in the Management Plan at p.19 in the following respects:

- Acts as buffer to AONB;
- Inherent landscape quality;
- Important in protecting integrity of AONB landscape;
- Particularly views to and from the AONB;
- Application of the Management Plan policies and actions to AGLV land has been instrumental in helping to conserve and enhance the Surrey Hills.

6.19 Relevant important features of the AONB are highlighted at p.17 and include views, tranquillity, dark skies and country lanes. The type of development proposed in this case is identified as a key pressure and threat (p.18 para 1.12 – 'Energy (oil, gas, fracking)'). Further, the Planning Management Policies at p.33 highlight the public views into and out of the AONB (at P2 and P6) and tranquillity is highlighted in P2.

6.20 Other relevant aspects of the Management Plan were overlooked by the appellant. At p.34, the importance of sunken lanes and verges is highlighted and the problem of highway signage clutter is identified. And at p.35 it is stated that "*The impact of development proposals on the surrounding Surrey Hills road network, including any highway mitigation measures, will be given great weight when assessing the acceptability of the development.*" This is plainly important given the valued character of High Loxley Road as a country lane and all the highway disruption and clutter that is to be introduced at Pratts Corner, right on the edge of the AONB. Worryingly, in the view of SCC, there was no reference to this part of the Management Plan in the appellant's LVIA or their landscape proof.

6.21 It is clear from all of the above that the appeal site is valued in landscape terms. It is within the setting of the AONB, it acts as a buffer to the AONB, it shares characteristics with the AONB (with no detracting features), it includes important features of the AONB and it is within views to and from the AONB. Its important role in these respects is recognised in the PPG, the AONB Management Plan and in the Framework itself.

6.22 Notwithstanding all this, the appellant's witness was at pains to resist the contention that the site is a 'valued landscape' within the terms of the Framework para 174(a). However, he accepted, as he had to, that a landscape does not have to be within the AONB for it to be a 'valued landscape' – indeed it does not have to have any designation. And he accepted, where an area is designated as valued in local policy (as it is here – as part of an AGLV) the starting point is that it is valued in Framework

terms. Indeed the significance of a local designation is recognised in the PPG<sup>85</sup>.

6.23 But, in reliance on *Stroud DC v. SSCLG* (CD.H1), the appellant's witness sought to resist the proposition that a landscape's role as forming part of the setting to the AONB can make it a valued landscape. His contentions in this respect were plainly misconceived. Paragraphs 17, 16 and 13 of the *Stroud* judgment demonstrate that the reason why the Judge considered that the landscape in that case could not be 'valued' as part of the setting was because it was not in fact considered part of the setting in policy terms. That situation simply does not apply in this case. This landscape's role as setting to the AONB is clearly recognised by its designation as AGLV (see Policy RE3 above). There is nothing in the *Stroud* judgment to suggest that either being within the setting and/or being within views to and from the AONB is not sufficient to make a landscape 'valued' in Framework terms.

6.24 Against all the affirmations as to value in the policy documents, the appellant has sought to rely on their own assessment of the GLIVIA3's Box 5.1 factors. These factors are explained more fully in Technical Note 02/21 'Assessing landscape value outside national designations (CD.E35 at para 2.4.4). But on closer examination it became clear that this assessment<sup>86</sup> was materially deficient in numerous respects:

- As to the first box in the table, landscape quality (and, in fact the last box, perceptual aspects), he makes reference to detractors. This is in flat contradiction to the appellant's own plan notation in the LVIA (at CD.A9/06 set out above) which points to the tranquillity of the landscape and the lack of detracting features.
- As to the second box, scenic quality, whilst he acknowledges the view to the site from Hascombe Hill FP533, he fails to accord it the appropriate significance and value in his assessment as a strategic view from the AONB.
- As to rarity, he fails to recognise the importance of relatively rare views from the AONB (given its wooded nature) and fails to appreciate the relative rarity of High Loxley Road as a narrow, winding, single track, sunken lane bordered by sloping verges, providing an attractive recreational route and no through access. He overlooks the fact that such a feature is expressly recognised as important in the AONB (see above).
- When considering representativeness, his assessment overlooks the appellant's own assessment in the LVIA which states: "*The baseline appraisal of the site has found many key characteristics representative of the LCA are present in the local landscape context of the site*" (LVIA para 7.15).

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<sup>85</sup> PPG - ID: 8-036-20190721

<sup>86</sup> Mr Gardiner's proof p.18 table EDP 4.1

- As to conservation interests, he states “*the only known cultural associations relate to the agricultural land use*”. This is plainly wrong. It ignores the areas of archaeological significance next to the site as set out in the appellant’s heritage report (CD.A15 para 7.2 and 7.3) and it ignores all the listed buildings in the scattered historic farmsteads in close vicinity, (High Billingham Farm, High Loxley Farm and Thatched House Farm).

These are material omissions.

6.25 Finally, as to recreation value, he places weight on the fact that there is no public access within the well site and fails to appreciate and explain the important role of the landscape context within which there are a number of recreational routes and the fact that the landscape is a visual feature in views from recreational routes within the AONB.

6.26 Indeed throughout table EDP 4.1<sup>87</sup>, it is clear that he has narrowly assessed the well site alone, not even the entirety of the appeal site and certainly not the site context, contrary to the express guidance which states:

*“when assessing landscape value of a site as part of a planning application or appeal it is important to consider not only the site itself and its features/elements/characteristics/qualities, but also their relationship with, and the role they play within the site’s context. Value is best appreciated at the scale at which a landscape is perceived – rarely is this on a field-by-field basis”* (top bullet on p.12 of CD.E35).

6.27 Further, in his refusal to accept the valued role of the site in terms of it being part of the setting to the AONB, the appellant has failed to take on board the valued functional role emphasised in the landscape value guidance in the last box of Table 1 p.11 CD.E35:

*“Landscapes and landscape elements that have strong physical or functional links with an adjacent national landscape designation, or are important to the appreciation of the designated landscape and its special qualities.”*

6.28 All these omissions materially undermine the objectivity and reliability of the appellant’s assessment. By stark contrast, SCC argues, their witness’s assessment<sup>88</sup>, is comprehensive, objective and fully supports her view of the site sitting within a valued landscape.

6.29 The inadequacies in the assessment of landscape value are representative of inadequacies in assessing the impact of the development on the character and appearance of the landscape:

6.30 No winter views are included in the LVIA in circumstances where tree cover and hedgerows are relied on repeatedly as filtering and screening views to the appeal site. Whilst it is stated (para 4.4) that a worst-case scenario should be used for visual assessment, the appellant’s witness could point to

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<sup>87</sup> Mr Gardiner’s proof p.18

<sup>88</sup> Ms Browns Proof - Table B.1, Appendix B

nowhere in the LVIA where the winter position has in fact been factored into the assessment.

- 6.31 The intrusive effect of the mitigation, including 4m high security and screening fencing (which will be in place throughout the development including the retention phase), has not been properly considered. Further, the benefits of tree and hedge re-planting have been overestimated. As SCC's witness made clear, these distinctive elements in the landscape will take 5 to 10 years to re-establish after the end of the three year development period.
- 6.32 Even where adverse visual effects have been acknowledged, we say their significance has been underplayed. The level of effects matrix in the methodology in the LVIA (at EDP A2.5 and para A2.29) has not been applied in the assessment of effects. At tables EDP6.1, 6.2 and 6.3 at pages 35 to 36 of the LVIA, the appellant's witness accepted in cross examination that the effect on the 'perceptual and sensory' receptor should be recorded as 'significant adverse'. Similarly, at tables EDP6.4 to EDP6.6 (p.38 to 39 LVIA), he was forced to accept that the effects on all the viewpoints set out there should be recorded as 'significant adverse'. Importantly, these include views from public footpaths and bridleways including from the strategic viewpoint within the AONB.
- 6.33 Further, the appellant's tendency to assess effects by reference to the previous phase of the development, rather than by reference to the existing baseline further tends to underestimate effects and undermines their assessment.
- 6.34 The differences between the parties as to effects are set out in Appendices B to F to the Landscape Statement of Common Ground. In light of all of the deficiencies in the appellant's evidence set out above, and given the quality of the explanation and detail recorded by SCC, these assessments are to be preferred.
- 6.35 Finally, it is important to take into account the effects of the felling of the Burchett's. This is part of the 'worst case scenario' which the LVIA acknowledges is important to assess as per the advice in GLVIA3 (para 4.4 LVIA). Notwithstanding this, the assessment of these effects by the appellant is wholly inadequate.
- 6.36 The felling of the Burchett's prior to, and/or during the course of, the development is a realistic and likely prospect. This is evidenced by the existence of the felling licence dated 4th October 2019 (which runs until 4 October 2024)<sup>89</sup>. The evidence from the HE<sup>90</sup> unequivocally sets out that they intend to start felling in Autumn 2021 and that they have the necessary access arrangements and hardstanding to facilitate this (and it is understood that these were pointed out at the Inspector's site visit). Whilst speculative comments have been made by the appellant's planning witness as to the size of felling equipment and large vehicles that would be required, he admitted in cross-examination that he has no expertise or

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<sup>89</sup> CD.E16-3

<sup>90</sup> CD.J8



experience in felling operations. His representations are contradicted by HE who do have experience in such felling operations and who state that a smaller vehicle can be used effectively and can be accommodated on the access.

- 6.37 The existence of the Burchett's in helping to screen the site is relied on in the EIA screening opinion (quoted at para 1.9, p.3 LVIA CDA9/01) and extensively throughout the LVIA (see LVIA paras 3.31 to 3.32 p.20, para 4.4 p.23 and para 4.7 p.24, para 6.14 p.39, para 6.17 p.40 and in conclusions at para 7.15 p.43).
- 6.38 The screening effect of the Burchett's is also relied on at CD.A9/10 – Plan EDP L7: Visual Appraisal (together with reliance on Ash trees on Dunsfold Road which have since been removed). Similarly many of the appellant's viewpoints rely on the Burchett's as ameliorating the effects of the development<sup>91</sup>.
- 6.39 Notwithstanding all this reliance on the existence of the Burchett's, the assessment of the effects of the loss of the Burchett's is scant and inadequate (see Landscape proof, paras 8.2 to 8.6 on p. 30). For example, the effect of the development on Thatched House Farm in circumstances where the Burchett's is felled is not assessed at all (see also CD.A39 where mitigation is suggested but no assessment at all is made of the extent of effects).
- 6.40 The appellant relies on the tree line on the northern boundary of the well site to perform the same screening role as the Burchett's (para 8.2, proof). This is entirely unrealistic in circumstances where that tree line is in single file, all deciduous, not continuous and includes trees subject to ash die back<sup>92</sup>.
- 6.41 The suggestion in this proof that the findings of the LVIA are not considered to materially change if the Burchett's were felled (para 8.6) is unreal and striking in circumstances where such very significant reliance is placed on their screening role throughout the LVIA (see above). Also, significantly, the SIR (CD.A5) states (at section 6 p.13, e15):
- "In spite of being 500m south of the Surrey Hills AONB, the effects of development at Location 15 (the appeal site) would be significantly reduced by The Burchett's, a mature evergreen and deciduous woodland capable of screening the visual effects of development in view to and from the AONB."*
- 6.42 This again goes to show the lack of objectivity and reliability of the appellant's position. The appellant relies on the Burchett's when it suits them (throughout the LVIA and in the SIR, before they knew about the imminent felling) and then abandon all reliance on them when it no longer

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<sup>91</sup> see CD A.9/9 – EDP L6 – location of viewpoints and see EDP VP1 and VP2, (CD. A9/11), EDP VP3 and VP4 (CD A9/12), EDP VP7 – notes well site screened by woodland (the Burchett's), EDP VP8 (Hascombe Hill) note well site screened by woodland (the Burchett's) but site access still visible, EDP VP9 – notes well site screened by woodland, EDP VP10 – notes well site screened by woodland, ditto EDP VP 11, EDP VP12

<sup>92</sup> see CD.A21-3 Appx B – Addendum to Arboricultural Impact Assessment, e25 and e38-39 and see CD.A41-1 ref to G50, ash die back

suits them (when they have to factor in the felling as a realistic assessment of worst case scenario).

## Highways

- 6.43 As accepted by the appellant's transport witness, the local highway network is not of an appropriate standard to accommodate the development. Dunsfold Road west of Pratts Corner is unsuitable for HGVs and the agreed condition on routeing will prevent HGVs from travelling to the site from the west. From the east, the turn into High Loxley Road is physically constrained, preventing HGVs from being able to turn in without very significant highway works and traffic management measures.
- 6.44 Widening works are required both at the Pratts Corner junction, along High Loxley Road and significantly south of the access on High Loxley Road (both to the west and east of the carriageway as confirmed by the appellant).
- 6.45 Mobile traffic signals are proposed to be configured on four arms of the Pratts Corner junction with traffic lights in the carriage way, traffic cones and multiple signage (see plan at CD.A23-3, p.28-29). These are proposed to be erected and then removed, erected and then removed, repeatedly on multiple occasions within a day or across a week as and when HGV deliveries are expected, sometimes on an hourly, part day or daily basis (this was set out in answers to the Inspector). This repeated removal and reinstatement will, in SCC's view, confuse drivers, adding to safety risks. And much of the highway signal clutter will be in the carriage way itself due to the soft, narrow verges, further restricting the ability of the highway to accommodate the traffic.
- 6.46 The attempts to manage the traffic safely have gone through various iterations. The road safety audit (CD.E18) raised a number of significant safety risks, with the main recommended solution involving retaining the existing priority junction and significantly widening and remodelling the bell mouth to High Loxley Road and providing more passing places along its route; in other words, a completely different arrangement<sup>93</sup>. The developer's responses rejecting these recommendations (recorded in summary in CD.E18) show how inherently unsuitable this location is. Not only were the recommended works of widening and remodelling likely to be physically impossible within the highway, given that it is bounded by common land, it is obvious that the developer was forced into a risky trade-off between environmental concerns and highway safety. The safety recommendations could simply not be accommodated without increasing the unacceptability of the access arrangements in environmental terms to a degree higher than could be countenanced.
- 6.47 The HA has apparently accepted this trade off and compromised on the recommendations of the safety audit. For example, a clear risk was identified of traffic from Dunsfold Common Road violating the red light when turning left onto Dunsfold Road. Such risks are inherent in temporary traffic signals, given that they do not have the legal force of permanent

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<sup>93</sup> (see for example RSA recommendations in relation to B2.3, B2.5, B3.1 and B3.3; see also full RSA at CD.E18/1 and see junction plan at p.28 of CD.A23-3)



traffic lights and there can be a perception (and sometimes a reality) that the lights may be at fault. However, a specific risk was identified in this location caused not least by the necessary long inter-green periods. Instead of following the RSA recommendation, the means of addressing this is going to be to move the red light so as to prevent drivers from being able to see that the road is clear (and thereby reducing their confidence in breaching the red light, but, SCC argues, making it more dangerous when they do so). This seems far from a satisfactory solution, particularly when the repeated erection, removal and reinstatement of the signals throughout the development period allows scope for signals to be placed in slightly different locations each time. The more convoluted the arrangements the more reliant one is on good, skilled driver behaviour when navigating the signals to allow for constrained HGV manoeuvres, and this reliance is not just for a one-off situation but on a repeated on/off basis during the course of the development. SCC has explained in their evidence how this reliance increases safety risks.

- 6.48 Another example is the identified risk of an increase of collisions on parallel unsuitable routes. The disruption and delay caused by the operation of the signals at the Pratts Corner junction gives rise to the risk that drivers will want to keep moving and will seek to avoid the junction. As identified in the RSA (B3.3 of CD.E18), this will lead to increased use of alternative unsuitable routes, thereby increasing the safety risk on those routes. Again, in relation to this risk, the recommended solution of widening the bell mouth of High Loxley Road had to be rejected and no alternative solution has been put in place.
- 6.49 There are other cases of issues identified by the RSA (such as the conflict problems identified in High Loxley Road – see B2.2, B2.4, B2.5, B3.1), where the traffic signal system similarly has no good solution, with tweaks to it creating as many problems as it solves (as shown by the two iterations as to traffic management on High Loxley Road, both of which have been partially abandoned) meaning that the use of banksmen will be necessary. As shown on the Outline Banksmen Method Statement (at CD.A32/5), that will itself rely on a number of steps and a chain of communication (between driver, manager, one banksmen and another banksmen), all prone to human error and equipment failure (mobile phones running out of battery for example). And this is not a one off occasion, it is a procedure that will need to be used up to 20 times per day (10, two way movements) for up to 56 weeks and for up to 10 times per day (5, two way movements) during other periods throughout the development duration. Whilst some HGVs may be smaller and not require such management, there is no breakdown of the HGV types and numbers in the information provided and there is no suggestion that the larger HGVs will be in the minority.
- 6.50 And on up to six occasions, depending on the choice of rig, the size of the HGV visiting the site will be so large that it will not be able to navigate the junction in forward gear at all. Instead it will need to pass the junction with High Loxley Road, perform a three point turn back into Dunsfold Common Road and enter High Loxley Road from the west. This will rely on intensive traffic management and cause inconvenience to road users and is another demonstration of the unsuitability of the highway network in the vicinity of the site for the development proposed.

- 6.51 It is not just the junction and the access from High Loxley Road that are unsuitable, the route from the A281 along Dunsfold Road has its own significant limitations. That route includes two 90 degree bends which have proved hazardous to traffic. SCC's transport evidence<sup>94</sup> demonstrates that the accident rate for the B2130 between Dunsfold Common Road and the A281 was between 690 and 738 accidents per billion vehicle kilometres for the years 2015 to 2019 which is double the largest UK rate since 2009 and nearly 4 times worse than the latest statistics for this type of road.
- 6.52 In response, the appellant's witness pointed to the improvement works undertaken by the highways authority in 2017/early 2018, namely the imposition of a lower speed limit. However, he fairly accepted that it is too early to tell whether that has had any material beneficial impact. In any event, the average collision rate for the years 2018 and 2019 (since the speed limit reduction) remains high at an average of 527 personal injury accidents per billion vehicle kilometres, which is still more than double the average accident rate 2018/19 for that type of road<sup>95</sup>. Whilst there is no specific guidance as to comparing accident rates in this way, it was explained how it is a useful guide to the relative safety of the stretch of road. Accident rates are expressed in this way in the COBA 2020 User Manual Part 2<sup>96</sup>. The type of road is also taken into account<sup>97</sup>. SCC's witness was not challenged on his calculations, type of road comparator nor on the traffic flows that informed his exercise.
- 6.53 All this matters because it is acknowledged that HGVs using this stretch of road are forced to cross the centre line of the carriage way when negotiating the two 90 degree bends. Indeed the accident involving the horse box and another vehicle self-evidently involved one vehicle crossing the centre line, as accepted by the appellant's witness.
- 6.54 Whilst there have not so far been any other recorded accidents involving HGVs at those bends, it is clear that the number of larger HGVs using that stretch of road has, up until now, been very low, probably due to the 'unsuitable for HGVs' sign deterring such use<sup>98</sup>. The total number of HGVs (class A4 and larger) using that stretch westbound was 49 and eastbound was 41 and this was in total over a seven day period. In this context, the development traffic which amounts to up to 10 two way HGV movements per day (and unrestricted in size) for up to 56 weeks (with up to 5 two way HGV movements at other times) is highly material, will significantly increase the incidences of where the centre line is crossed, and in turn will unacceptably increase highway safety risk.
- 6.55 In addition, there is evidence of a high incidence of accidents at Pratts Corner involving damage to the boundary wall of The Gatehouse<sup>99</sup>. Whilst these types of accidents are not routinely recorded, they are clearly

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<sup>94</sup> Mr Foulkes' proof para 4.2.3 – which was not disputed on its own terms in cross examination or by Mr Windass

<sup>95</sup> Mr Foulkes Proof App A - 195 = half x (201 + 188).

<sup>96</sup> Chapters 3 to 5 at CD.J6, where, at para 3.8 – 3.9 it is explained how this takes into account both the traffic flow and the length of road being considered

<sup>97</sup> see chapter 4 of CD.J6 and see Appendix A to Mr Foulkes' proof

<sup>98</sup> see Vision Transport Planning report at CD.A31 p.42 for vehicle categories and see westbound and eastbound results over a 7 day period at p.49 and 56 respectively

<sup>99</sup> CD.L2/2

material to the consideration of highway safety and the physical adequacy of the junction to accommodate traffic, as accepted by the appellant's witness. Neither the appellant nor the HA have investigated or grappled with this issue and its potential implications for the safety of a junction which is key to the ability of the highway network to enable access to and from the development.

### The Planning Balance

- 6.56 Statute requires that the application for planning permission for the proposed development be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.57 The appeal proposal is in conflict with a number of development plan policies. First, it is clear from the highways evidence set out above, the highway network is not of an appropriate standard for use by the traffic generated by the development and cannot be made appropriate. Further the development would have a significant impact on highway safety. It follows that Policy MC15 of the SMP is breached in two separate respects, (ii) and (iii).
- 6.58 Second, as is clear from the landscape evidence, there would be a significant adverse impact on the appearance, quality and character of the landscape contrary policy SMP Policy MC14(iii).
- 6.59 Furthermore, insufficient information has been provided to enable proper assessment of the landscape impacts, similarly contrary to Policy MC14(iii). For example, and as set out in more detail above, no winter views were provided and no proper assessment of the worst case scenario, being circumstances where the Burchett's wood was felled, was provided.
- 6.60 Furthermore, SCC consider that, in terms of inadequate information, the SIR (at CD.A6) is entirely inadequate to demonstrate that the site has been "*selected to minimise adverse impacts on the environment*". The appellant's planning witness accepted that this reference to the environment in Policy MC12 includes landscape and highways related matters.
- 6.61 The requirement for a site to be selected to minimise impacts on those matters necessarily includes a comparative exercise between this and other sites in order to show that this is the least-worst viable site in landscape and highways terms. If it is not demonstrated that there are no available, viable sites with fewer or lesser adverse impacts on the environment then there is inadequate information to demonstrate that the site has been selected in a way that meets the policy test in Policy MC12.
- 6.62 The SIR is woefully inadequate to demonstrate how the site has been selected and to demonstrate in any respect that it is the least-worst in environmental terms. It simply does not show whether or how adverse impacts on the environment have been minimised by site selection. This is for a number of reasons:
- 6.63 First, the report does not follow its own parameters in relation to technical constraints. It states (at p.8) that directional drilling enables a search area

to extend up to 1km beyond the footprint of the below ground gas discovery and it appears to indicate that the site search area has been defined accordingly. But it is then clear from figure 2 that that is not the case as the red-lined site search area has only been extended 500m beyond the below ground gas footprint. It then appears that the search area has not been followed in any event as some sites are well beyond it (see sites 18 to 23 in Table 3), even though it has always apparently been known that they would not be technically viable. Much was made of technical constraints in the appellant's evidence but there is no explanation anywhere as to how those constraints have affected the site selection process, nor as to what sites have been ruled out on that basis and why.

- 6.64 Second, the 'sieving process' is entirely opaque. Whilst a list of 'direct constraints' and 'indirect constraints' has been set out and described (at pages 10–11 of the SIR), there is no indication whatsoever as to how these constraints have been considered in relation to the sites, nor what degree of constraint(s) or types of constraint(s) has led to rejection. In the summary at para 4.3, it is stated that there are *'no locations free from designation or constraint with some locations hosting a mix'* and that *'the selection of any site would therefore engage at least one planning policy or environmental designation constraint giving rise to a degree of conflict'*.
- 6.65 How that conflict has been resolved in reaching the shortlist of 23 sites is entirely unclear. Professional judgement will have been exercised but SCC question against what parameters and criteria. There is no clarity as to what judgements have been made, nor as to what trade-offs have been made between the degrees of different constraints at the various sites. There is no list of those excluded from the list of 23 and no explanation as to the threshold for inclusion in that list. It is not possible to ascertain from the report what level and type of constraints applied to the excluded sites, nor is it possible to interrogate the judgements that have been applied.
- 6.66 The appeal site certainly has more than *'at least one planning policy or environmental designation constraint'*, it is in an AGLV, in the setting of an AONB, close to residential dwellings, close to a bridleway, remote from highway access, to name but a few, and it is not clear how it made the shortlist.
- 6.67 Further, once on the shortlist of 23 sites, there is no objective comparison set out between them. Whilst Table 3 purports to set out the basis of 'assessment of development potential' by setting out the direct and indirect constraints for each site, key constraints have been left out in relation to some sites (at least in relation to the appeal site – site 15) and yet have been included in relation to others. For example, in relation to the appeal site there is no mention of the appeal site's proximity to residential dwellings (i.e within 350m of a residential dwelling – defined as a constraint at p.11 SIR). There is no mention of the appeal site sharing a field with a bridleway and being in close proximity to other recreational routes (identified as a constraint at p.10). The assessment of other shortlisted sites includes these constraints. The report provides no consistency of comparison nor any assurance as to how the sites have been ranked to minimise environmental effects and enables no scrutiny of the method adopted.

- 6.68 It has been confirmed that no landscape or highways expertise was employed in the site selection process. No expert landscape or highway judgements were made in either the site sieving exercise or the comparison of shortlisted sites. The first involvement of any such expertise was when a highways expert visited with officers from the Council when the site had already been selected to be progressed.
- 6.69 Finally, in relation to this, we have the evidence of Mr Sanderson which throws a raft of technical constraints into the mix, none of which are set out in the SIR nor appear to relate to the process set out in that Report. Indeed it is again entirely opaque how those constraints have been applied to the various sites either at the 'sieving' stage or at the post-shortlist stage in the site selection process.
- 6.70 In sum, the SIR is inadequate and far from transparent. There is simply no way of knowing whether or not, or how, the site has been selected to minimise adverse environmental effects.
- 6.71 Where a proposal is in breach of development plan policies, will cause planning harms (as SCC says has been demonstrated in the landscape and highways evidence), and is sought to be justified by need, the availability of alternative sites is very likely to be an important material planning consideration (see *R (oao Forge Field Society) v. Sevenoaks DC* ([2015] JPL 22 (at para 84) and *Trust House Forte Ltd v. Secretary of State* (1986) 53 P & CR 293). In a case such as this, where Policy MC12 mandates a site to be selected in a particular manner, necessarily involving comparison with alternatives, proper consideration of those alternatives is plainly necessary, see *Derbyshire Dales DC v. SSCLG* [2010] (1 P & CR 19) at para 37, and note that there was no policy in that case requiring it to be demonstrated that the site had been selected to minimise environmental effects.
- 6.72 Finally on the development plan, on the basis of the landscape evidence set out above, there is significant conflict with Policy RE3 of the WLP, which states that the setting of the AONB will be protected where development outside its boundaries harms public views from or into the AONB and which makes clear that the AGLV is to be retained for its own sake and as a buffer to the AONB.
- 6.73 As to whether there are other material considerations to justify allowing the appeal, notwithstanding the conflicts with the development plan, a key material consideration is obviously national policy in the form of the Framework and the PPG.
- 6.74 So far as the Framework is concerned, there is a breach of paragraph 111 due to the unacceptable impact on highway safety. There is additionally a breach of paragraph 174(a) and (b) due to the landscape impacts (as discussed above).
- 6.75 Contrary to para 211(e) of the Framework, the application does not provide for restoration and aftercare at the earliest opportunity. Contingency on contingency is provided in the programme, including significant time for procurement delays, preparation of tenders, final tender evaluation, contract preparation and regulatory processes all of which can be



undertaken pre-commencement and which do not need to prolong the harmful landscape and highways effects (as set out in cross examination of the appellant's technical witness). The proposed 'retention' period serves no useful purpose. It does not allow time for a further planning application to allow for extraction/production (a process which would require significantly more years, but it does unacceptably lengthen the harmful landscape and highway effects of this application. The three year period contrasts sharply with the 'typical' period of 12 to 25 weeks for exploration<sup>100</sup>, even when adding in time for testing (29 weeks), and is not justified.

6.76 As to the site's location in the setting of the AONB, the appellant's planning witness agreed that Framework, para 176, recognises that insensitive development within the setting of the AONB is capable of causing adverse impacts on the AONB itself. Further, he accepted that the effect of para 176 is that great weight is required to be accorded to any such adverse impacts in accordance with the first part of para 176. Plainly (and again, as shown in the landscape evidence) this proposal does constitute insensitive development in the setting of the AONB and its adverse impacts on the AONB (particularly in terms of view to and from the AONB) should be accorded great weight in the planning balance.

6.77 On the other side of the planning balance, the appellant seeks to accord 'significant weight' to numerous aspects of Government statements relating to supplying the UK with gas, maintaining security of supply, reducing gas imports, adapting to climate change and the economic benefits of extraction and production. It was fairly accepted that that weight should be tempered to the extent it relies on non-planning policy. It was also accepted that some of the claimed benefits relating to carbon emission reduction rely on hydrogen production which is uncertain and speculative.

6.78 However, the appellant's witness valiantly maintained that all these so-called benefits should continue to be accorded significant weight notwithstanding that they are not benefits of the proposed development at all, but are instead only potential benefits of some possible, speculative future application.

6.79 The PPG is clear on this<sup>101</sup> and emphasises that applications for the exploratory phase should be considered on their own merits and "*should not take account of hypothetical future activities for which consent has not yet been sought.*" All the claimed benefits of extraction to which the appellant accords significant weight, fall within the category of 'hypothetical future activities' which cannot be taken into account.

6.80 The witness nevertheless persisted and pursued the 'have cake and eat it' line whereby claimed benefits of future potential production are accorded significant weight but in circumstances where the adverse environmental effects of that potential production are not taken into account at all. Such a course is perverse, particularly in circumstances where the temporary, short-term nature of the exploratory proposed development has been

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<sup>100</sup> PPG – ID: 27-098-20140306

<sup>101</sup> PPG - ID 27-120-20140306

repeatedly relied upon by the appellant and where extraction/production would necessarily be much longer term (as accepted by the UKOG witness). The repeated attribution of 'significant weight' to the possible benefits of a different proposal undermines this witness' objectivity and the reliability of his planning balance.

- 6.81 For similar reasons, most of the economic benefits set out by UKOG are irrelevant to this appeal as they are potential future benefits of a future application. Their witness accepted that this proposal will not itself produce any income and will instead be a cost. Further, whilst the proposal represents an investment (in the region of £6M to £7M), he accepted that this would primarily be in specialist equipment and expertise which is only available on a national or international basis. Any ancillary local investment is entirely unquantified and unparticularised.
- 6.82 In conclusion on the planning balance, the proposed development is contrary to the development plan and there are no material considerations to justify allowing the appeal as a departure from the plan. The benefits cited by the appellant are largely speculative and illusory and are not to be taken into account. By according them significant weight, the appellant's assessment of the planning balance is fatally undermined.
- 6.83 For all these reasons, SCC respectfully submits that the appeal should be dismissed.

## **The Case for Waverly District Council and the Parish Council**

- 7.1 The full submission made by WBC can be found at CD.K9, the material points are as follows:
- 7.2 Whilst the application is for a temporary period of three 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.
- 7.3 As a result, local residents' lives and future of local businesses will be greatly impacted.

### The Evidence

- 7.4 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 SCC, as the determining Minerals Authority, and WBC and the Parish Council should be preferred for the following reasons:

### Highways Safety

- 7.5 The access to the site is off the B2130 Dunsfold Road at a very narrow and sharp bend onto the single lane, unclassified High Loxley Road. The appellant claims 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).
- 7.6 As stated by SCC's Highways Witness, the additional heavy goods vehicles 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 in WBC's view, compromise highways safety to an unacceptable degree.
- 7.7 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.
- 7.8 The appellant's 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 HGVs and AILVs to safely navigate the route and turn into the unclassified High Loxley Road,



that is between 2.5-3.1m, but it will need to accommodate vehicles that are 3.5m wide, as referenced in plan LTP/3134/03/04.01.C and 02.B.

- 7.9 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 appellant provided a note, dated 4 August 2021<sup>102</sup>, 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.
- 7.10 The proposed Access Layout Plan at Pratts Corner<sup>103</sup>, 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 encroaches 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 a negative impact on highways safety at this dangerous junction.
- 7.11 As stated by SCC's transport witness, 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 SMP 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, but concern must remain at the nature and scale of the operation and the implications if it fails due to technical and human error.
- 7.12 There is conflict with SMP Policy MC15 (iii), because the temporary traffic management traffic signals would 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.
- 7.13 Last weekend, 8 August 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 is simply unworkable in practice. A car also came off the road at one of the 90-degree bends on Dunsfold Road on 12 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

- 7.14 Both SCC and WBC's landscape 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

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<sup>102</sup> CD.J7

<sup>103</sup> CD.A3/14 ZG-UKOG-L1-PA-14

landscape harm and visual impact respectively. It is WBC's view, that they did not seek to exaggerate their case and grappled with elements where their judgment simply differed from that of the appellant's landscape witness.

7.15 The appellant's witness 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.

7.16 In relation to the Framework, the appellant was not accurate in interpretation of the paragraph 174 assessment. Both SCC and WBC concluded that, using the guidance contained in GLVIA3 Box 5.1 to help in the identification of 'valued landscapes', the site must be concluded 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 paragraph 174 assessment confirms that the scheme would result in harm to this 'valued landscape'.

7.17 The recently updated Framework 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 by SCC and WBC in their evidence and, given the appeal site's complementary rural character within the area identified as AGLV within the WLP, it makes a significant contribution to the special qualities of the AONB that define its character.

7.18 These 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 the 'valued landscape':

- 37m and 35m drilling rigs, complete with lighting,
- 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 12m 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, which will be adjacent to the AONB and will introduce an urbanising element to the rural character of the landscape.

7.19 WBC's landscape witness 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, which sets out that 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. WBC's witness 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.

7.20 SCC and WBC 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 appellant's assessment findings. Indeed, public footpath FP277 was identified as not having been identified on views; this path connects Hascombe Hill with Dunsfold and Cranleigh and is considered to have specific 'rarity' value.

7.21 The tree felling licence granted at the Burchett's wood was not taken into account in the original assessments. 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 Thatched House Farm.

7.22 Importantly, both SCC and WBC 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 appellant'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, not a minor-material effect as suggested by the appellant.

7.23 The temporal impacts including the site retention were discussed at length by all of the landscape witnesses. Both SCC and WBC were of the opinion that, even if the mitigation landscape planting, described in Phase 4, were to be successful, the period from the commenced of development until the

mitigation of landscape harm is at an acceptable level would be 10+ years. As a result, the impacts of the operation are medium to long-term and not short-term as suggested.

### The Planning Balance

7.24 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.

7.25 The proposed development fails to accord with SMP Policies MC15 and MC14(iii). In addition, WBC consider that the proposals are contrary to Policies SP1, SP2, ST1, AHN4, EE2, RE1, RE3, NE1, CC1, CC3, SS7 and SS7A of the WLP, and Policies D1, D2, D5, C6, H8, IC2, IC5, RD8 and M17 of LP 2002.

### Needs Case

7.26 The appellant, in their evidence, 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;
- The 2020 Carbon Budget Report refers to the demand for gas 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;
- The 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%; and
- The updated Framework 2021 has sustainable development as a core principle, para 7, and now includes reference to the UN17 Global Goals for Sustainable Development to 2030 – with a shift and greater focus on tackling climate change.

7.27 On the 10 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.

- 7.28 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."*
- 7.29 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.
- 7.30 WBC agree with and support the stance of the Weald Action Group. Climate Emergencies have been declared by both SCC and WBC, the lag and inconsistency in the policy approach of the SMP and WLP will be addressed as part of plan reviews in line with the Framework guidance. The need for the operation in this site adjacent to the Surrey Hills AONB and within the AGLV is not justified, in fact it is contrary, WBC consider, to the very core sustainability principles of the newly published Framework 2021.
- 7.31 The alternative site selection is not considered by WBC to be robust, the absolute need to utilise this site has not been justified. In cross examination, the UKOG witness 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. UKOG could neither confirm nor deny this suggestion.

#### Local Economy

- 7.32 High Billingham Farm (a wedding venue) and Thatched House 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 would be directly visible from both properties that operate on the unique selling point of their peaceful and unspoilt country location looking across open fields and up to the AONB.

The proposed operation will result in potential loss of several million pounds per annum to the local economy.

- 7.33 The appellant 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.
- 7.34 The proposal would result in an adverse impact on the local businesses and economy in conflict with Policy MC14 of the SMP, Policies EE2, CC1 and RE3 of the WLP, Policies D1, D2, IC2, IC5 of the LP 2002, and Para 81-85 of revised Framework 2021.

#### Impact on Amenity

- 7.35 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.
- 7.36 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

- 7.37 The proposed exploration mining operations will encroach onto the Dunsfold Aerodrome site, as confirmed by the appellant's witness, and as indicated in the plans<sup>104</sup>. 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.
- 7.38 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

- 7.39 In proposed exploration mining operations will encroach onto the Dunsfold travellers site. As is the case in Dunsfold Village this activity has the

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<sup>104</sup> CD.A3/2 ZG-UKOG-L1-PA-02 - Hydrocarbon Exploration Testing and Appraisal



potential to impact on the established living conditions and general amenity at the travellers' site.

#### Site Bond

7.40 WBC have requested a bond is provided to ensure the highway and indeed the site is returned to its present state. During EiC, the appellant's company witness 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

7.41 The key benefit of the proposed operation output as suggested by the appellant is the provision of gas and oil resources to meet a national need. Alternatives to meeting the nation's 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 Framework 2021.

7.42 The appellant 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.

7.43 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

7.44 The inspector is respectfully invited to dismiss the appeal.

## **The Case for other persons appearing at the Inquiry**

### **Statement by Kirsty Clough, Weald Action Group, CD.K4 with attachments.**

- 8.1 I wish to challenge the assertions made by appellant's planning witness in his proof of evidence on behalf of UKOG that UK National Energy Policy establishes a strategic need for further onshore exploration of conventional hydrocarbons.
- 8.2 The 2020 Energy White paper: Powering our Net Zero Future, published in December 2020, presents the latest government thinking on how energy policy will develop in the coming years. Oil and gas is covered in chapter 6. This chapter focuses almost exclusively on the large offshore sector and the objective of ensuring the UK Continental Shelf is a net zero emissions basin by 2050. The onshore sector is barely referred to. It is mentioned once in relation to its size relative to the offshore sector (on page 134), and once regarding the impacts of Covid-19 on the industry (on page 135).
- 8.3 In May this year, my local MP Jeremy Hunt was asked by another of his constituents to ask the Department of Business, Energy and Industrial Strategy to identify Government statements or policy documents setting out what the Government would regard as its current energy policy relating to UK oil and gas.
- 8.4 The response that was passed onto us from The Rt Hon Anne-Marie Trevelyan MP dated 21 May referred to CD.K4/2: the written Ministerial Statement on Energy Policy from 24 March by the Rt Hon Kwasi Kwarteng MP, Secretary of State for Business, Energy and Industrial Strategy, regarding the North Sea Transition Deal and the Review of Future Licensing of Offshore Oil and Gas; and the press release and policy paper relating to the North Sea transition deal<sup>105</sup>.
- 8.5 Neither the Ministerial Statement, press release or policy paper relate to the onshore oil and gas sector. Where the onshore sector is briefly mentioned in the policy paper this is largely in relation to onshore facilities associated with offshore production.
- 8.6 In short, there is no mention of the strategic importance or need for further onshore conventional oil and gas exploration in current Government energy policy. Indeed, previous government support for onshore fossil fuel exploration stemmed from the possibility of exploiting the potentially extensive unconventional onshore fossil fuel resource. This is evidenced in the final Government Annual Energy Statement issued in 2014, the 2012 Gas Generation Strategy and the 2012 Energy Security Strategy all of which site the potential strategic importance of unconventional shale gas. The extraction of these resources has now been ruled out, at least in the short-term, by the 2019 moratorium on hydraulic fracturing. This moratorium appears to have marked the end of the UK Governments strategic interest in the onshore oil and gas sector.

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<sup>105</sup> CD.K4/1



8.7 In conclusion there is no current Government Energy policy that I am aware of that can be used to back up a view that there is a strategic need for further exploitation of conventional onshore fossil fuel reserves.

**Statement by Darcey Finch, CD.K5.**

8.8 The previous speakers have commented on important issues regarding this appeal and so I feel that the most crucial points have been mentioned. However I would like to speak briefly on behalf of the younger generation. The past month we've seen the results of the changes in the climate. Flooding, heatwaves, fires and droughts.

8.9 We must take the needs of the Planet seriously. Exploration for oil and gas, whether found or not, is the beginnings to a destructive cycle that we must break out of. The UK are leading the way in becoming carbon neutral and however it's dressed up, digging up more fossil fuels does not reflect the commitments that have been made for our futures.

8.10 We're 100 days until world leaders gather at the COP26 climate summit in Glasgow, it has never been more president than now to begin focusing on reducing emissions, sustaining the UK's biodiversity and protecting our environment. It is just the wrong time in history to start searching for more fossil fuels.

8.11 In just 50 years, humans have wiped out 68% of global wildlife populations. A 2019 report revealed that 41% of UK species studied have declined. This threatens our own life on Earth. Respecting and protecting our planet isn't something we need to do for the beauty or the moral responsibility from one species to another, although this is the very thing that Surrey prides itself on, but it's the toolbox to the function of our society. It is the fundamental piece of the puzzle to make clean water, clean air, food production and more.

8.12 Everything we do has an impact, and we now have to start balancing the impacts and decide which ones are having the worst implications. Unquestionably it is fossil fuels by a very long way.

8.13 I hope I, and the younger generation, can hope to see a commitment to an earth-minded future.

**Statement by Tom Gordon CD.K6 and CD.J3 and written representations by Terence O'Rourke Planning consultant**

8.14 During the Surrey County Council committee meeting which voted to refuse this application, a great deal of time was spent discussing the commercial impact on local businesses which was a significant concern to members. Whilst members were advised by officers that economic impact had been considered, they were advised that this was not something that there were grounds for refusal on. I strongly disagree with this view and consider that this issue is highly relevant as detailed in my Inquiry representation.

8.15 However the significant negative impact on local businesses has not been given due consideration from the very start. In UKOGs SIR it states that site visits took place to identify sites, and yet there is no acknowledgement

in the report of the presence of our wedding venue, which is highly sensitive to impacts arising in close proximity to it. This was either not taken into account at all, or not adequately taken into account. In contrast, however, site 3 at Wildwood was discounted due to its proximity to the Wildwood golf course. The very first time UKOG visited our property, was on 30 January 2019, when they came to announce that they had already selected the site.

- 8.16 The wider perspective from our home and wedding venue offers spectacular views across beautiful, rural countryside, with undulating pastures and woodland against the backdrop of the Surrey Hills, a designated AONB. The exploratory well site will sit in a field, directly in the centre of this landscape, in a designated AGLV. In the appellant's planning proof of evidence (at paragraph 4.31) reference is made to UKOGs other exploration site at Broadford Bridge, and the production site at Horse Hill, as being located acceptably within a similar rural environment to Loxley Well.
- 8.17 The appeal site cannot be compared to those sites, firstly due to the presence of our wedding venue business and other local businesses that would be adversely affected by the proposed development. Secondly, neither is sited in an AGLV or in close proximity to an AONB. Surely these designations must count for something and have been made in order to protect the land from unnecessary and damaging industrialisation such as this?
- 8.18 The timing of this hearing has meant that your site visit has coincided with the height of summer, when all the trees and hedgerows are in full bloom, offering much greater visual protection to the identified site. I therefore would ask that you to consider how different this landscape will be during the winter and spring time, when there are no leaves or light cover on the trees, and it is extremely likely that Burchett's Wood will have been felled, leaving the proposed site fully exposed to and from the AONB, like a gaping wound on the landscape.
- 8.19 As you have not had the opportunity to visit my wedding venue I would like to provide you with some background and context. The approach to our property and wedding venue, down High Loxley Road, is nothing short of exquisite and possibly one of the most important aspects of our venue that sets the scene and fills clients with excitement and anticipation. As you drive along it's like stepping back in time. A single track rural lane, meandering through pastures and rolling countryside edged with hedgerows, trees, and wild flowers - no white lines, no signposts, no lights. A quintessential English country lane.
- 8.20 It provides the very tranquil approach that leads to High Billingham Farm, the home, where my family and I have invested our time, our energy and our savings in developing a very special wedding venue business which has gained a unique and outstanding reputation.
- 8.21 Our wonderful approach and idyllic rural location, with far reaching views towards Hascombe Hill in the AONB, are key features that set us apart from many others and they create the very first impression of our venue to prospective couples. First impressions are extremely important in this

business as they set the tone for the whole event so please do not underestimate the importance of this aspect.

- 8.22 There is no doubt that considerably widening High Loxley Road, enough to accommodate two passing HGVs, the removal and replacement of hedgerows and trees with over 50 metres of security fencing and gates, traffic controls, signage and artificial lighting, will completely destroy the rural character and tranquillity of our approach, creating an intensely negative first and last impression for any client that comes to view our venue. Particularly as they will often be attending during the week, when the proposed exploratory drilling site will be fully operational.
- 8.23 This impression will further be exacerbated by the undoubtable presence of protestors and police, as evidenced at other sites such as Horse Hill, and for anyone considering to invest as much as £180,000 on creating the perfect wedding day, this initial impression would, without question, rule us out as a potential location, even before they have actually arrived at the venue itself.
- 8.24 The damage to the lane will be nothing less than catastrophic, and any future reinstatement of hedgerows and trees would take many years to establish. Another entrance was previously applied for a little further way along the B2130, directly into the field which leads to the proposed site. Even this would have been more suitable than the current location, which is located on a blind bend, with 4 approaches, and a steep, sharp incline into a single track narrow lane frequented by walkers and horse riders.
- 8.25 The drilling site perimeter is only 328 metres from my home and less than 100 metres from our boundary. It will sit directly between us and our views towards the Surrey Hills which form the backdrop for many of our outdoor wedding ceremonies and blessings. The ability to hold outdoor ceremonies is a great attraction of our venue, and now increasingly so, following the long awaited amendment to the regulations which came into effect on the 1 July, legalising outdoor civil wedding and partnership ceremonies.
- 8.26 As the Lord Chancellor Robert Buckland QC MP said: A couple's wedding day is one of the most special times in their lives and this change will allow them to celebrate it the way that they want... ..Which I am sure does not include being overshadowed by an industrial exploratory oil and gas site running 24 hours a day, 7 days a week, emitting constant noise and light, with the risk of foul-smelling and possibly toxic gases being released.
- 8.27 Public sentiment has now radically changed with regards to the plight of our planet and the negative effects of pollution, particularly with regards to fossil fuels and an oil field and our wedding venue are simply not compatible. It is the younger generation that are leading this revolution as they are the ones who will suffer the most in years to come. They are our clients.
- 8.28 As shown in SCC's proof of evidence, the compound together with the 37 metre high oil rig and associated equipment will be in direct line of sight and earshot of our home and business. Our rural setting will be ruined, which will have an immediate and devastating impact on our business, our

reputation and our livelihood, together with many of the other business that all help to support and provide services for the weddings that we hold here, and that cater to the needs of the attending guests.

- 8.29 Our seated internal dining capacity is 167 guests and we host larger numbers outside under marquees. Our last outdoor wedding (before the pandemic) was for 250 guests and included a ceremony on the main lawn, which faces directly towards the proposed site (with the Surrey Hills AONB in the background). We are now licensed to hold up to 75 events a year, many of which will take place on a Friday. In fact about 40% of our weddings scheduled to take place this year will do so during the week when the proposed site would be fully operational.
- 8.30 By next year we hope to reach our 75 weddings capacity, which would attract to this part of Surrey as many as 11,000 visiting guests from all over the country and indeed from all over world. And so quite apart from the income that is generated by the wedding preparations themselves, huge revenue is generated for the local businesses that service the needs of these visiting guests, many of whom will often stay for several days if not weeks, particularly if they have travelled from abroad.
- 8.31 Now that restrictions have at last been lifted and weddings can proceed as normal I would expect that we could conservatively generate in the region of £4m every year for the many businesses and suppliers that all help to support our events, the vast majority of which are based in Surrey including: Caterers, local food producers, serving staff (typically about 20 per event), florists, stylists, dressmakers, marquee companies, musicians, event planners, technicians, celebrants, photographers, hotels, B&Bs, drinks suppliers including our neighbour at The Crafty Brewing Company, mobile bars, pubs, taxis and not least of all the local parish churches where ceremonies often take place bringing them essential income and outreach.
- 8.32 Like many others, our business has been very badly affected by the restrictions imposed over lockdown which have caused so much uncertainty. In 2020 we had to postpone over 40 weddings, but thankfully, now restrictions have been lifted, confidence has grown and our weddings have at last begun again in earnest.
- 8.33 Every day we are receiving new enquiries and carrying out viewings with couples eager to celebrate their wedding day here. We now have the opportunity for our business to recover and flourish, along with all our other local suppliers. Permitting this application will not only severely impact our business, but many, many others locally.
- 8.34 Our representations submitted in relation to this planning application and in particular, our further representation submitted to this Inquiry, set out in detail our concerns, both related to our home and business and wider concerns, and I would urge you to please consider these carefully.
- 8.35 Our further representation, through Terence O'Rourke Consultants, in particular, clearly identifies the planning policies with which this proposal is in conflict, and the reasons why any benefits, which we consider to be

limited, do not outweigh the significant harm that will arise to us, the wider community and the environment.

- 8.36 I would therefore urge you to visit our venue as part of your site visit in August and consider this when making your decision, and refuse this speculative application in search of more fossil fuels, because the adverse impacts clearly outweigh any possible benefit.
- 8.37 In a further statement, concerned at a response made to questions from the appellant suggesting that the effect on the venue would be about 6 months to a year, this was referring to the main installation and drilling works. I did mention that the entrance on High Loxley was one of the main concerns. However, the impact and visibility by the industrialisation of High Loxley Road and the field that adjoins ours where the site will be located, will be continually visible and will have an impact on our business and our home until such time as the site is fully restored, should that ever occur.
- 8.38 Marquee events are not commonplace here and the marquee is only ever used for dining which is finished by 8:00pm at which point guests will go into the barn to dance etc. Our events are generally held within the barn, which we have invested heavily in sound proofing, including double glazed acoustic glass and double skin insulated walls to help ensure any external noise is kept to the minimum.
- 8.39 Whilst we do have an amplified sound limit of 95dB, we have installed a noise limiting PA system (noise array) which includes directional speakers over the dance floor controlled by a Symetrix Prism Digital Signal Processor which limits, controls and removes specific troublesome frequencies. We also have a condition that specifies that our music noise levels do not exceed the background noise determined from 1m from the facade of our closest residential property (which is 500m distance). Whilst we also have a condition that states no amplified music shall be played outside the hours of 8:00pm - 1:00am we do not allow this and our contract with clients states that no amplified music is allowed to be played outside at all. Furthermore we have a condition that all external doors will be closed at 8:00pm.
- 8.40 Our license does allow us to hold events until 1:00am however we do not offer that as part of our standard contract. We have a music off policy of 11:30pm. We have never had any complaints and we are very careful about managing sound during events as my family and I also live here and we do not wish to be unduly disturbed ourselves.

**Statement by Ashley Herman CD.K7, with additional commentary CD.J2**

- 8.41 UKOG's website states that *"At the heart of UKOG is a commitment to minimise the impact of operational development on local communities and the local environment"*.
- 8.42 If onshore drilling must take place, *"Well sites should be located in places that provide minimal footprint and visual impact, not close to rural villages or houses. They should be in locations that do not unduly disrupt the local community and mindful of the impact that industrialisation can have on a rural economy and way of life. Unsightly impacts on the natural beauty of*

*Britain's countryside and on the environment, are matters that I take very personally".*

- 8.43 Those words are not mine. They are Stephen Sanderson's, the CEO of UKOG, taken from UKOG's website.
- 8.44 In their report, Surrey County Council Officers stated that minerals must be exploited "*where they are found*" this may be the case but it is contradicted by the Appellant, who states that Loxley is one of 23 sites they considered for exploration under their licence. I would suggest that the reason this site was chosen has as much to do with a willing Landowner, as geological necessity.
- 8.45 In its Statement of Case, the Appellant concedes that the Loxley site is "*out-with a preferred area for primary aggregates*" in a "*remote location*".
- 8.46 It is not remote at all. It is situated in the centre of a community comprising Thatched House, High Billinghamurst and High Loxley Farms (all of which are Grade 2 listed heritage buildings) and the long-established 350-strong Gypsy, Romany and Traveller community living within 400 metres of the proposed site at Lydia Park and New Acres.
- 8.47 Thatched House Farm and High Billinghamurst support local business, which will be seriously and adversely impacted by UKOG's activities if this appeal is allowed. The Gypsy, Romany and Traveller Community at Lydia Park and New Acres, living 400 metres from the proposed site have raised petitions and submitted letters of representation against the application, but they have not been consulted at all in the overall planning process. As a recognised minority, this oversight is a significant breach of their rights.

#### Distances, Screening And Access

- 8.48 From the outset of this application, the Appellant has persisted in misrepresenting the distances from the proposed site to Thatched House Farm and neighbouring properties. The Appellant states that the distance to Thatched House Farm is "*approximately 350 metres*". This is incorrect.
- 8.49 My Planning advisers, Terrence O' Rourke and I have measured it. It is 237 metres, a difference of over 100 metres, which is highly significant, particularly in terms of noise and pollution. Of course, the Appellant may argue that distances should be measured from the centre of its proposed site or even from the furthest perimeter to a receptor. But this is disingenuous.
- 8.50 Industrial activities, such as generators, drills, cranes, plant, flares, and transport movements could be positioned anywhere within the proposed site, which could easily be 100 metres closer to our home, than might be supposed from the Applicant's statements.
- 8.51 The Appellant is relying upon its site to be screened from our home by the woodland, known as Burchett's, which is largely comprised of a harvest crop of coniferous trees. But as the Appellant is aware, the Forestry Commission has granted a licence to the Burchett's landowner, HE, to



harvest the entire woodland by clear-felling all the trees. This will completely expose the site to my home, the AGLV and the AONB.

8.52 I believe the felling work, commencing at the Eastern boundary of Burchett's, will commence this autumn. Furthermore, in February 2021, the dense vegetation and most of the trees along the Southern verge of Dunsfold Road, were felled by the Landowner, which removed an entire section of screening between the AONB and the soon-to-be-felled Burchett's woodland.

8.53 Nevertheless, the Appellant is still suggesting that: "*the surrounding trees would have a visually softening benefit effect when viewed at distance and consequently, it would be difficult to justify refusal on visual impact grounds when viewed from the AONB*". It would not be difficult because the softening benefit will not be effective because the trees will have been chopped down.

8.54 The Planning and Regulatory Committee Members of Surrey County Council were not encouraged to visit the site by Planning Officers, possibly due to Covid restrictions and so Planning Officers were content to rely upon the Appellant's own drone footage of the screening and approaches. This footage failed to demonstrate the viewpoints from the North, the nature of the roads and narrow access - not least because it was shot from above.

8.55 So, it fell to us residents who will be most affected by UKOG's proposal, to commission a factual and unbiased video of the approaches to the site, taken at ground level, from a car. The Planning Officers were reluctant to make our footage available to the Planning Committee - preferring to use The Appellant's bird's eye view but Members insisted they should view ours, which clearly demonstrates that the junction from Dunsfold Road into High Loxley Road is extremely narrow and dangerous.

8.56 I also have legal advice that the access to the site required by UKOG would include crossing over common land and no one has produced evidence to counter that advice.

8.57 It is also reasonable to stress that the Appellant's landscape photographs have been taken in the spring and summer. Whereas winter views, without the benefit of foliage cover, would paint an entirely different picture, especially when the Burchett's woodland is felled.

#### Impact On Surrounding Housing

8.58 The drilling arc, as described by the Appellant, demonstrates that the target area falls directly beneath the site of Dunsfold Garden Village, which has been designed as one of the greenest new settlements in the country. This will have an adverse effect on the ability of Dunsfold Park to deliver the housing quota so needed by Surrey because no one would wish to purchase a home beneath which UKOG are drilling for fossil fuels, especially the Kimmeridge, which I understand requires fracking or stimulation. UKOG's proposed activities are already being flagged up in local searches.



## Our Enterprises

- 8.59 In its Statement of Case (7.26) the Appellant states that: "*There are no other unacceptable economic impacts*". This pointedly overlooks the value to the local economy of our farming and enterprises at Thatched House Farm and High Billingham's highly regarded rural wedding and events venue which are described by Waverley as "thriving local businesses".
- 8.60 Our annual Trew Fields Cancer Awareness Festival was established in 2015. It is held over three days in July and attended by 1000 people each day. There are regular follow up and camping retreat days held throughout the year. Attendees include medical and health practitioners from the NHS and overseas, faith leaders, cancer sufferers, carers, families affected by cancer, health practitioners and other interested parties.
- 8.61 Trew Fields offers talks and lectures by oncologists, nurses, palliative care practitioners, dieticians, patients, conventional and alternative practitioners and provides an opportunity for people to meet and share their experiences. All held in a festival-like atmosphere with its marquees and campsite just 95 metres from UKOG's proposed site.
- 8.62 Trew Fields introduces circa £175,000 annually into the very local economy, in the form of wages, catering, services and accommodation. To put it plainly, I do not think it will not be viable for the Trew Fields events to be held so close to a hydrocarbon site.
- 8.63 We also have The Crafty Brewing Co - an award-winning craft brewery, which sells beer locally and nationally. It employs 9 local people and offers apprenticeship and business mentoring programmes. Its marketing messages reinforce its rural credentials. In 2019, we were intending to drill a borehole, rather than having to rely on more expensive mains water however, this has been put on hold because it cannot be guaranteed that UKOG's activities will not pollute the well.
- 8.64 The Appellant suggests that it intends to invest "*approximately £6 million with significant expenditure retained in the local or Surrey-based economy*". But the bulk of this will be spent on specialist hydrocarbon exploration equipment and infrastructure, which are neither local nor of benefit to the local economy.
- 8.65 Thatched House and High Billingham Farms' combined economic contribution to the local economy is circa £5m per annum. They are real and happening now. But, if this appeal is allowed, our "thriving local businesses" which crucially rely upon their rural, tranquil settings, will be ruined because no one in their right mind would choose to celebrate their wedding in a rural surrounding, blighted by the industrial view and sounds of a hydrocarbon well site, nor would a cancer awareness organisation choose to hold their events in fields 95 metres away. It is absurd to suggest otherwise.

## Farm Diversification

- 8.66 In its Statement of Case the Appellant refers to its activities as contributing to "Farm Diversification", stating that the rent they pay to the Landowner

*“will secure the long-term viability of the supporting agricultural business... keeping it active within the rural economy and maintaining a long tradition of sustainable countryside management”.*

8.67 It is a matter of public record that the field upon which the Appellant wishes to establish its activities, was only acquired in January 2019, a few weeks before the UKOG lease was registered. It therefore might reasonably be argued that the field was acquired for the purpose of accommodating UKOG. This is perfectly within the rights of both the Landowner and UKOG, but it does cast doubt upon this being a farm diversification project.

8.68 Furthermore, it fails to comply with Waverley Borough Council’s local plan Policy RD8, because agriculture, forestry or horticulture will not remain the principal or dominant use of the field:

- the hydrocarbon operation will introduce an activity which will adversely affect the character or amenities of the area;
- it will be materially detrimental to the amenities or privacy of nearby properties;
- the amount of traffic likely to be generated will prejudice highway safety and cause significant harm to the environmental character of country roads;
- there are significant vehicular access issues;
- it is not small scale;
- it is not unobtrusively located.

8.69 I would suggest that failure to comply with Policy RD8 alone is enough for this appeal to be refused.

#### Environmental Impact

8.70 This is a tranquil area, and the nights are extremely quiet, with an existing background noise of 19dbL. However, UKOG’s proposed activities will increase this level to 45dbL, more than twice the existing level and even higher during the day.

8.71 Chronic noise exposure, some of which will be 24-hours a day during drilling and workovers, for an aggregate period of some 30 to 50 weeks, is a foreseeable risk to my family’s health, especially if the calculations for noise mitigation are based upon erroneous distances between the well site and our home.

8.72 This so concerned Waverley Borough Council’s Environmental Health Officer, that she wrote to Surrey County Council, noting that the Applicant had dismissed the fundamental principle of BS4142, which is the assessment of an introduced noise source, as measured against the existing background noise levels, to determine the likely adverse impact.

- 8.73 She viewed the Appellant's submission that noise impacts were insignificant as *"highly questionable and I do not agree with the conclusion that 'noise levels are considered to be acceptably low"*.
- 8.74 The EHO stressed that UKOG had disregarded BS4142 on the basis that the application is short-term and temporary nature in nature, rather than permanent and she was at pains to point out that a period of three years cannot, by any means, be considered temporary. Another point that has worried Waverley's EHO was air pollution. She commented that: *"Serious air-quality implications will occur. Nitrogen Dioxide concentration, when considering the current background level, will considerably increase to: "114% of the one-hour standard" and "...the impact on local air quality can clearly be seen"*. The process contributions will *"cause an exceedance of the critical level of Nitrogen Dioxide and Nitric Oxide"*. Clearly, this is of massive concern to us and the Gypsy, Romany, Traveller community, who live in caravans and mobile homes so close to the site.
- 8.75 The night skies above our farm are dark and starry. Bright lights introduced into the landscape will be the cause of light pollution to the AGLV and AONB which, apart from ruining the countryside, is injurious to nocturnal wildlife. This will be further exacerbated when the Burchett's trees have been felled.

#### Minerals Plan

- 8.76 There is an 'elephant in the room', in that SCC Planning Officers had recommended approval. But Members disagreed at both meetings. At the November Planning Committee meeting, some Members expressed their unease about the reasons given for refusal. They had wished to include impacts on local economy and business, but Officers were reluctant to allow this, even though they had at the June meeting.
- 8.77 Planning requires balance and Surrey's local policies encompass provisions for adverse economic impact as being material considerations for providing solid, legal reasons to refuse this appeal – as does the Framework.
- 8.78 The SMP, 2011, provides guidance, tempered with caution. For example, it warns that mineral exploitation: *"Should not impose significant impacts on the community"* and if there are significant adverse impacts of mineral development on communities and the environment, permission should be refused. Relevant factors, causing adverse impacts, are *"material considerations"* and may ultimately show that land identified in a plan is unsuitable for minerals development in which case, *"planning permission should be refused"*.

#### Need

- 8.79 As to need, the Appellant admits that *"The projections for demand for oil and gas are much reduced"* and this is supported by an article published in the February 2016 edition of Master Investor magazine, by Stephen Sanderson, who wrote: *"Essentially, in the last 35 years, for every barrel of oil we've used, another two have been added to the stockpile"*

8.80 Furthermore, the Appellant's aspirations for exploration at Loxley have been inconsistent, ranging from searching for oil, then gas, then wishing to provide hydrocarbons for the delivery of PPE to the NHS and, more recently, the manufacture of hydrogen from gas, which, I understand, causes dramatic CO2 emissions.

8.81 What I know is that I don't want fossil fuels to be extracted in my back yard, 240 metres from my bedroom.

#### Site Restoration

8.82 If the Appeal is allowed, The Appellant will be able to impose major changes to the local landscape and highways. Oil and gas exploration is extremely risky, and companies are vulnerable to financial failure.

8.83 The Framework requires that minerals planning authorities should provide: *"for restoration and aftercare at the earliest opportunity and that Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.* I believe that this is an exceptional circumstance.

8.84 The September 2020 accounts of the Appellant's parent company, UKOG PLC, recorded a loss of £20.9 million which took its accumulated losses to £80 million, and its assets appear to be based upon the value the company places upon its prospective resources. During 2020 the company was obliged to raise £7.73 million from its shareholders to carry out its operations, resulting in considerable equity dilution and it is currently raising £5 million.

8.85 In the annual accounts the CEO states: *"Raising funds from equity remains the most sensible and realistic way to fund projects for forward growth."* In short, the Appellant is relying upon its shareholders to continue to support the company. None of this is to cast doubt on the probity of management but simply to reflect the very high risk associated with this type of exploration company.

8.86 This is a local issue because, bearing in mind the Appellant's financial results, and its reliance upon the continuing support of shareholders, there must be some doubt as to the Appellant's ability to pay for the clean-up and restoration of its site and the highway.

8.87 If this appeal is allowed, I would strongly ask that a Section 106 Agreement, supported by a bond and / or cash is required, to ensure that the restoration of our immediate environment is secured. There is precedent for this. In 2016, Nottinghamshire County Council required £600,000 bonds from IGas to cover restoration of its Misson site.

8.88 And, on April 4th, 2019, in The House of Lords, in answer to a question from Baroness Jones of Moulsecoomb, Lord Henley, Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy stated that Mineral Planning Authorities may take financial security to cover decommissioning costs, should they consider it necessary.

Common Land (from CD.J2)

- 8.89 It might assist you to have the two letters of advice I received from my Solicitors, Penningtons, whose opinion is that the Common Land at Pratts Corner and High Loxley Road extends to the verges of the Highway.
- 8.90 This used the plans from Surrey County Council, who maintain the Register of Common Land. This shows various areas of land comprised in Commons Registration Unit CL162. The enlarged section shows more clearly the roadside verges in the vicinity of Thatched House Farm, which is shown to be 3 feet in width. The evidence provided at that point, 16 July 2020<sup>106</sup>, ignores the argument that the verges have not been removed from the unit CL162 on account of the fact that the order made following the hearing in 1979 referred to the land edged red and the research established that it is only the extent of the surface of the highway area that was edged red on the map attached to the decision notice.

The Framework

- 8.91 In the final analysis everything appears to point back to the National Planning Policy Framework. Surrey County Council's Planning Officers relied upon the Framework's recommendation, and it is worth remembering that the Framework is just that, a framework, not a dictat and is open to interpretation, as was evidenced by the Planning Members disagreeing with their Officers, just as they are entitled to do, in the interests of democracy.
- 8.92 A hydrocarbon operation situated next to a rural wedding venue, cancer awareness event site, and a craft brewery, will undoubtedly have significant adverse economic impacts, leading to loss of business, income, and employment, with consequential harm to amenity, the local community and economy. Paragraphs 84 and 85 of the Framework addresses this by stating that planning policies and decisions should enable:
- 8.93 *"The sustainable growth and expansion of all types of business in rural areas, and the development and diversification of agricultural and other land-based rural businesses"* and *"that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable."*
- 8.94 The Appellant's proposals do not satisfy the Framework's criteria. Even on the assumption that the Appellant strikes it lucky, which has not been the case in previous explorations, Loxley's contribution would be insignificant in terms of a meaningful contribution to the UK's declining need for fossil fuels.
- 8.95 When balanced against the adverse impacts of the planning application, (even before UKOG commences drilling), the harm far outweighs any good and consequently, in the interest of our local community, my neighbours, my home and business life, I would respectfully ask you to refuse this appeal.

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<sup>106</sup> CD.J2/2

## **Statement by Stephen Hayward, Dunsfold Parish Council**

- 8.96 The Parish Council align themselves with their earlier written representations and the case to be brought by WBC. In addition to concerns regarding traffic management issues and effects on local business they consider that there are three key points: the Climate Emergency, the Paris Climate Agreement and matters of energy security.
- 8.97 The Climate Emergency: It is generally accepted that the current known reserves of hydrocarbon fuels exceeds the quantum of such fuels which can be consumed on our planet without further harming the climate. In light of the resolutions passed by the County Council and the resultant policies committed to by the County Council acknowledging this climate emergency and the immediate need not to further endanger our planet's climate, the Parish Council would suggest that it would be inappropriate and unreasonable for your Committee to approve this application.
- 8.98 The Paris Climate Agreement: The Court of Appeal has supported the argument made by the Councils for a number of London Boroughs, in opposing the proposed third runway at Heathrow Airport, that the construction of such a runway at Heathrow Airport would be illegal because of the direct impact that the operation of such construction would have on the commitments made by the UK government relating to climate change as part of this Climate Agreement. Applying that principle to this application, the applicant has failed to provide any evidence that the exploitation of these hydrocarbon reserves will assist the UK in complying with its treaty obligations. This is particularly important in light of the revised arrangements for COP26 which is now proposed to take place next year in Glasgow.
- 8.99 Energy Security: The appellant has suggested that the exploitation of Loxley Well will support the UK's energy security by helping to reduce the UK's reliance on imported energy. However, the cancellation, earlier this year, of the moratorium on onshore wind farms will enable such energy security to be enhanced by renewable and other zero carbon forms of UK sourced energy. In addition, since a number of the wind farms which were caught by the moratorium were close to commencing construction such projects are exactly the type of "shovel ready" infrastructure projects being championed by the Prime Minister and his Government particularly post COVID 19. Even more relevant is the Prime Minister's announcement at the Conservative Party Conference committing the UK to ensuring that by 2030 all electricity supplied to UK residential users will be generated by off-shore wind farms. Refusing this application will show the Council's support for these zero carbon schemes which are also consistent with the Council's policies on climate change more generally.
- 8.100 These are at the forefront of government thinking and are key to considerations here. In the Parish Council's view, the appeal should be rejected on these three grounds.



## Written Representations

- 9.1 In addition to those who made representations at the Inquiry and the statutory consultees and Parish Councils around the area who commented on the application, there were some 188 written submissions in response to notification of the event. These included those from businesses, including the Hascombe Estate, the gypsy and traveller community at New Acres, Lydia Park and Hilltops and from local residents.
- 9.2 These responses were generally supportive of SCC and WBC's position in opposition to the proposal. The focus of concerns was in relation to climate change concerns, indicating no need for hydrocarbon exploration or production, landscape harms to the AGLV and AONB, other environmental impacts to groundwater, air pollution and noise and transport concerns on both the approach to the site and particularly the junction into High Loxley Road. These matters are reflective of those set out by parties that addressed the Inquiry, as well as the main parties in this case.
- 9.3 For the Hascombe Estates (HE), a further written representation was submitted in response to discussions in the Inquiry regarding the potential felling of the Burchett's, CD.J8. This noted that the appellant accepted that the felling licence permits Hascombe Estate to remove the assets but that they "would be surprised if there is a genuine intention to do so".
- 9.4 They wish to make it clear that this is incorrect and that work is intended to commence in the Autumn of 2021, in compliance with the felling licence. In relation to the appellant's statements, they make the following comments:
- *they do not agree that the access is constrained, they have, in the past, accessed the woodlands across the drive of Thatched House Farm, over which there is a right of way for forestry and agriculture purposes. The owner of Thatched House Farm is aware of this and can confirm the arrangement if necessary;*
  - *in addition to the Right of Way across Thatched House Farm's drive, there is an agreement with the owner of Thatched House Farm to access our woodlands across his fields;*
  - *harvesting the woodland blocks will be undertaken in small incremental stages. This will not require large, oversized machinery to access the woodland, as pictured in the appellant's statement. It will be achieved by utilising logging forwarder machinery. Logs will be taken to low loaders, positioned on an area of hardstanding, which already exists at Thatched House Farm. In addition, modern logging equipment has the capability to cut logs into planks of pre-determined dimensions, thus removing the need for large articulated HGV transporters, requiring separate access or areas of the highway to accommodate them.*
- 9.5 They are aware that there are some undesignated heritage assets within the woodland, but these will not be disturbed by the operation. Indeed, it is their intention to ensure that they remain intact and safeguarded.
- 9.6 Forestry falls under permitted development but, should a planning application be required to resolve any access and/or harvesting constraints,



they have no reason to believe that such consent would not be forthcoming.

- 9.7 It is HE's intention to commence the felling of Burchett's woodland this Autumn. The initial works will be in the Eastern section of the woodland, lying to the south of Thatched House Farm. The wood will be thinned out, exposing the proposed well operation to both Thatched House Farm, Dunsfold Road and the AONB beyond.

## Conditions

- 10.1 The suggested conditions were discussed at the Inquiry based on a final agreed draft, albeit with some areas of disagreement remaining between the main parties<sup>107</sup>. The focus of the discussions was to ensure that all matters of control and mitigation were properly addressed and all conditions were necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects. Following these discussions, I am satisfied that, for the reasons stated, all these conditions meet the tests and, in the event that permission is granted, they should be imposed as set out in the attached Appendix 4.
- 10.2 The draft conditions may have been altered in minor terms so that they comply with the tests. The following conditions, which are addressed in greater detail, are those over which there was no agreement or upon which further comment is needed.
- 10.3 Conditions 1 and 4 included matters relevant to the discussion over the acceptable temporary period of operations, with the appellant confirming that they wished the retention mode layout plans to be included. My conclusions that a three year temporary period would be acceptable has informed these conditions.
- 10.4 I queried the requirement for Condition 2 but accept that it would provide clarity for operators and for enforcement officers in this case. I discussed whether Condition 6, which deals with operational lighting was sufficiently defined from that associated with obstacle lighting, or indeed lighting required across the site. I am satisfied that the condition is necessary and allows for specific activities to be covered by later Conditions 19 and 20.
- 10.5 At the time of the discussion on conditions, SCC were still seeking a s106 obligation to address final restoration of highway areas outside of the appellant's control. Notwithstanding those discussions, agreement was reached on a form of Grampian condition sufficient, with SCCs agreement, to ensure suitable restoration without the need for a further legal undertaking. I note on this matter, interested parties were seeking a bond to ensure that restoration would be completed. My own assessment of the guidance on conditions and obligations bears out the main party's conclusions that this matter can, in this case, be addressed through the revised and recommended Conditions 7 and 8. I do not consider a bond a necessary requirement in this case.
- 10.6 The original agreed list of conditions included one in relation to a restriction on bulk movement of materials and one requiring the setting out of areas within the site to ensure HGV parking provision and that they can enter and leave the site in forward gear. It was generally agreed that with the managed access point and the compound site separated from the public road network, these conditions were unnecessary and I have not recommended their inclusion.

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<sup>107</sup> In the SoCG, but updated for the Inquiry

- 10.7 Condition 14<sup>108</sup> initially referred to temporary operations, which I considered to lack clarity. Revisions to that and Condition 15<sup>109</sup> have addressed this, which I have also considered against the expectations of the PPG<sup>110</sup>.
- 10.8 Turning to reasons, the relevant conditions are listed in (). In addition to the plans condition (1), the availability of plans (2) and the implementation condition (3), which are necessary to provide certainty, the development is a temporary one with the period limited (4) and delivery set out in phases (5) to minimise impact and ensure restoration.
- 10.9 To address potential impacts on the character and appearance of the area and the living conditions of surrounding businesses and residents, hours of operational activities are controlled (6), and noise, vibration and lighting addressed (12, 13, 14, 15, 16, 17, 18 and 19) as well as addressing aviation risks (20) from the rig structures.
- 10.10 To address highway safety and subsequent restoration of the highways, schemes are required for works and removal of highway works (7, 8) as well as an agreed Transport Management Plan (9), speed restrictions (10) and restrictions on HGV movements (11).
- 10.11 To address potential risks to the water environment, including, flood risk, pollution and groundwater contamination, detailed design of a sustainable drainage system is required (21, 22), restrictions on use of non-impermeable areas imposed (23), a Construction Environmental Management Plan agreed and implemented (24, 25) and a geotechnical report agreed and implemented (26, 27).
- 10.12 Conditions 7, 9, 10, 12, 13, 21, 24, 26, 29 and 30 require matters to be approved before development commences. This is necessary because these conditions address impacts that would occur during construction, or schemes of work that need to be agreed before construction commences. The appellant has provided written agreement of these pre-commencement conditions in their Closing Statement.
- 10.13 To protect the biodiversity of the site and surrounding area, a Biodiversity Restoration and Enhancement Plan is to be agreed and implemented (29) and in light of the known archaeological potential of the site, a written scheme of investigation is to be agreed (30).
- 10.14 To support restoration of the site, the retention and reuse of topsoil is required (28) as is a Final Landscape, Environment and Biodiversity Restoration and Enhancement Plan (31, 32).

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<sup>108</sup> Condition 16 in the draft conditions listing.

<sup>109</sup> Condition 17 in the draft conditions listing.

<sup>110</sup> PPG - ID: 27-020-20140306 and 27-021-20140306

## **Inspector's Conclusions**

11.1 Taking account of the evidence in this case, including the submissions and representations on which I have reported above, I have reached the following conclusions. References in square brackets [] are to earlier paragraphs in this report.

### **Introduction**

11.2 Following a full assessment of the submissions from both the main parties and others interested in the appeal, I now set out the main issues as:

- the effect of the proposal on the landscape character and appearance of the area, including that of the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV);
- the effect on living conditions for residential and commercial activities local to the site, with particular regard to noise and disturbance; and
- the effect on highway safety, including the suitability of the road network and traffic movements associated with the operation.

### **Landscape Character and Appearance**

11.3 Although it bears little on the necessary overall approach to this matter, I deal first with the appellant's argument that the Reason for Refusal on landscape matters only referred to considerations that it had not been demonstrated that sufficient information had been provided. To my mind, matters including, but not limited to, the SIR, the full extent of viewpoints, the implications of the removal of the Burchett's, the extent of landscape effects on the AONB and visual effects on residents and businesses from alterations and signage associated with the road access and junction, as well as the access route across the fields, are all matters that may be considered to have not been fully addressed or only partly addressed in the original submissions. I draw no points on the consequence of such matters or whether these should have been addressed in a more robust fashion by SCC at an earlier stage. These are mute points as the landscape implications have now been thoroughly addressed through the course of the Inquiry. [5.44, 5.45]

11.4 The appellant submitted a LVIA, which was reviewed and in part updated by their landscape witness. Despite taking some exception to the range of viewpoints and the lack of winter views and clearly, with the assessments, the methodology was accepted by the main parties as sound. No alternative LVIA was submitted.

### **Landscape and Visual Context**

11.5 The appeal site lies in open countryside to the northern edge of an agricultural field and is currently screened to the north and east by the mixed deciduous and conifer woodlands of the Burchett's and High Loxley Furze. A public right of way (PROW) lies to the south of the appeal site. There are three principal residential sites close to the proposed compound,

Thatched House Farm and associated dwellings to the north, High Loxley Farm to the west and High Billingham Farm to the south. A number of traditional and more recent agricultural buildings are visible in the immediate surroundings.

- 11.6 The site is within National Character Area 121, Low Weald, and the WW5: Grafham to Dunsfold Wooded Low Weald landscape character area, as defined by the Surrey County Council Landscape Character Assessment (2015). Following my site visits, I consider that it generally accords with the key landscape characteristics, including the undulating landform, blocks of woodland, scattered farmsteads and the land rising north to form the setting to wooded greensand hills. Indeed, a recognised element of this landscape is its position just to the south of the Surrey Hills AONB, whose boundary currently extends to the edge of the Dunsfold Road.
- 11.7 The site also lies within the setting of the AONB; this was not only accepted by the main parties, but is a function of the wider landscape designation of the AGLV. This designation was retained in the WLP under the policy relating to the AONB, Policy RE3. In this, the AGLV is designated for its own sake, which I read as its landscape value, but also as a buffer to the AONB, subject to a review of the AONB boundary. That review is not complete, and yet work has been done in assessing the relevant areas of the AGLV and their common characteristics<sup>111</sup>. [5.58, 6.8, 6.16, 7.17, 7.19]
- 11.8 The site falls within part of area W6, assessed as having a number of shared characteristics with the AONB, but being more open with the condition in parts beginning to break down. The review noted the influence of Dunsfold Aerodrome.
- 11.9 In terms of the visual context, while Zones of Theoretical Visibility were produced by both of the main parties, these unsurprisingly indicated, within an essentially flat or rising landform, extensive potential viewpoints. Of particular relevance, in addition to the PROW to the south of the field and views from the residential properties, are the two footpaths identified rising up into the AONB as well as the strategic viewpoint, noted in the AONB management plan, from a gap in the tree cover on the top of Hascombe Hill. Views will also be obtained of the site and its access from the road network, including Dunsfold Road and High Loxley Road.

#### Landscape and Visual Sensitivity

- 11.10 As agreed by the main parties in the Landscape SoCG, the sensitivity of the landscape outside of the AONB was agreed to be high, while that of the AONB, very high. I see no reason to disagree.
- 11.11 In terms of visual amenity, receptors associated with the nearby residential properties and PROW in the AONB were agreed to be very high along with some of the other PROWs. There remained some disagreement over some of the other footpath viewpoints and open access land, but many were considered of high sensitivity.

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- 11.12 My own observations generally support these positions. There is no question that the Burchett's, a mix of deciduous, possibly ancient woodland, but mostly later commercial coniferous species, along with the adjacent woodland blocks, including High Loxley Furze, would provide considerable visual screening of all but the highest structures, the drilling or workover rigs. While the appellant made a number of suggestions regarding impediments to the potential felling of the woodland, I am satisfied that the felling licence is in place, access is viable through Thatched House Farm and there are no obvious machinery restrictions. While parts of the woodland are potentially ancient woodland, I note the Forestry Commission confirms it forms part of the clear fell licence, and I can see no reason why felling could not be sensitively managed with regard to the remains of the Canadian military structures, reported to still exist within the woodland. [5.69, 8.52, 9.4-9.7]
- 11.13 Consequently, to inform an assessment of the effects of the proposal, the implications of the woodland felling must be fully accounted for, as must the assessment of seasonal changes to the hedgerows and deciduous tree cover around the site.
- 11.14 In terms of sensitivity, the other key difference between the parties related to the assessment of this area as a 'valued landscape'. I have no doubt to those who live there or who chose to walk along the footpaths nearby, this is a valued area, but the terminology has relevance when assessed against the national policy within the Framework, which seeks to protect and enhance such valued landscapes. [5.62]
- 11.15 The appellant argues that while they have accepted the site falls within the AGLV and the setting of the AONB, this, on its own, could not elevate the landscape to the status of valued, and that the *Stroud* judgement confirms this. The landscape, they say, while possessing some positive elements had few physical attributes that could lift it out of the ordinary. Their assessment against GLVIA3, Box 5.1, found no basis to conclude the site to be of higher than ordinary value. [5.65, 5.70]
- 11.16 SCC, on the other hand, argued that this landscape, within the setting of the AONB and experienced in views to and from the AONB is recognised in the local plan as an AGLV. It has both rarity and conservation and cultural significance, including the archaeological features and the Canadian Military Base remnants nearby, and has recreational value associated with the extensive PROW network surrounding the site. It was argued that reliance on the *Stroud* judgement was inappropriate in this case, as there is nothing within that to suggest that being within the setting of an AONB cannot make the landscape a 'valued' one. This position was supported by WBC. [6.21, 6.22, 6.23, 6.24, 7.16, 7.17]
- 11.17 There is no question in my mind that the entirety of all countryside areas outside of national designations cannot be considered as valued in Framework terms, notwithstanding that, as I have said above, local residents and others may value them. There must be features, both physical and perceptual, that raises them out of the ordinary. While I fully accept that GLVIA3 Box 5.1 cannot be considered a definitive test for valued landscapes, it nonetheless provides a structured approach to

consideration of such physical and perceptual elements that could contribute to such. The main parties have all addressed elements of these factors.

11.18 What is clear is that designations, under local policy, as in this case as an AGLV, do not in themselves determine which areas should be or can be considered as valued, nor can being in the setting of an AONB, albeit these are indicators of a landscape that potentially has value beyond just its rural nature. Such local designations have, in many cases, been removed from local plans; this clearly cannot define those areas as no longer having valued landscapes.

11.19 My observations are that the wider landscape here is different to that of the rising slopes and escarpment of the AONB. It has a role as a buffer, perhaps most notably between the overtly industrial character of Dunsfold Aerodrome and the pastoral qualities north of Dunsfold Road. However, there are detractors, for example, industrial elements, such as the solar farm, mobile phone mast or digester plant, or even the more sterile landscapes associated with horse paddocks and stabling. [6.13, 8.20-8.22, 8.70]

11.20 Local to the site, these detractors are less obvious and there is a sense of tranquillity and containment, despite some long views out to the AONB. However, even with this, I cannot conclude that this area is significantly different to the wide swath of AGLV. As the WLP acknowledges, a substantial part of the rural area is within the AONB and/or the AGLV. While SCC have argued that an assessment of a valued landscape cannot be made on the basis of the individual site, nonetheless, the relationship of the site to the wider context is crucial to an understanding of its value. [6.26]

11.21 In this case, the site is agricultural grassland, it is part of a wider context with an agricultural character, and has some features of the protected AONB but other detractors. Within this context, there is undoubtedly some value to this part of the AGLV in its role providing a setting to the AONB, some recreational value, not directly, but in terms of maintained rural character in wider views, and some cultural association, albeit not immediately visible, but associated with certain features within the woodlands and potentially medieval or older remains. However, these elements do not represent significant differences to the wider AGLV or rural landscape areas more generally. Overall, I cannot recommend that this be considered a valued landscape in Framework terms. However, it clearly retains protection, both in policy terms and within the revised Framework which seeks that development within the setting of an AONB should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

## Landscape and Visual Effects

11.22 To my mind there are three distinct parts to this appeal that need to be considered in landscape and visual impact terms. These include the Dunsfold Road junction to High Loxley Road, the site entrance and the



access road as it crosses the fields to reach the compound and the compound itself and associated drilling or workover rigs. [6.2-6.6]

### *The Junction*

11.23 The current access into High Loxley Road off Dunsfold Road is on a sweeping bend with a narrow bellmouth, a low-key entrance and well-vegetated verges. A larger junction into Dunsfold Common Road is found further to the west. The AONB boundary is currently the northern edge of the Dunsfold Road.

11.24 While there would be slight widening of the highway around the High Loxley Road junction, it is the introduction of signage and demountable traffic control systems, including temporary lights, that would introduce a substantial change during times of use. Although I accept that during such times, this would significantly change the character of the area, signage, including in relation HGVs is already present at the Dunsfold Common Road junction, and the periods over which the temporary equipment would be in place are limited. Overall, I consider that there would be no material harm to the landscape of the area or visual impacts associate with the proposed junction changes. [6.3, 6.20, 8.22]

### *The Site Access*

11.25 The main entrance to the site would be constructed a short distance along High Loxley Road following removal of the hedgerow and trees lying just beyond the existing field access. The proposal is to have a gate, some 24m in length fronting onto the road, with a passing place and security cabin behind. The gate is proposed to be in four sections and formed of close boarded timber. While I note suggestions that this would retain a more residential character, at this scale it exceeds even an agricultural form and despite the chosen material, which would have some softening effect, would nonetheless present a significantly urbanising or even industrial scale element on what is otherwise a single-track country lane. [5.8, 6.3, 7.18, 8.22]

11.26 The proposed access route follows a dogleg path aligned with field hedgerows, but these are not substantial boundaries, particularly where it crosses from High Loxley Road edge to the Burchett's. As a result, regular movements of HGVs across this rural landscape would materially alter the character of the area and present a jarring visual intrusion into views from local footpaths and even, at distance, from the AONB. [6.3]

### *The Compound*

11.27 Turning to the compound. The site would be levelled by cut and fill, lowering the southern edge of the site. A very substantial security and acoustic barrier fence is proposed to surround the site with a security gate on the western side for access. This boundary would be up to 4m high and is proposed to be faced with camouflage netting. [5.69, 5.82]

11.28 This would be a large structure and I have no doubt there would be significant effects on the landscape local to the site. Walkers using the PROW within the field would have relatively unobstructed views, despite a

high point in the landform between the two. Irrespective of the boundary material finish or intervening planting, it would clearly be a substantial man-made intrusion into an otherwise rural area. However, with the southern boundary fence set on the existing field level outside of the topsoil bund, I am satisfied that little if any of the equipment within the compound would be visible other than when the workover or drilling rigs are on site, which I address below.

- 11.29 High Billingham Farm is some distance to the south of the site. There is an intervening topographic highpoint and the compound would be set below the level of the existing field and a topsoil bund, although the boundary fence would be set above that. There would also be a fairly robust hedgerow between the two. Nonetheless, and even accounting for the higher land and vegetation, this would be a substantial structure which would be visible, albeit its purpose may not be apparent at times other than when the rigs are on site. [5.79, 8.28]
- 11.30 From the north and east, much of the earlier assessments relied in part on the Burchett's providing screening, and indeed the trees lining Dunsfold Road. Those trees are already removed and evidence put to the Inquiry strongly suggests that much of the Burchett's could be removed before or during operations at the site. I note the appellant relies in part on retention of a single row of trees on the northern boundary of their site, presumably lying outside of the felling area. However, these are comprised of a mixture of Ash trees and other species and as such not all can be guaranteed to remain, and a single row, particularly through periods without foliage, would provide only limited screening. In response, the northern boundary is proposed to be at 4m too, albeit this would be level with the compound floor. As a result, any raised views, such as those from the footpaths rising into the AONB and the strategic viewport on Hascombe Hill, would be able to appreciate the equipment, storage and cabins within the compound. [5.82, 5.69, 6.31, 6.35-6.40, 7.18]
- 11.31 During periods when rigs are on site, there would be a significant increase in landscape and visual effects. The rigs may be up to 38m high, significantly exceeding the height of the existing woodland, or any other structures in the immediate area. They would be an entirely alien feature in this landscape. Taking account of the need for cranes and workover rigs, tall structures may be on-site, dependant on the assessment findings, for up to 30 weeks in all. [4.3, 5.10, 6.5, 7.18]
- 11.32 During the operational period there would be a requirement for lighting on the site, although lighting associated with the access route across the fields would not be required. This is a relatively dark area, separated from any larger towns or street lighting, and I am satisfied that this contributes to its landscape value and character.
- 11.33 A lighting assessment was carried out and reviewed to take account of the felling of the woodland. This acknowledged the need for some lighting requirements and necessary controls to prevent unacceptable light spill, particularly during the drilling phase. This has informed the recommended conditions. [5.56, 5.68]

- 11.34 Nonetheless, considerable concern was expressed by WBC in particular associated with the lighting of the tall structures, and SCC considered that the night time lighting would have landscape impacts. [6.6, 7.18, 7.22, 8.22]
- 11.35 To achieve compliance with lighting standards, some specific mitigation measures are required. To my mind, adopting these requirements would address light levels on the compound area itself and the only concern would be in relation to the period when the rig or crane structures are in place. Quite clearly there is required obstacle lighting to address risks with the tall structures, and during 24 hour working there would be a need for sufficient lighting to address health and safety concerns. As a result, there will be some lighting over relatively short periods that I consider would have an effect on the character of the area, and some additional visual effects.
- 11.36 I have found the site, and immediate local area to be relatively tranquil, set away from the road network, but potentially still influenced by some road noise and possibly noise from the aerodrome and associated industrial units. Adding noise, albeit controllable to be within guideline levels, and particularly activity, which may take place over continuous 24 hour periods would have a material effect on the character of the area. However, the significance of such an effect would be likely to be limited to the immediate surroundings.

#### *Landscape and Visual Effects*

- 11.37 Drawing these elements together, HGVs will be a constant low-level presence throughout much of the operation, although during the initial access construction and levelling of the compound, their routing across the relatively open fields coupled with laying the track would be a significant presence for that 14 weeks. Tall structures would introduce very significant detracting elements to the landscape for up to 30 weeks, while the substantial enclosed compound with boundaries up to 4m high, would be in place for most of the operating period. There can be no question that such elements would be of a scale and activity level out of step with the relatively tranquil, agricultural and rural character that currently exists.
- 11.38 In landscape terms, I consider the implications of the wider site, including the access and changes to High Loxley Road, would be of medium significance, but high for the area local to the compound. The influence reduces with distance as the topography and woodland cover reasserts the rural character, nonetheless the proposal would introduce a level of industrialisation and uncharacteristic scale, exacerbated during the period of drilling. I consider it would have a major/moderate adverse effect locally.
- 11.39 The activity would be seen from the AONB, both from footpaths rising towards the upper slopes and from the strategic viewpoint within it. The outlook from the strategic viewpoint is an important one as much of the footpath in this part of the AONB is within woodland. There is an enhanced value to the sudden vista which opens up, as it provides an important context to the high escarpment and landscape change from the low weald. The landscape experienced in this outlook is typical of that of the AGLV designation providing the setting to the AONB. The framed view offers a

layered context with the dispersed woodland blocks, open fields and a strong rural character; there is limited influence from settlements or the road network. The aeroplanes on Dunsfold Aerodrome are a clear and obvious anachronistic element. However, the proposal would introduce HGV traffic crossing the area of open space in the foreground of this, and on removal of the Burchett's, a view of the large compound site. Taking account of the high sensitivity and importance of this contextual element of the setting to the experience of those within the AONB, I consider the effect to be major/moderate adverse. [6.15, 6.22, 6.24, 6.32]

- 11.40 I consider that the appellant has tended to underestimate the landscape harm particularly in earlier assessments, often appearing to rely on the presence of the Burchett's to limit the perception of the site, and, in my view, underplaying the impacts of the access gate and the HGV traffic. While that traffic level would be relatively low, potentially one or two movements per hour, this would nonetheless be highly uncharacteristic elements within a landscape generally devoid of traffic influence, especially when the HGVs would be viewed as crossing open fields. [5.67, 6.3, 6.4, 6.35-6.41]
- 11.41 In terms of visual effects from the residential dwellings agreed as being of high sensitivity, my finding is that of a moderate adverse effect, although this is made greater by the potential loss of the Burchett's, and more significant still during the period of drilling. I consider that from the local PROW, the effect would be major adverse, and from the wider PROW network, moderate adverse. The strategic viewpoint would be degraded by a further anachronistic element, one without perhaps the quiriness of the aeroplanes. However, the view from here is at some distance and while the compound, rigs and HGVs would be perceived, they would not compromise the view, but degrade it; a moderate adverse impact. The removal of the Burchett's may open up views from the north, which, coupled with the existing loss of trees along the Dunsfold Road, may allow for glimpsed views from drivers. I find such effects to be limited and reliant on an oblique view generally. Nonetheless, the effect would be minor adverse. [8.54, 8.55]
- 11.42 Most of these findings are similarly recorded by the appellant, and while I note that SCC have concerns regarding a number of additional viewpoints, I find the evidence supporting these to be limited, and unlikely to add much to my overall conclusions.
- 11.43 SCC's perspective, largely supported by WBC, the Parish Councils and local objectors, is that there would be a significant adverse effect on the landscape resource and visual quality of the area, comprising the characteristics, features, aesthetic and perceptual qualities that define the special character of the Surrey Hills AONB and its setting and the AGLV, as well as local country lanes and the PROWs. [6.5, 6.32, 6.34, 6.58, 7.18, 7.20]
- 11.44 Weighed against this, the appellant concludes that the level of intrusion would be of a lower order, always judging their conclusions alongside the short-term temporary and wholly reversible nature of the appeal project. Accordingly, they argue the effects would not significantly harm the special qualities of the AONB for the duration of the appeal scheme and there

would be no lasting adverse effects on the AGLV. As such, they conclude that the landscape and visual effects would not be sufficient to justify dismissing the appeal. [5.39, 5.56]

11.45 My own conclusions are that there would be a significant level of landscape and visual impacts from the proposal, dependant on a number of factors. To my mind, these particularly include the period of operation and, allowing for restoration, its reversibility.

#### *Timeframes*

11.46 The application that led to this appeal was for a temporary period of three years. While I note that the PPG indicates a duration period for exploratory drilling of some 12-25 weeks, the proposal goes significantly beyond that. I have set out above that the phasing programme comprises approximately 19 months. It is from this that the Council suggest that the time period should be 20 months overall, to limit the period of harm. However, the appellant highlights other matters, which they say means that a reasonable period is three years, although some opportunities for reductions in the timescale are possible. [4.2, 5.11-5.14, 6.75]

11.47 There are two possible timeframes comprised within the application. Should the Phase 2 drilling indicate that the LGD is not commercially viable, then decommissioning and restoration can take place, with the site being cleared, if not fully restored, well within the temporary permission timeframe. Alternatively, if initial testing indicates the deposit may be viable, then it is clear that some appraisal time would be necessary to plan for extended testing. Subsequent to this, holding the site in retention mode while an appraisal is completed on the next steps, which could include further testing or a move to production on this or another site, would appear reasonable.

11.48 On the basis of the evidence, I am satisfied that there are additional time implications in setting up contracts and securing equipment. Overall, I conclude that the three year period would represent the maximum but still acceptable requirement for the setup, drilling appraisal and restoration phases; accordingly I have reflected this within the conditions, but also in assessment of the effects of the proposal.

11.49 SCC argued further that such assessment of effects should extend beyond the three year period, contending that the reversibility of the scheme would not be achieved until the harm from hedgerow loss and construction was addressed. As a result, they suggested that there would remain harm even following the planting of hedgerows, re-seeding the access track and site compound and other required restoration. This matter is relevant in ensuring that Framework requirements to provide for restoration at the earliest opportunity are met, and in understanding whether the harm can be considered short-term and reversible. [5.61-5.64, 6.75]

11.50 A further issue raised by WBC was that the company had a poor record of restoration and referred to the Markwells Wood site. While it is apparent that there may have been some issues over timing, I have evidence that restoration of this site has been completed. It is also clear that the

restoration plans for the appeal site are appropriate to return the site to its original condition; the proposal can therefore be considered reversible, the issue is the timescale. [7.40, 8.22, 8.88]

11.51 It is wrong to say that the harms I have identified would be permanent, it would equally be wrong to say that there would be no reduction in harm prior to complete regrowth of replacement planting or seeding; benefits would arrive from the removal of the compound, drilling equipment, the access track and the gates, and further benefits would accrue from the initial replanting up until full restoration is achieved. Consequently, at the end of the temporary period, many of the harms I have identified above would be addressed.

11.52 On that basis, I am satisfied that the effects of this proposal would be short-term, and 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.

11.53 Nonetheless, I have identified significant harms to the character and appearance of the landscape from the proposal. The scale of this harm is tempered by its short-term nature, but the impacts are to the AONB, its setting and the AGLV. The Framework has recently been up-dated confirming that development within the setting of an AONB should be sensitively located and designed to avoid or minimise impacts.

#### *The Site Investigation Report*

11.54 Having considered the effects of the scheme, it is clear that introducing an essentially industrial activity into a rural landscape will represent significant and potentially harmful change; local and national guidance accepts this. The Framework seeks that policy should set out criteria to ensure that such operations do not have unacceptable adverse impacts on the natural environment. This is reflected in Policy MC12 of the SMP, which expressly deals with oil and gas development, and which, similarly to Framework expectations regarding the setting of the AONB, states that applications will only be permitted where the proposed site has been selected to minimise adverse impacts on the environment. To assess compliance with this policy it is necessary to consider the SIR, the robustness of which was challenged by SCC. [5.37, 5.38, 6.60-6.70]

11.55 To address technical constraints, the area of search was set out in Figure 2 of the SIR<sup>112</sup>, although the indication was that this would be set at a distance of 1km beyond the footprint of the below ground gas discovery. In attempting to marry these up, it would appear to me that the extent of the deposit included areas where the depth of the gas column would be too small to provide effective appraisal of the resource, and a 500m area had been set to ensure suitable distance was maintained from the target crestal area. [5.36, 6.63]

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<sup>112</sup> CD.A5



- 11.56 The SIR set out an expectation that the preferred transport solution would be access off the A or B classified road network with a bellmouth capable of accommodating the flows of HGVs and AILVs. Further direct constraints were set out, including nature conservation and landscape designations and heritage assets, and indirect constraints, including residential dwellings within 350m and proximity to formal and informal recreation as well as farm businesses.
- 11.57 I have reviewed the SIR and it is unclear how the initial 23 sites were selected. The appellant argues that it was a desk based judgement and the 23 short-listed sites were chosen because they represented those with the least level of constraint. Surprisingly, this 23 included, for example, Dunsfold Park, the consented scheme for 1800 house on Dunsfold Aerodrome, which, from the description of constraints, I would have assumed would have been discounted in the first sieve. [6.65]
- 11.58 Nonetheless, the authors of the SIR are experienced in such searches and a further assessment of the remaining 23 sites is set out in the SIR. From these, six were highlighted as demonstrating a high consistency with the development plan, and from these, only two were identified as being available.
- 11.59 Again, I have reviewed Table 3, the assessment of development potential, and the reasoning is unclear. The appeal site does not meet the transport expectations, considerable adjustments and mitigation being required because the bellmouth is not capable of handling the flows of HGVs and AILVs, nor can the visibility be provided without additional speed limit controls. Furthermore, the site is within 350m of a residential property, there is a public footpath within the field and there would be visual access with the AONB. None of these constraints are recorded against Site 15, the appeal site. Even the argument that technical constraints prevent the consideration of sites further to the east, set out in the appellant's technical evidence<sup>113</sup>, appears somewhat contradictory, promoting 2 sites as alternatives, but discounting them because of the complexity and risks associated with lateral or side-track drilling, even though, presumably they were within the area of search already established to address such technical constraints. [5.35, 6.64, 6.65]
- 11.60 The site obviously meets the technical constraints, it also meets the availability criterion. However, it is unclear to me that the process of addressing the environmental factors and constraints has been robust; the evidence just does not support that.
- 11.61 However, this site may well be the site best placed to minimise adverse impacts, but the choice is only justified on the basis of what appears to be a judgement against a somewhat selective application of constraints. Nonetheless, the technical search area as a whole is one that is unlikely to contain a site devoid of any such constraints and improved access options may be associated with greater direct or indirect effects on residents or heritage assets for example. [5.36]

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<sup>113</sup> Mr Sanderson Proof



11.62 SMP Policy MC12 does seek a measure of selection, on this I draw little from the comparison with the accompanying text to Policy MC13, which the appellant suggests more clearly requires a selection process. The policies must be read plainly and that means the appellant's choice of site should be justified based on a robust approach to ensure that adverse impacts on the environment are minimised. This matter is not about whether there are alternatives, in fact none have been offered, it is about whether there is compliance with the policy. [5.31, 5.32, 5.38, 6.71]

#### *Conclusion on Landscape and Visual Effects*

11.63 Taking all these matters into account, if the impacts I have found regarding landscape character, visual effects and tranquillity, were permanent or of medium to long-term duration, then this proposal would clearly conflict with the policy aims and objectives for the mineral planning authority and the AONB. However, it is a compelling fact that any harm would be reversed in terms of these matters under the restoration scheme. Nonetheless, I consider that there would be harm to the landscape character and appearance of the area, including the AONB, and therefore conflict with SMP Policy MC14, which seeks to ensure no significant adverse impacts from the development. However, the weight I give to this is tempered by the short-term nature of the proposals.

11.64 I also find conflict with Policy MC12, as the evidence before me does not demonstrate that the site has been selected to minimise such adverse impacts. The weight I give 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, especially noting the influence of the Dunsfold Aerodrome/Dunsfold Park development, which lies within the optimal location, and the alignment of the crestal area for both the primary and secondary targets.

11.65 Such policy conflict must be weighed against supporting policies and the benefits of the scheme in the planning balance.

#### **Effect on Living Conditions and Local Businesses**

11.66 I have addressed matters relating to visual impacts of the proposal on residential receptors above. WBC and interested parties maintain further objections to the proposal in relation to noise and vibration, as well as economic impacts on local businesses, notably in relation to the Trew Fields Cancer Awareness Festival, run in two fields adjacent to the Burchett's at Thatched House Farm, and the wedding business at High Billingham Farm. [7.32-7.34, 8.15-8.34, 8.59-8.65, 8.92]

11.67 National policy and guidance accepts that mineral development will have associated noise, often of higher levels over short durations or associated with 24 hour working periods. The acceptability of such impacts are a function of the proximity to the receptors. In this case, the nearest receptors are at Thatched House Farm, approximately 320-330m from the centre of the site compound, and High Billingham Farm, at some 390m.

- 11.68 A Noise Impact Assessment has been carried out, which addressed the national guidance and SCC's local guidance<sup>114</sup>, which specifically deals with oil and gas development. While I note concerns about the absence of an assessment in accordance with BS4142<sup>115</sup>, there is no substantive evidence before me criticising or challenging the outcome of this assessment. I have also considered carefully whether the assessment has correctly addressed attenuation distances, that is, from the centre of the compound, from individual noise sources or from the boundary. I am satisfied that noise is correctly assessed in this report. [5.81, 8.72-8.74]
- 11.69 The predicted night time noise levels are up to 42dB<sub>L<sub>Aeq,1hr</sub></sub>. This is reliant on the provision of machinery screening, barriers and boundary acoustic screening, and I note was updated to address an assessment excluding any attenuation associated with the Burchett's. Some specific noise generating sources, such a tripping, are proposed to be mitigated through specific conditions, which also address noise limits at receptors.
- 11.70 Nonetheless, I am conscious that this is perceived as a tranquil area, albeit I have noted references to road noise and specifically to car noise from the Dunsfold Aerodrome test rack. While the appellant refers me to allowed noise limits associated with the wedding venue, I give this little weight as High Billingham Farm is a different location, considerably removed from other receptors and representative of only short-term, intermittent noise levels. [5.65, 5.67, 5.78]
- 11.71 However, while I accept 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 before me to suggest that the site would not meet the expected guidance standard during the temporary period of operations.
- 11.72 I appreciate that there are similar concerns with respect to vibration. I do not consider this to be significant during the drilling phases, such operations are at depth and near surface effects are likely to be minor. This is confirmed in the local noise guidance. During construction and reprofiling of the site there may be some vibration, but I have no reason to consider that the effects would be perceived at distance to the nearest receptors.
- 11.73 Turning to economic impacts, I start with the Trew Fields Festival. I have no doubt that this is a valuable and popular event, and would appear to involve daily programmes with some overnight camping in fields adjacent to the Burchett's. I was able to perceive a reasonable level of screening from the woodland between the fields and the site, although if removed, this effect would be much reduced and the 4m boundary screening, even with camouflage netting would be readily seen, as would some levels of activity, especially if the drilling rig was in place at the time. However, felling of the woodland, if it occurred, would also significantly affect the backdrop to the fields, and the works themselves would have the potential to be disruptive. [5.81-5.83, 8.60-8.62]

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<sup>114</sup> Guidance for Noise and Vibration Assessment and Control 2020

<sup>115</sup> BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound

- 11.74 Indeed with the event taking place over a single weekend, it is this matter of timing that is critical. While there are no obvious controls to ensure drilling operations and the festival do not overlap, the chances are limited and could be subject to a level of coordination if festival dates are known in advance. This is a commitment I have noted has been made by the appellant. HGV movements are significantly reduced over weekend periods and I do not anticipate that these will be a significant detractor. Overall, while I understand the concerns and there would be some visual impacts, especially were the woodland to be fully removed, overall I cannot see that the proposal would compromise the festival. [5.76]
- 11.75 With regard to the wedding business at High Billingham Farm. This is clearly a successful enterprise and I note it has expanded and is proposed to expand further for a short period. Although able to host 75 events per year, this is reported to reduce to 50 events in 2023. During my site visit I was able to appreciate the setting and facilities offered, with a number of different outside spaces and a large barn, whose construction and sound controls have been detailed in the owners submissions to this Inquiry. I do not consider that noise would be significantly perceived across the distances separating the main areas of the site from the compound, and HGV movements across the fields would not be a significant factor. However, one outside space, detailed in supplied images, does look across the fields towards the site. I have dealt with the topography limiting perceptions during normal operations, but have found that the rig would be a negative addition to the view. [5.73-5.80, 8.29, 8.30, 8.38-8.40]
- 11.76 Coupled with this, the owner set out concerns that the site entrance on High Loxley Road would be a further detractor, establishing an industrial character that would deter the clients he was seeking to attract. I do have some sympathy with this, having found the entrance a large and imposing addition to the area and a significant detractor from the tranquil country lane. Nonetheless, it represents only the first part of the journey to the site, the rest being largely unaffected by the proposal. [5.75, 8.19]
- 11.77 It is difficult to quantify how such perceptions may affect a business. A critical component is coordination of event timing and I note the efforts made and conditions requiring coordination and exclusion of HGVs from Friday and Saturday afternoons. Equally, I am conscious that the business does not only have events on the weekend, and even at 50 events per year this could mean more than one in any week in favourable months. However, the venue is not devoid of detractors, including, for example, the digestion plant and noise associated with activities at Dunsfold Aerodrome.
- 11.78 On balance, I have to accept that there may be some negative perceptions engendered by the presence of a drilling operation, and potentially on viewing if clients are assessing the venue. However, I cannot see that the site operations would materially affect individual weddings. On any event day there would be significant levels of associated traffic coming to and from the site, including guests and support staff, which would significantly exceed activities associated with the appeal proposal and detract from the perceived tranquillity in any sense. During the day, I am satisfied that noise can be reduced to acceptable levels from the appeal site. While lighting is generally controlled by conditions, there is some obstacle lighting

that, when a rig is present, may introduced a distracting and jarring additional presence during evening and night time periods, albeit the main part of the venue for evening or night time events is on the opposite side of the complex.

11.79 Overall, I consider that the introduction of the access gates, compound and drilling operation could have the potential to introduce a negative perception of the venue if association is made by future clients, although actual impacts would be limited. In light of the temporary nature of the proposal, and the mitigation measures that would be secured through conditions, I consider that this would contribute a moderate level of additional weight to my earlier findings of harm to the overall character and appearance of the area. In this regard, it would be contrary to Policy MC14 of the SMP, which seeks to ensure there would be no significant impacts arising from the development.

### **Highway Matters**

11.80 It is important to note that despite general acceptance by SCC's HA to the proposals, which went through a number of iterations and Road Safety Audits (RSA), the decision of the Planning and Regulatory Committee represents the position of the Council on this matter. SCC maintained their opposition to the scheme on highway grounds and presented evidence and a witness on this matter at the Inquiry. [5.49, 6.43]

11.81 The principal concerns regarding highway matters related to the use of Dunsfold Road and the junction to High Loxley Road by HGVs and AILVs. These arose because of significant concerns argued by SCC and interested parties regarding the safety of that road, in particular the series of sharp bends, but also including Pratts Corner, and the implications of the necessary signage and lighting to allow for the manoeuvres to get the larger loads into High Loxley Road and onto the site access. There are therefore concerns regarding highway safety as well as delays, prompting unsafe manoeuvres or use of what are perceived as unsafe alternative routes. [6.43-6.48, 7.12]

11.82 A Transport SoCG was agreed between the main parties and confirmed that matters in dispute focused on HGV, including AILV, movements and not those of other scheme vehicles. In addition, despite advisory signage at the junction of Dunsfold Road and the A281 indicating the road as unsuitable for HGVs, the main parties agreed that the part of the network which had prompted the advisory signage was that west of Pratts Corner. This was accepted not to form part of the routing for traffic associated with the scheme. I see no reason to disagree. [5.49]

11.83 Traffic generation projected for the scheme was also agreed at 10 HGVs coming to the site, 20 HGV movements per day. I am satisfied that this would represent a maximum, which could be controlled by condition, although there would be periods when there could be less or even no HGV traffic.

11.84 The appellant commissioned a Transport Statement (TS), which utilised automatic traffic count data from October 2018 and 2019; additional ATC

data has been referred to in the Inquiry associated with the further development of High Billingham Farm from March/April 2019. Although these latter figures were slightly lower, there was a relatively consistent picture of existing traffic ranging from 5,234 to 6,159 two-way movements Monday-Friday 07.00 to 19.00, of which between 552 and 779 were identified as HGVs, approximately 12.2-15.2% of flows. Weekend movements were considerably lower with a lower proportion of HGV movements, between 5.5 and 8.3%.

- 11.85 Dealing with Dunsfold Road initially, SCC and interested parties have highlighted what they perceive as the poor safety record of the stretch of the road between Pratts Corner and the A281. To some extent this includes evidence of accidents involving vehicles which had come off the road into ditches at both my site visits, but is perhaps most clearly supported by the HA improvements made in 2017/18. These were directly in response to the poor safety record and comprised chevron signage and improved surfacing and I note there is now 40 mph restrictions through these bends. [6.51, 7.13]
- 11.86 The appellant's TS highlights that recorded Personal Injury Collisions (PICs), for which typically a period of 5 years is used in such assessments, showed that between 2013 and 2017, there were no PICs recorded involving HGVs. However, the appellant rightly addressed this in more detail in the Inquiry evidence noting that between 2015 and 2021 there were some 26 PICs between the proposed access and the A281, with one relating to a horsebox and a car, the closest, the appellant argues, to an HGV event, although the car was identified as being at fault. [6.53]
- 11.87 SCC refer to anecdotal evidence, also commented on by Alfold Parish Council and interested parties, regarding non-injury accidents at Pratts Corner, although the frequency of these is reported very differently. Nonetheless, put simply, I accept that the combination of long straight sections coupled with a series of sharp bends has historically led to presumed speeding, failure to negotiate the corner or crossing of the centre lines and accidents. [5.54, 6.55]
- 11.88 SCC go further in comparing the safety record of this road to national averages, calculating that, based on traffic flows and injury accidents, the rate was between 690 and 738 accidents per billion vehicle kilometres. This they suggest is double the largest UK rate and nearly four times worse than the latest statistics for this type of road. [6.51-6.54]
- 11.89 Such an approach is not typical of those employed in assessing effects of new development, and SCC accept that it comes from Department of Transport figures and would appear to be utilised, for example, in analysing cost and benefits for new road schemes. The referred to table, RAS10002<sup>116</sup>, draws on the reported accident rates for other rural roads. To my mind, there are a number of challenges in interpreting this data from a broad swath of road types and applying it to a short, single section of road. Nonetheless, such analysis accords with my view, as expressed

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<sup>116</sup> Mr Foulkes Proof Appendix A

above, that there have historically been accidents associated with this stretch of road, and indeed the HA response to providing improvements is assuredly evidence of this. [5.54]

- 11.90 However, this is not the key issue in this case, no matter how much it legitimately concerns local residents. The question is whether the addition of 20 HGV movements maximum per day during the temporary period of this proposal would materially lead to an increase in highway safety risk.
- 11.91 The Dunsfold Road from the A281 is generally of sufficient width for cars and HGVs to pass safely. Swept Path Analyses (SPAs) have been submitted for the junctions and for the corners of particular concern. Based on the evidence, I have little concern over the alignment and width in relation to what might be termed normal HGVs along this stretch. There is good visibility to each corner, the vehicles would be able to manoeuvre without needing to cross the centre line and there is no reason to suppose that the HGVs would approach at such speeds as to compromise other traffic. In fact, the lack of an accident record related to HGVs would bear this out.
- 11.92 Nonetheless, I must consider larger HGVs and particularly the AILVs that would be associated with bringing and removing the rigs from the site. SCC tested the evidence on the proportion of larger HGVs within the total numbers recorded by the ATCs and suggested that despite what may appear to be a low number of daily HGV movements, there could be a significant proportionate increase in the larger type of vehicle. [5.54, 6.54]
- 11.93 This has relevance as these are the vehicles where there may be a need to cross the centre line on the corners. Nonetheless, I am content that there would be only a very small number of movements within this category which would, in all normal circumstances, still allow sufficient room, as confirmed by the HA, for other cars to pass at these points. Their occurrence would be rare, the speeds would be low and their movements often accompanied by the introduction of signals at Pratts Corner, which I address below. [6.54, 7.6]
- 11.94 Overall, while accepting that the road has a poor historic accident record and that improvements instigated by the HA should have improved but potentially not eradicated that risk, I am satisfied that the HGV traffic associated with the scheme would not materially increase the highway safety risks along this stretch.
- 11.95 I turn then to Pratts Corner and the planned traffic management. The proposed scheme to manage HGVs accessing High Loxley Road has been through a number of iterations, RSAs and discussion and finally agreement with the HA. Nonetheless, SCC and interested parties remain concerned by the risks associated with what they see as a scheme that could result in confusion, delays, direct risks through poor driver response and encouraging the use of unsafe parallel routes. [5.46, 5.50]
- 11.96 The scheme initially set out, has been updated to include, in addition to other measures in the Framework Construction Traffic Management Plan (TMP), revised positions of temporary lights and the use of banksmen. This was in part due to acknowledged risk of conflict with High Billingham Farm



wedding event traffic, which is proposed to be addressed through conditions excluding HGV access at certain times, and partly in response to the RSA, albeit the direct feedback and recommendation from that process was to widen the bellmouth at High Loxley Road and retain the priority junctions to allow for compliant turns by HGVs. The designers' response<sup>117</sup> noted the restrictions in terms of width and land ownership and promoted different further controls, including a four way traffic controlled signalised system, although some movements would be addressed through the use of banksmen alone.

- 11.97 I do not hold with SCC's view that promoting an alternative view to that expressed in the RSA is inherently unsafe; it is a normal part of assessment and engineering design. Nonetheless, the current scheme is one that would require mounting and removal of the signage, cones and temporary lights on a regular basis with banksmen in place to manage that and to establish a clear one way system for HGVs to turn into High Loxley Road and subsequently into the site. This will mean delays for motorists using all four arms of the staggered junction here. [5.54, 6.47-6.49]
- 11.98 Such temporary lights are not inherently unsafe, or indeed that unusual on roads. They are used to facilitate construction, utilities installation or maintenance, road repairs, gulley cleaning amongst many others. Indeed, at the time of one of my site visits there was a four way signalised system in place at Pratts Corner. I am satisfied that the scheme has responded to the concerns of the RSA in relation to the placement of the temporary signals, and while they may not always be present, and I note there is likely to be significant variation day to day in their use, I cannot draw a conclusion that they will be a 'surprise' or be so unexpected as to cause risk in and of themselves. The potential for conflict between site operations and the occasional use of the wedding venue at High Billingham Farm, which I note now has temporary approval to increase to 75 events per year, can be addressed through conditions specifying an approved TMP promoting liaison, removal of traffic management at those times and exclusion of HGVs accessing the site during periods of Fridays and the weekends. [5.54, 6.45-6.47, 7.11]
- 11.99 SCC identify non-compliant driver behaviour or failure of lights as a risk, the latter I do not consider to be an issue; such occurrences exist for the multitude of systems in use and, in this case, banksmen would be in place and could adopt alternatives, such as stop and go boards. Non-compliant behaviour is difficult to assess but I have assumed means the possibility of impatient drivers skipping the red lights, potentially unaware of the activities involving the HGVs, which in certain manoeuvres would have to progress along the Dunsfold Road, back into Dunsfold Common Road in order to make a three point turn before entering High Loxley Road from the west. I note this was a concern in the RSA, which led to a response regarding the placement of the lights to reduce forward visibility of other junctions and assumptions that the way may be clear, as well as alterations to the inter-green periods. [5.54, 6.47]

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<sup>117</sup> CD.E18



11.100 Such non-complaint behaviour cannot, in reality be accounted for, but is a risk that potentially exists across all such temporary provisions. Undoubtedly, a driver that can see beyond the lights may be more inclined to ignore the signal, but here, allowing for some future revisions through conditions requiring the finalised TMP, there would be limited visibility, clear signage and banksmen on site. The movements that could trigger significantly long wait times are those of the AILVs, which in themselves are likely to be visible and indicative of the reasoning behind the signal controls. I note concerns that the system would be relatively complicated, that the movements of AILVs relatively unusual and there would be reliance on coordinated communication between HGVs and banksman. While I accept that this is indicative of the poor current alignment of the road for accepting such traffic, it is not in itself a material implication of risk. HGV drivers and banksmen are trained in such approaches, the level of AILVs would be low and temporary signalised junctions are a typical form of road management. AILVs associated with drilling, renewable energy or large construction projects are often managed in similar ways and often in rural sites.

11.101 On balance, I do not consider that there are unacceptable risks associated with the minor widening of the highway, the provision of temporary signage and traffic signals and the use of banksmen for this scheme.

11.102 The further concern related to regular users who may choose, assuming an awareness of the potential for delays, to utilise alternative routes. One of these, Hook House Lane, was included within my site visit. I accept that this road is of narrow width and has poorer forward visibilities than the section of Dunsfold Road which would be affected by the traffic controls. However, I note the appellant's assessments that the delay associated with the temporary signals would represent similar traffic times to the use of such routes. Drivers do prefer to be moving, but local residents, who may be those aware of the occasional delays, are likely to also be aware of the risk of alternative routes, none of which, to my mind, represent obvious alternative routes to the normal use of Dunsfold Road. [6.48]

11.103 Overall, I consider that the proposed traffic management, which can be further assessed under conditions and highway approvals, has been shown to be acceptable in terms of highways safety and the local road network. It 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.

## **Other Matters**

11.104 Turning to other matters, I note the concerns of the local councils in relation to effects on Dunsfold Park; from interested parties on the nearby gypsy and traveller community, environmental impacts on ecology, air and groundwater associated with the scheme; and from a number of parties that the junction works would require the use of common land. I also note

the concerns of the local council regarding the financial situation of the operator to complete restoration. [8.58, 9.1]

11.105 In relation to Dunsfold Park, it is a fact that the geological studies suggest that a large area of the potential gas reserve is likely to lie underneath the site of the current aerodrome and potential future garden village. Anecdotally it was claimed that property searches are highlighting the potential well activity and the implication was that this would affect sales or values. In reality, directional drilling for exploration or production is an established approach and the LGD is identified at approximately 3,000 feet, while the secondary target is at approximately 4,000 feet. In absence of any evidence that conventional exploitation could lead to above ground effects at this depth and distance from the well head, I can give little weight to the suggestion that the proposals could affect this development. [7.37, 7.38, 8.58]

11.106 Similarly, having assessed effects on nearer residential receptors, I can see no material harm arising from the proposal on the nearby gypsy and traveller community. [7.39, 8.47, 9.1]

11.107 Turning to environmental impacts, despite arguments put that noise and lighting could affect the local ecology, the site would be located in open fields and, while next to a woodland, this is a managed wood where felling is identified in the near future. I am satisfied that the Ecological Appraisal and associated protected species surveys<sup>118</sup>, along with conditions are sufficient to address this matter.

11.108 Other concerns in relation to groundwater and air pollution are matters properly addressed by the Environment Agency under their regulatory regime, which, in particular will have addressed potential emissions. The well design and the drilling operation would be regulated by the Health and Safety Executive (HSE), and I have no evidence that there would be harmful emissions from the well either before or during operations. As set out in the Framework (paragraph 188), where these are subject to separate pollution control regimes it should be assumed that these regimes will operate effectively. Regarding this, I note the appellant's Hydrogeological and Flood Risk Assessment<sup>119</sup> and the issuing of the Environmental Permit for the site<sup>120</sup>.

11.109 In relation to the matter of common land, I note the opinions expressed by WBC and set out in letters and responses provided by the owner of Thatched House Farm. It is clear that this has been a matter of concern throughout the application and that there is some confusion and disagreement about the extent of the highway verge associated with the road and the common land. [5.91, 7.9, 7.10, 8.56, 8.89, 8.90]

11.110 This matter did form part of the Highways SoCG, where it was agreed, including by representatives for WBC, that the works fall within the area of the highway rather than common land. The appellant refers to a

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<sup>118</sup> CD.A11

<sup>119</sup> CD.A12

<sup>120</sup> CD.G1 - EPR/VP3305PT

Commons Commission decision from 1976 that confirmed that a 3 foot verge was part of land removed from the Register of Common Land Unit 162<sup>121</sup>. I note the plan included here shows a red line area annotated with the text "3'0" verge" around all 4 arms of the Pratts Corner junction. On the evidence before me, and this is supported by SCC and their HA position, there is a strip of verge associated with the highway and excluded from the common land at that point. I do not therefore consider that the proposed junction alterations conflict with land registered as common land.

11.111 Finally, concerns were raised that the appellant was reliant on speculative exploration but was not financially in a position to progress the scheme and specifically to provide for the restoration, which is central to arguments regarding the short-term reversibility. I must be clear, that I attach no weight to this line of argument. The appellant has a PEDL licence, and they are clearly accepted through that process as a legitimate operator. They have other interests mainly within this country but also overseas. While I note the concerns regarding the delays in the restoration of the Markwells Wood Well Site, this has been completed and in no way serves as compelling evidence that restoration would not take place here. As with any other individual, body or organisation seeking planning consent they would be required to comply with the conditions placed on such a permission. There are enforcement proceedings to ensure that such requirements are met. [7.40 8.83, 8.87]

### **Overall Planning Balance**

11.112 I have set out that, while I have not found harm in transport terms, I consider 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. Although I do not find this to be a valued landscape in Framework terms, it is a landscape that is clearly valued by local residents and the associated businesses. It has value too from its function as an AGLV, and as setting to, and buffer on the edge of the AONB. Furthermore, while I have found only limited effects on the AONB itself, it is of high sensitivity and that harm too must be weighed in the balance. However, the wholly reversible nature of the proposals and possible long-term benefits must be weighed against any harm.

11.113 I have found that the temporary period over which there would be activity on the site, the limited period over which the rigs would be present and the proposals and controls to ensure restoration, limit that harm. Nonetheless, I find that there would be adverse impacts contrary to both WLP and SMP policies in that regard. Developments must be considered against their compliance with the development plan unless material considerations suggest otherwise.

11.114 Accordingly, it is necessary to consider the benefits of the proposal, and the compliance with local and national policy and guidance in relation to mineral resources to understand whether the adverse impacts are unacceptable.

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<sup>121</sup> CD.J7

- 11.115 It was acknowledged by the appellant that exploration and appraisal of reserves represents a substantial investment or cost, but some benefits would arise in terms of the economic spend associated with this. I acknowledge that, but am not persuaded that the significant part of this would be realised locally and afford this only limited weight. [6.81]
- 11.116 However, exploration and appraisal are a necessary part of mineral development, without it, the currently acknowledged benefits of production cannot be realised. As such, some measure of the benefits of production must be aligned with the earlier phases. I note SCC's contention that the appellant should not be able to rely on such benefits whilst also relying on the temporary nature of the proposal to offset harm. I understand this point, but disagree that they should be considered entirely separately. To do so would mean that exploration stages for mineral resources may be rendered unjustifiable and the resources sterilised, contrary to the expectation in the Framework, which still requires that there is positive planning for all three phases of development. [3.9, 5.5, 5.18, 5.92, 6.80]
- 11.117 It is important to note that there is no presumption in favour of consent for subsequent phases, nor any requirement that the same site used for appraisal should be used for long-term production, were it shown to be viable. Each stage of the process must be considered on its own merits<sup>122</sup> and, as a consequence, the temporary nature of this proposal can be considered but weight also arises from the benefits of gas production as a measure of need.
- 11.118 Quite clearly, I can understand that many will consider allowing exploration as tantamount to allowing the long-term production on the site. This is not the case and it carries no weight in my recommendation. The planning requirements for each phase, exploration, assessment and production, are considered to be entirely separate and for this site to move into production, it would require a further planning permission, which would be subject to full appraisal based on the prevailing policies at that time.
- 11.119 As set out in the Background section to this report, this country is actively seeking to substantially reduce the use of hydrocarbons, including fossil gas, with a considerable focus on the move to a net-zero position. Nonetheless, planning policy at present stops short of a moratorium on conventional fossil gas production, although the benefits of such production must now be considered in light of the very substantial reductions, re-alignment of energy sources and the global need to respond to climate change imperatives. [3.10-3.14, 6.77, 7.56]
- 11.120 The appellant argues that the LGD represents a significant resource that can play a role in the transition to net-zero, and potentially represents the second largest onshore gas deposit in the UK. They estimate it will meet the equivalent domestic and industrial demand of Guildford or Waverley, and, in the most positive, upside prediction, that of both towns. They also argue that the gas would form part of the transition to net-zero

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<sup>122</sup> PPG IP27-120-20140316

through the reforming of methane to hydrogen with carbon capture and storage. [5.5, 5.17, 5.21, 5.28, 5.85, 5.86]

11.121 While I note that such 'blue' hydrogen does form part of the planning for future energy needs, the appellant agreed with my questions that the final use of the gas associated with LGD cannot be confirmed at this point. [6.77]

11.122 To my mind, the projected 44-70 bcf<sup>123</sup> represents a locally significant resource, although it would represent a small proportion of the UK's energy demand, even allowing for the significant reductions forecast. The weight to give to such benefits must be tempered by this. Nonetheless, the appellant argues that the security of supply and the offsetting of the need, and carbon implications, of importing gas, particularly LNG, weighs heavily in favour of such domestic sources. [5.17]

11.123 I have noted the arguments of WBC, the Parish Councils and many interested parties, including the Weald Action Group, that the continued extraction of fossil fuels is incompatible with the increasing commitments being made both in the UK and globally, to comply with climate agreements and maintain global temperature rise to 1.5°C. To achieve such a target will require a very substantial change in our energy mix and use, and the reduction in the use of fossil fuels is at the forefront of this change. [7.26-7.30, 8.2-8.7, 8.8-8.13, 8.96-8.100]

11.124 However, current guidance and policy, while acknowledging these changes, forecasts a transition period where fossil gas would still play a part as infrastructure requirements and other energy sources are aligned with a low carbon future. [3.7, 5.24, 5.25]

11.125 The Framework currently emphasises that minerals are essential to provide for the energy the country needs and the economic advantage they deliver. In addition, despite the strong arguments of others, current government policy recognises the continuing need for fossil fuels for many years, albeit at significantly reduced levels, including for natural gas. Under existing policy, the need for future sources of gas has not currently been discounted, rather it is accepted that natural gas will remain part of the energy mix in the UK during the process of transition to a clean energy future, although it is not specific regarding onshore gas deposits or the exploitation of new reserves. [5.27, 8.5]

11.126 As a consequence, there are benefits to the scheme. The exploration and production of gas is, in principle, consistent with and encouraged by current national policies. The appellant has indicated that while the deposit is known to exist, this appraisal phase is necessary to determine if it is viable, and quote the probability of success at between 60-70%.

11.127 Without the exploration phase, it would not be possible to identify the extent and viability of the resource and so achieve the benefits on which national policy still acknowledges great weight to be given.

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<sup>123</sup> UKOG internal estimates 43-68 bcf

Therefore, although this proposal would be short-term, and would not, in itself, deliver commercial quantities of gas, nonetheless, there are positive benefits that must accrue from this exploration/appraisal phase. I cannot accord the great weight sought by the Framework for extraction of minerals, but accord significant weight to this exploration and appraisal phase, with a reasonable likelihood of confirming a viable resource for extraction. [5.5, 5.22]

11.128 Finally, the operation in terms of exploration and possible production, would contribute to the economy in terms of jobs and potentially some local spend, albeit I have found the weight to be given to this benefit quite limited.

11.129 Overall, although I have found harm and conflict with SMP Policies, the overall thrust of government policy currently, as well as the vision of the SMP, are supportive of the utilisation of mineral resources within acceptable environmental constraints. The harms I have noted 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. As such, the weight I give to the harms, while significant for short periods such as when the drilling rigs are in place, can nonetheless be considered overall as moderate.

11.130 Consequently, I would recommend that on the basis of current policy, the benefits of the proposal would outweigh the harm I have identified and a decision otherwise than in accordance with the development plan is warranted.

### **Inspector's Recommendations**

12.1 Accordingly, for the reasons given above, I recommend, on balance, that the appeal should be allowed.

*Mike Robins*

INSPECTOR

## **APPENDIX 1 Appearances at the Inquiry**

### FOR THE APPELLANT:

David Elvin QC  
and Matthew Dale-Harris of  
Counsel  
who called:

Instructed by Grant Anderson of Hill  
Dickinson LLP

Will Gardner,  
CMLI

Associate Director at EDP

Steven Windass,  
CEng, FIHE, CIHT

Head of Transport Planning for Local  
Transport Projects Ltd

Stephen Sanderson,  
MSc (Petroleum Geology)

Chief Executive of UKOG

Kris Bone,  
MEng (Petroleum Engineering)

Operations Director of UKOG

Nigel Moore  
MRTPI

Planning and Environmental Consultant with  
Zetland Group Limited

### FOR SURREY COUNTY COUNCIL:

Jenny Wigley QC  
she called:

Instructed by the solicitor for Surrey County  
Council

Elizabeth Brown  
BA, Dip LA, CMLI

Associate Director Landscape Architect -  
Atkins.

Graham Foulkes  
BA(Hons), MSc, CMILT

Managing Consultant in Transportation -  
Atkins

Richard Hunt  
MA, MRTPI

Chartered Town Planner - Atkins

### FOR WAVERLEY BOROUGH COUNCIL AND THE PARISH COUNCILS

Patrick Arthurs

Instructed by the Waverley Borough Council

He called:

John-Paul Friend

Director of LVIA Ltd



HND (LGD) BA Hons Dip LA CMLI

Patrick Arthurs  
BA, MA, MRTPI

Arthurs Planning and Development Ltd

INTERESTED PERSONS:

Kirsty Clough  
Darcey Finch  
Tom Gordon  
Ashley Herman  
Stephen Heywood

Weald Action Group  
Local Resident  
High Billingham Farm  
Thatched House Farm  
Dunstable Parish Council

**APPENDIX 2 Documents submitted during the Inquiry**

<b>Ref</b>	<b>Document</b>	<b>Core Document Ref</b>
ID1	Appellant Opening Statement	CD.K1
ID2	SCC Opening Statement	CD.K2
ID3	Rule 6 Party Opening Statement	CD.K3
ID4	Kirsty Clough (WAG)	CD.K4, CD.K4/1, CD.K4/2
ID5	Darcey Finch	CD.K5
ID6	Tom Gordon (High Billingham Farm)	CD.K6
ID7	Ashley Herman (Thatched House Farm)	CD.K7
ID8	Final Inquiry Programme 27 July 2021	CD.J1
ID9 - ID163	Consultee responses	CD.L1/1 - CD.L55/2
ID164	Updated link for high resolution images referred to in CD.A27/3	CD.A27/6
ID165	Revised Inquiry Programme 29 July 2021	CD.J1/1
ID166	Stage 1 & 2 Road Safety Audit Report – redacted	CD.E18/1
ID167	Email from Mr Herman (Thatched House Farm) re Common Land dated 2 August 2021 (redacted)	CD.J2 – CD.J2/3
ID168	Email from Mr Gordon (High Billingham Farm) re Noise Control and Hours of Operation dated 2 August 2021	CD.J3
ID169	Letter from Climate Change Committee to Kwasi Kwarteng MP dated 31 March 2021	CD.J4
ID170	Draft Section 106 Unilateral Deed	CD.J5
ID171	The COBA 2020 User Manual Part 2 (Chapters 3 to 5)	CD.J6
ID172	High Billingham Farm events venue location plan 26 October 2020	CD.E19/1
ID173	Appellant Note on Common Land 4 August 2021 (redacted)	CD.J7
ID174	Hascombe Estate Woodland Felling Submission 4 August 2021	CD.J8
ID175	Inquiry Site Visit Itinerary 12 August 2021 (redacted) & plan	CD.J9 & CD.J9/1
ID176	Appellant Response Dated 12 August 2021 to Hascombe Estate Woodland Felling Submission	CD.J10
ID177	SCC Closing Statement	CD.K8
ID178	Rule 6 Party Closing Statement	CD.K9

ID179	Derbyshire Dales [2010] 1 P. C.R. 19	CD.H4
ID180	Langley Park School [2010] 1 P. C.R. 10	CD.H5
ID181	Mount Cook [2017] P.T.S.R. 1166	CD.H6
ID182	Appellant Closing Statement	CD.K10
ID183	Appellant Partial Costs Application 12 August 2021	CD.J11
ID184	SCC Response to Partial Costs Application	CD.J12
ID185	Revised Conditions 7 and 8 Agreed by SCC and Appellant 11 August 2021	CD.J13
ID186	R v Warwickshire CC Ex p Powergen Plc	CD.H7
ID187	Comments on Inspector's questions re 'Finch' Case	

**APPENDIX 3 Core documents****Section A: Planning application documents**

CD.A1	Planning Application Cover Letter	
CD.A2/1	Planning Application Forms	26 April 2019
CD.A2/2	Addendum to planning application form_Redacted	20 May 2019
CD.A3	Planning Application Plans (at the date of submission - March 2019)	

*Location plans*

CD.A3/1	ZG-UKOG-L1-PA-01 Site Location Plan 2500 Scale A2
CD.A3/2	ZG-UKOG-L1-PA-02 Location Plan 10000 Scale A2 (Showing Likely Extent of Sub-Surface Borehole Deviation)

*Existing layout plans*

CD.A3/3	ZG-UKOG-L1-PA-03 Existing Site Plan Composite 2500 Scale A3
CD.A3/4	ZG-UKOG-L1-PA-04 Existing Site Plan 1 of 3 500 Scale A2 (Well Site - Burchett's SW Corner)
CD.A3/5	ZG-UKOG-L1-PA-05 Existing Site Plan 2 of 3 500 Scale A2 (Burchett's SW Corner - Burchett's NW Corner)
CD.A3/6	ZG-UKOG-L1-PA-06 Existing Site Plan 3 of 3 500 Scale A2 (Burchett's NW Corner - High Loxley Road)

*Constructed mode plans*

CD.A3/7	ZG-UKOG-L1-PA-07 Existing Sections Plan 500 Scale A2
CD.A3/8	ZG-UKOG-L1-PA-08 Proposed Construction Layout Plan 1 of 4 500 Scale A3 (Well Site)
CD.A3/9	ZG-UKOG-L1-PA-09 Proposed Construction Layout Plan 2 of 4 500 Scale A2 (Well Site - Burchett's SW Corner)
CD.A3/10	ZG-UKOG-L1-PA-10 Proposed Construction Layout Plan 3 of 4 500 Scale A2 (Burchett's SW Corner - Burchett's NW Corner)
CD.A3/11	ZG-UKOG-L1-PA-11 Proposed Construction Layout Plan 4 of 4 500 Scale A2 (Burchett's NW Corner - High Loxley Road)
CD.A3/12	ZG-UKOG-L1-PA-12 Proposed Construction Sections Plan 500 Scale A2

*Access arrangements*

CD.A3/13	ZG-UKOG-L1-PA-13 Proposed Access Layout Plan High Loxley Road 250 Scale A3
CD.A3/14	ZG-UKOG-L1-PA-14 Proposed Access Layout Plan Pratts Corner 250 Scale A3

*Drilling mode plans*

CD.A3/15	ZG-UKOG-L1-PA-15 Drilling Mode Layout Plan 500 Scale A3
CD.A3/16	ZG-UKOG-L1-PA-16 Section Through Drilling Mode Layout Plan 500 Scale A3 (BDF Rig 28 - Height 37m)
CD.A3/17	ZG-UKOG-L1-PA-17 Section Through BDF Rig 28 500 Scale A3 (Height 37m)
CD.A3/18	ZG-UKOG-L1-PA-18 Section Through BDF Rig 51 500 Scale A3 (Height 38m)

*Testing mode plans*

CD.A3/19	ZG-UKOG-L1-PA-19 Initial Flow Testing Mode Layout Plan 500 Scale A3
CD.A3/20	ZG-UKOG-L1-PA-20 Section Through Initial Flow Testing Mode Layout Plan 500 Scale A3
CD.A3/21	G-UKOG-L1-PA-21 Section Through PWWS MORE 475 500 Scale A3 (Height 35m)
CD.A3/22	ZG-UKOG-L1-PA-22 Section Through PWWS IDECO BIR H35 500 Scale A3 (Height 34m)
CD.A3/23	ZG-UKOG-L1-PA-23 Extended Well Testing Mode Layout Plan 500 Scale A3
CD.A3/24	ZG-UKOG-L1-PA-24 Section Through Extended Well Testing Mode 500 Scale A3

*Retention mode plans*

CD.A3/25	ZG-UKOG-L1-PA-25 Retention Mode Layout Plan 500 Scale A3
CD.A3/26	ZG-UKOG-L1-PA-26 Section Through Retention Mode Layout Plan 500 Scale A3

*Boundary treatment plans*

CD.A3/27	ZG-UKOG-L1-PA-27 Proposed Well Site Fencing & Gates Section Plan 50 Scale A2
CD.A3/28	ZG-UKOG-L1-PA-28 Proposed Entrance & Fencing Section Plan 50 & 100 Scale A3

*Restoration mode plans*

CD.A3/29	ZG-UKOG-L1-PA-29 Proposed Restoration Layout Plan 1 of 5 (Well Site)	
CD.A3/30	ZG-UKOG-L1-PA-30 Proposed Restoration Layout Plan 2 of 5 (Well Site - Burchett's SW Corner)	
CD.A3/31	ZG-UKOG-L1-PA-31 Proposed Restoration Layout Plan 3 of 5 (Burchett's SW Corner - Burchett's NW Corner)	
CD.A3/32	ZG-UKOG-L1-PA-32 Proposed Restoration Layout Plan 4 of 5 (Burchett's NW Corner - High Loxley Road)	
CD.A3/33	ZG-UKOG-L1-PA-33 Proposed Restoration Sections Plan 5 of 5 - Restoration of The Well Site	
CD.A3/34	6033.504-REV A Well Site Construction Detail Sheet 2	
CD.A4/1	Statement of Community Involvement Loxley_Part1	19 April 2019
CD.A4/2	Statement of Community Involvement Loxley_Part2	
CD.A4/3	Statement of Community Involvement Loxley_Part3	
CD.A5	Site Identification Report Loxley	19 April 2019
CD.A6	Planning Statement and Environmental Report	May 2019
CD.A7/1	Design Statement_Part1_Redacted	February 2019
CD.A7/2	Statement_Part2_Redacted	
CD.A7/3	Design Statement_Part3	
CD.A8	Air Quality Assessment_Redacted	26 March 2019
CD.A9/01	Landscape & Visual Impact Assessment_Part1	April 2019
CD.A9/02	Landscape & Visual Impact Assessment_Part2	
CD.A9/03	Landscape & Visual Impact Assessment_Part3	
CD.A9/04	Landscape & Visual Impact Assessment_Part4	
CD.A9/05	Landscape & Visual Impact Assessment_Part5	
CD.A9/06	Landscape & Visual Impact Assessment_Part6	
CD.A9/07	Landscape & Visual Impact Assessment_Part7	
CD.A9/08	Landscape & Visual Impact Assessment_Part8	
CD.A9/09	Landscape & Visual Impact Assessment_Part9	
CD.A9/10	Landscape & Visual Impact Assessment_Part10	
CD.A9/11	Landscape & Visual Impact Assessment_Part11	
CD.A9/12	Landscape & Visual Impact Assessment_Part12	
CD.A9/13	Landscape & Visual Impact Assessment_Part13	

CD.A9/14	Landscape & Visual Impact Assessment_Part14	
CD.A9/15	Landscape & Visual Impact Assessment_Part15	
CD.A9/16	Landscape & Visual Impact Assessment_Part16	
CD.A9/17	Landscape & Visual Impact Assessment_Part17	
CD.A10	Noise Impact Assessment	10 April 2019
CD.A11	Ecological Assessment (December 2018-January 2019)	
CD.A11/1	Ecological Impact Assessment	
CD.A11/2	Preliminary Ecological Appraisal	
CD.A11/3	CONFIDENTIAL Badger Survey (not publicly available)	
CD.A11/4	Bat Survey	
CD.A11/5	Dormouse Survey	
CD.A11/6	Great Crested Newt Survey	
CD.A11/7	Reptile Survey	
CD.A12	Hydrogeological & Flood Risk Assessment	April 2019
CD.A13/1	Arboricultural Impact Assessment_Part1	29 March 2019
CD.A13/2	Arboricultural Impact Assessment_Part2	
CD.A14/1	Transport Statement_Part1	April 2019
CD.A14/2	Transport Statement_Part2	
CD.A15	Archaeological & Cultural Heritage Assessment	March 2019
CD.A16/1	Light Impact Assessment_Part1	March 2019
CD.A16/2	Light Impact Assessment_Part2	
CD.A16/3	Light Impact Assessment_Part3	
CD.A16/4	Light Impact Assessment_Part4	
CD.A17	Major Accident & Disaster Assessment	19 April 2019
CD.A18	Waste Management Assessment	19 April 2019

Planning documents submitted during the life of the application

CD.A19	Clarification Statement in response to the removal of NPPF para 209(a)_redacted	10 June 2019
CD.A20/0	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 4 of 8 - Air Quality Impact_redacted	
CD.A20/1	Air Emission: response to consultee comment_Redacted	



CD.A21/0	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 3 of 8 - Ecology_Redacted
CD.A21/1	Ecology: response to consultee comment (letter dated 31 October 2019)_Redacted
CD.A21/2	Appendix A: Outline Landscape, Environment and Biodiversity Restoration and Enhancement Plan_Redacted
CD.A21/3	B: Loxley Wells Site Addendum to the Arboricultural Impact Assessment (October 2019)_Redacted
CD.A22/0	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 5 of 8 - Geotechnical & Design_Redacted
CD.A22/1	Geotechnical: response to consultee comment (letter dated 31 October 2019)_Redacted
CD.A22/2	Appendix A: Updated Loxley Well Site Planning Statement & Environmental Report 17. Appendix 1: Design Statement - Appendix 3 NAUE Geogrid Design dated 19 September 2019_Redacted
CD.A22/3	Appendix B: Extract from the Loxley Well Site Planning Statement & Environmental Report 18. Appendix 1 Design Statement Appendix 1: Site Investigations (Borehole Location Plan and accompanying logs)
CD.A23/0	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 6 of 8 - Highways_Redacted
CD.A23/1	Highways: response to consultee comment (letter dated 31 October 2019)_Redacted
CD.A23/2	Appendix A: Loxley Well Site Supplementary Transport Statement dated September 2019
CD.A23/3	Appendix B: Loxley Well Site Framework Construction Traffic Management Plan dated September 2019
CD.A24/0	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 7 of 8 - Lighting Impacts_Redacted
CD.A24/1	Lighting: response to consultee comment (letter dated 21 October 2019)_Redacted
CD.A24/2	Appendix A: Exploratory Well Site, Dunsfold, Surrey Lighting Assessment dated November 2019
CD.A25	SK-04 rev B: Post-mitigation Scheme of Lighting Layout
CD.A26/0	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 8 of 8 - Noise Impacts_Redacted
CD.A26/1	Noise: response to consultee comment(letter dated 31 October 2019)_Redacted
CD.A26/2	Appendix A: Addendum to Noise Impact Assessment... dated 6 September 2019 - updated 22 December 2019
CD.A27/0	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 2 of 8 - Landscape & Visual Impact_Redacted

CD.A27/1	Landscape: response to consultee comment (letter dated 31 October 2019)_Redacted
CD.A27/2	Appendix A: photo viewpoint imagery with wireframe (compressed)
CD.A27/3	Email dated 1 November 2019 entitled, Loxley Well Site Application 2019/0072 - Email 2 of 8 - Landscape & Visual Impact containing link to high-resolution renditions Redacted (please note that the link has been updated, but may not work for all users, see CD.A27/6 below)
CD.A27/4	Clarifying email dated 19 November 2019 entitled, Re: Loxley Well Site Application 2019/0072 - Email 2 of 8 - Landscape & Visual Impact_Redacted
CD.A27/5	Further clarifying email dated 19 November 2019 entitled, RE: Loxley Well Site Application 2019/0072 - Email 2 of 8 - Landscape & Visual Impact_Redacted
CD.A27/6 (ID164)	Updated link for high resolution images referred to in CD.A27/3
CD.A28	Boundary Treatment: submission of amended plans (Dec 2019):
CD.A28/8	ZG-UKOG-L1-PA-08 Rev1 Proposed Construction Layout Plan 1 of 4 (Well Site)
CD.A28/9	ZG-UKOG-L1-PA-08 Rev1 Proposed Construction Layout Plan 2 of 4 (Well Site to Burchetts SW Corner) dated December 2019
CD.A28/12	ZG-UKOG-L1-PA-12 Rev1 Proposed Construction Sections dated December 2019
CD.A28/15	ZG-UKOG-L1-PA-15 Rev1 Drilling Mode Layout Plan dated December 2019
CD.A28/16	ZG-UKOG-L1-PA-16 Rev1 Section Through Drilling Mode Layout Plan dated December 2019
CD.A28/19	ZG-UKOG-L1-PA-19 Rev1 Initial Flow Testing Mode Layout Plan dated December 2019
CD.A28/20	ZG-UKOG-L1-PA-20 Rev1 Section Through Initial Flow Testing Mode Layout Plan dated December 2019
CD.A28/23	ZG-UKOG-L1-PA-23 Rev1 Extended Well Testing Mode Layout Plan dated December 2019
CD.A28/24	ZG-UKOG-L1-PA-24 Rev1 Section Through Extended Well Testing Mode dated December 2019
CD.A28/25	ZG-UKOG-L1-PA-25 Rev1 Retention Mode Layout Plan dated December 2019
CD.A28/26	ZG-UKOG-L1-PA-26 Rev1 Section Through Retention Mode Layout Plan dated December 2019
CD.A28/27	ZG-UKOG-L1-PA-27 Rev1 Proposed Well Site Fencing & Gates Section Plan dated December 2019

CD.A29	Groundwater Risk Assessment, Thatched House Farm, Envireau Water dated December 2019 (compressed)
CD.A30/1	Email dated 14 January 2020 entitled, Application SCC Ref: 2019/0072 - Additional Information Consultee Responses 1 - SCC Highways Call for Additional Swept Path Analysis_Redacted
CD.A30/2	Swept Path Analysis of Dunsfold Road bends
CD.A31	Letter dated 6 May 2020 responding to queries regarding the submitted Transport Statement_Redacted
CD.A32/1	Email regarding Highway matters dated 2 Jun 2020, entitled UKOG Planning Application - High Loxley Road, Dunsfold _Redacted
CD.A32/2	Email attachment Loxley FCTMP Appendix 2
CD.A32/3	Email attachment Loxley FCTMP Appendix 3
CD.A32/4	Email attachment Loxley FCTMP Appendix 4
CD.A32/5	Email attachment Loxley Outline Banksman Method Statement
CD.A32/6	Email attachment Suggested Amendment to Loxley Condition 9
CD.A33/1	Email dated 23 June 2020 entitled UKOG Application - Additional Technical Information_Redacted
CD.A33/2	Vertical Swept Path Analysis_redacted
CD.A34	Letter dated 19 August 2020 comprising new and amended planning conditions for consideration and 17 clarifying statements Redacted
No CD.A35	
CD.A36	Email dated 23 October 2019 entitled, Re: Loxley - Impact of Vibration and Noise _redacted
CD.A37/1	Email dated 30 October 2019 entitled, Loxley Well Site - Wild Bird Seed Mixture_Redacted
CD.A37/2	Wild Bird Seed Mixtures Advisory Sheet England submitted on 30 October 2019
CD.A38	Clarifying Email dated 9 January 2020 entitled, Re: Loxley Well Site: Landscape Consultant Site Visit
CD.A39	Email dated 14 February 2020 entitled, Loxley Well Site - SCC Ref: 2019/0072 - Planning Matters_redacted (Community Benefits, Landscape & Visual Impact and Noise)
CD.A40	Email dated 19 February 2020 entitled, Loxley Well Site - SCC Ref: 2019/0072 - Planning Matters_redacted (Noise and Height of Plant and Machinery)
CD.A41/1	Email dated 24 February 2020 entitled, Re: Loxley: Three Further Questions (Clarification Re Gatehouse, Visual Impact and Tree Line)
CD.A41/2	Photo of Southern Boundary of Well Site Host Field
CD.A41/3	High Billingham Farm and Well Site Profile Slides

CD.A42	Email dated 4 March 2020 entitled, Re: Loxley: Three Further Questions_Redacted (Further Clarification re Tree Line)
CD.A43	Email dated 16 March 2020 entitled, Re: Query re Ash Trees Along Northern Boundary_Redacted
CD.A44	Email dated 8 May 2020 entitled, Re: Highways Matters and PreCommencement Conditions_Redacted

### Section B - SCC Determination Documents

CD.B1/1	Regulation 6 EIA Screening Opinion Adoption Letter (Dunsfold Well Site) (28-02-19)_Redacted
CD.B1/2	Regulation 6 EIA Screening Opinion Report (Dunsfold Well Site) (2802-19)
CD.B2/1	Regulation 8 EIA Screening Opinion Adoption Letter (Loxley Well Site & Access) (22-07-19)
CD.B2/2	Regulation 8 EIA Screening Opinion Report (Loxley Well Site & Access) (22-07-19)
CD.B3	SCC Planning & Regulatory Committee Report - June 2020
CD.B4	SCC Planning & Regulatory Committee Report Supplementary Update - June 2020
CD.B5	SCC Planning & Regulatory Committee Minutes of the June 2020 Meeting
CD.B6	SCC Planning & Regulatory Committee Report - November 2020
CD.B7	SCC Planning & Regulatory Committee Supplementary Update - November 2020
CD.B8	SCC Planning & Regulatory Committee Minutes of the November 2020 Meeting
CD.B9	SCC Decision Notice WA/2019/0796: refusal of planning permission

### Section C - Development plan

CD.C1	Surrey Minerals Plan 2011: Core Strategy Development Plan Document
CD.C2	Waverley Borough Local Plan Part 1: Strategic Policies and Sites, February 2018
CD.C3	Waverley Borough Council Local Plan (Saved Policies) 2002

**Section D - Other local plans**

CD.D1	Waverley Borough Council Plan Local Plan Part 2: Site Allocations & Development Management Policies (Pre-Submission Document November 2020)
CD.D2	Surrey Hills Area of Outstanding Natural Beauty Management Plan (2020-2025)
CD.D3	Surrey Minerals Plan 2011, Minerals Site Restoration Supplementary Planning Document Parts 1 & 2

**Section E - Appeal Documents**

CD.E1/1	Appeal Form_Redacted
CD.E1/2	Article 13 Notice - Loxley drilling site Dunsfold
CD.E2/1	Appellant Statement of Case_Redacted
CD.E2/2	Updated Swept Path Analysis_Part1
CD.E2/3	Updated Swept Path Analysis_Part2
CD.E2/4	Updated Swept Path Analysis_Part3
CD.E3	SCC Statement of Case
CD.E4	Statement of Common Ground_Redacted
CD.E4/1	Transport Statement of Common Ground
CD.E4/2	Landscape Statement of Common Ground
CD.E5	Guidelines for Landscape and Visual Impact Assessment (Third Edition) (Landscape Institute/Institute of Environmental Management and Assessment) (2013)
CD.E5/1	Extracts from Guidelines for Landscape and Visual Impact Assessment (Third Edition) (Landscape Institute/Institute of Environmental Management and Assessment) (2013)
CD.E6	Visual Representation of Development Proposals, Technical Guidance Note 06/19, 17 September 2019, The Landscape Institute
CD.E7/1	The Waverley Landscape Review (2014) part 1
CD.E7/2	The Waverley Landscape Review (2014) part 2
CD.E7/3	The Waverley Landscape Review (2014) part 3
CD.E8/1	SCC Landscape Character Assessment (2015) (Waverley report)
CD.E8/2	SCC Landscape Character Assessment (2015) (Waverley map)
CD.E9	Surrey Historic Landscape Characterisation Volume 2: The Historic Landscape Type Descriptions (2001)

CD.E10	The Character of England: Landscape, Wildlife & Natural Features, Natural England
CD.E11	An Approach to Landscape Character Assessment, Natural England (2014).
CD.E12	European Landscape Convention 2000 - European Landscape Convention: Florence, 20 October 2000
CD.E13/1	National Character Area Profile 120 Wealden Sand
CD.E13/2	National Character Area Profile 121 Low Weald
CD.E14	CPRE Tranquillity Mapping 2007
CD.E15	CPRE Tranquillity Mapping - developing a robust methodology for planning support"
CD.E16	Hascombe Estate Consultee Response 24 +31 October 2019
CD.E16/1	Planning Burchetts Felling Application Form 2019 (Redacted)
CD.E16/2	Planning Burchetts Felling Application Map 2019 (Redacted)
CD.E16/3	SCC Ref 2019-0072: Planning Burchetts felling licence 2019 (Redacted)
CD.E17	Secretary of State Negative EIA Screening Direction _Redacted
CD.E18	Stage 1 & 2 Road Safety Audit (Incorporating the Designer's Response)
CD.E18/1 (ID166)	Stage 1 & 2 Road Safety Audit Report - redacted
CD.E19	HBF Events Venue Decision Notice December 2020 (Redacted)
CD.E19/1 (ID172)	HBF events venue location plan 26 October 2020
CD.E20/1	Rule 6 Party (Waverley Borough Council) Statement of Case
CD.E20/2	SoC Appendix 1 WBC letter to SCC Representation on Application 5 August 2019 (redacted)
CD.E20/3	SoC Appendix 2 Dunsfold Residents Representations Letter 11 November 2020 (redacted)
CD.E20/4	SoC Appendix 3 WBC Letter to SCC 19th November 2020 (redacted)
CD.E20/5	SoC Appendix 4 WBC Letter to SCC 25th November 2020 (redacted)
CD.E21	Extract from SCC Executive Committee Minutes, Area of Great Landscape Value (AGLV) Designation (Item 13) - 9 September 2008
CD.E22/1	Appeal Decision APP/R3650/W/17/3180635 dated 13 August 2018 - Land West of Lydia Park
CD.E22/2	Planning Application WA/2017/0176 - Location Plan 8 December 2016 - Land west of Lydia Park
CD.E23	Surrey Hills AONB Areas of Search Natural Beauty Evaluation, Hankinson Duckett Associates, October 2013

CD.E23/1	Extract from Surrey Hills AONB Areas of Search Natural Beauty Evaluation, Hankinson Duckett Associates, October 2013
CD.E23/2	Figure HDA 3: Recommended Additional Areas of AONB, Surrey Hills AONB Areas of Search Natural Beauty Evaluation, Hankinson Duckett Associates, October 2013
CD.E24	Surrey Hills AGLV Review, Chris Burnett Associates, June 2007
CD.E24/1	Extracts from Appendix 2 (Figure 6.1, 6.2 and 6.4) of Surrey Hills AGLV Review, Chris Burnett Associates, June 2007
CD.E25	Part 1 The UK Forestry Standard, The Government's Approach to Sustainable Forestry, Forestry Commission, 2017
CD.E25/1	Part 2 The UK Forestry Standard, The Government's Approach to Sustainable Forestry, Forestry Commission, 2017
CD.E25/2	Part 3 The UK Forestry Standard, The Government's Approach to Sustainable Forestry, Forestry Commission, 2017
CD.E25/3	Part 4 The UK Forestry Standard, The Government's Approach to Sustainable Forestry, Forestry Commission, 2017
CD.E26	A Revision of the Ancient Woodland Inventory for Surrey, Report and Inventory Maps, June 2011
CD.E27	See CD.L47/2
CD.E28	See CD.L47/1
CD.E29	See CD.L47/3
CD.E30	See CD.L47/4
CD.E31	See CD.L47/5
CD.E32	SCC Landscape Consultant's Consultee Response 9 July 2019
CD.E32/1	SCC Landscape Consultant's Consultee Response 9 July 2019 Rev A
CD.E32/2	SCC Landscape Consultant's Consultee Response 22 January 2020
CD.E33	See CD.L40/1
CD.E33/1	See CD.L40/2
CD.E33/2	See CD.L40/3
CD.E34	Residential Visual Amenity Assessment (RVAA), Landscape Institute Technical Guidance Note 2/19, March 2019
CD.E35	Assessing Landscape Value Outside National Designations, Technical Guidance Note 02/21, Landscape Institute 2021

## Section F - National planning policy documents

CD.F1/1	National Planning Policy Framework (2019 - now archived)
CD.F1/2	National Planning Policy Framework (2021 - new current)
CD.F2	National Planning Practice Guidance



CD.F3	Overarching National Policy Statement for Energy (EN-1)
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### Section G - Other Determinations

CD.G1	Environment Agency Permit Notice EPR/VP3305PT for Loxley Well Site
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### Section H - Legal Authorities

CD.H1	Stroud DC v Secretary of State for Communities and Local Government EWHC 488 (Admin)(169460955.1)
CD.H2	Preston New Road Action Group v Secretary of State for CLG 2018 Env. L.R. 18(169460884.1)
CD.H3	R. (on the application of Finch) v Surrey CC EWHC 3566 (Admin)(169461005.1)
CD.H4 (ID179)	Derbyshire Dales [2010] 1 P. C.R. 19
CD.H5 (ID180)	Langley Park School [2010] 1 P. C.R. 10
CD.H6 (ID181)	Mount Cook [2017] P.T.S.R. 1166
CD.H7 (ID186)	R v Warwickshire CC Ex p Powergen Plc

### Section I - Proofs of Evidence and Statements

On behalf of Appellant

CD.I1/1	Planning proof of evidence of Nigel Moore
CD.I1/2	Summary of proof of evidence for Nigel Moore
CD.I2/1	Transport proof of evidence of Steven Windass
CD.I2/2	Summary of proof of evidence for Steven Windass
CD.I3/1	Landscape proof of evidence of Will Gardner
CD.I3/2	Plans to Landscape proof - part 1
CD.I3/3	Plans to Landscape proof - part 2
CD.I3/4	Summary proof of evidence for Will Gardner
CD.I4	Climate Change proof of evidence of Tom Dearing
CD.I5/1	Company proof of evidence of Kris Bone
CD.I5/2	Summary of proof of evidence of Kris Bone
CD.I5/3	Erratum to Kris Bone Proof
CD.I6/1	Company proof of evidence of Stephen Sanderson

CD.I6/2	Summary proof of evidence for Stephen Sanderson.
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On behalf of SCC

CD.I7	Planning Proof of Evidence of Richard Hunt
CD.I8	Highways Proof of Evidence of Graham Foulkes
CD.I9/1	Landscape and Visual Matters Proof of Evidence of Liz Brown
CD.I9/2	Landscape and Visual Matters Proof of Evidence Appendix A List of References
CD.I9/3	Landscape and Visual Matters Proof of Evidence Appendix B Evaluation and Assessment Tables
CD.I9/4	Landscape and Visual Matters Proof of Evidence Appendix C Policy Tests
CD.I9/5	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 1 of 12
CD.I9/6	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 2 of 12
CD.I9/7	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 3 of 12
CD.I9/8	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 4 of 12
CD.I9/9	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 5 of 12
CD.I9/10	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 6 of 12
CD.I9/11	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 7 of 12
CD.I9/12	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 8 of 12
CD.I9/13	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 9 of 12
CD.I9/14	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 10 of 12
CD.I9/15	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 11 of 12
CD.I9/16	Landscape and Visual Matters Proof of Evidence Appendix D Figures and Photos Part 12 of 12
CD.I9/17	Landscape and Visual Matters Proof of Evidence Appendix E Glossary
CD.I9/18	Erratum LV Matters PoE App D Figs and Photos Part 2 of 12 (List and SSC 001 - 002_ZTV)
CD.I9/19	Erratum LV Matters PoE App D Figs and Photos Part 3 of 12 (SSC 003 - 004_ZTV)
CD.I9/20	Erratum LV Matters PoE App D Figs and Photos Part 4 of 12 (SSC 005 - 006_ZTV)
CD.I9/21	Erratum LV Matters PoE App D Figs and Photos Part 5 of 12 (SSC 007 - 008_ZTV)

CD.I9/22	Erratum LV Matters PoE App D Figs and Photos Part 6 of 12 (SSC 009 - 010_ZTV)
CD.I9/23	Erratum LV Matters PoE App D Figs and Photos Part 7 of 12 (SSC 011 - 012_ZTV)
CD.I9/24	Erratum LV Matters PoE App D Figs and Photos Part 8 of 12 (SSC 013 - 014_ZTV)
CD.I9/25	Erratum LV Matters PoE App D Figs and Photos Part 9 of 12 (SSC 015 - 016_ZTV)
CD.I9/26	Erratum LV Matters PoE App D Figs and Photos Part 10 of 12 (SSC 017 - 018_ZTV)
CD.I9/27	Erratum LV Matters PoE App D Figs and Photos Part 11 of 12 (SSC 019 - 020_ZTV)

## On behalf of Rule 6 party (Waverley Borough Council)

CD.I10/1	Planning Proof of Evidence of Patrick Arthurs
CD.I10/2	Proof of Evidence Appendix 1 WBC letter to SCC Representation on Application 5 August 2019 (redacted)
CD.I10/3	Proof of Evidence Appendix 2 Dunsfold Residents Representations Letter 11 November 2020 (redacted)
CD.I10/4	Proof of Evidence Appendix 3 WBC Letter to SCC 19th November 2020 (redacted)
CD.I10/5	Proof of Evidence Appendix 4 WBC Letter to SCC 25th November 2020 (redacted)
CD.I11	Landscape and Visual Matters Proof of Evidence of John-Paul Friend

## Rebuttals on behalf of Appellant

CD.I12	Proof Rebuttal of Steven Windass on transport matters
CD.I13	Proof Rebuttal of Nigel Moore on planning matters
CD.I14/1	Proof Rebuttal of Will Gardner on landscape matters part 1
CD.I14/2	Proof Rebuttal of Will Gardner on landscape matters part 2

## Rebuttals on behalf of SCC

CD.I15/1	Proof Rebuttal of Richard Hunt on planning matters
CD.I15/2	Proof Rebuttal of Richard Hunt on planning matters - Appendix 1 front Page
CD.I15/3	Proof Rebuttal of Richard Hunt on planning matters - Appendix 1 Text extract
CD.I15/4	Proof Rebuttal of Richard Hunt on planning matters - Appendix 1 supporting map
CD.I15/5	Proof Rebuttal of Richard Hunt on planning matters - Appendix 2 - SDNPA comment

**Section J Documents Produced in the Inquiry**

CD.J1 (ID8)	Final Inquiry Programme 27 July 2021 CD.J1/1 (ID165) Revised Inquiry Programme 29 July 2021
CD.J2 (ID167)	Email from Mr Herman (Thatched House Farm) re Common Land dated 2 August 2021 (redacted)
CD.J2/1	Attached Solicitor's letter to Mr Herman dated 24 July 2019 (redacted)
CD.J2/2	Attached Solicitor's letter to Mr Herman dated 16 July 2020 (redacted)
CD.J2/3	Attached Commons Commissioner Decision dated 26 June 1978 (redacted)
CD.J3 (ID168)	Email from Mr Gordon (High Billingham Farm) re Noise Control and Hours of Operation dated 2 August 2021
CD.J4 (ID169)	Letter from Climate Change Committee to Kwasi Kwarteng MP dated 31 March 2021
CD.J5 (ID170)	Draft Section 106 Unilateral Deed
CD.J6 (ID171)	The COBA 2020 User Manual Part 2 (Chapters 3 to 5)
CD.J7 (ID173)	Appellant Note on Common Land 4 August 2021 (redacted)
CD.J8 (ID174)	Hascombe Estate Woodland Felling Submission 4 August 2021
CD.J9 (ID175)	Inquiry Site Visit Itinerary 12 August 2021 (Redacted)
CD.J9/1	Inquiry Site Visit Plan 12 August 2021
CD.J10 (ID176)	Appellant Response Dated 12 August 2021 to Hascombe Estate Woodland Felling Submission
CD.J11 (ID183)	Appellant Partial Costs Application 12 August 2021
CD.J12 (ID184)	SCC Response to Partial Costs Application
CD.J13 (ID185)	Revised Conditions 7 and 8 Agreed by SCC and Appellant 11 August 2021

**Section K Opening and Closing Statements**

## Opening Statements

CD.K1 (ID1)	Appellant Opening Statement
CD.K2 (ID2)	SCC Opening Statement

CD.K3 (ID3)	Rule 6 Party Opening Statement
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## Third Party Written Statements

CD.K4 (ID4)	Kirsty Clough (WAG)
CD.K4/1(ID4/1)	Kirsty Clough (WAG) - North Sea Transitional Deal attachment
CD.K4/2 (ID4/2)	Kirsty Clough (WAG) - Minister letter attachment
CD.K5 (ID5)	Darcey Finch
CD.K6 (ID6)	Tom Gordon (High Billingham Farm)
CD.K7 (ID7)	Ashley Herman (Thatched House Farm)

## Closing Statements

CD.K8 (ID177)	SCC Closing Statement
CD.K9 (ID178)	Rule 6 Party Closing Statement
CD.K10 (ID182)	Appellant Closing Statement

**Section L Consultee Responses (ID9 – ID163)**

CD.L1/1	Air Quality Consultant 29 June 2019
CD.L1/2	Air Quality Consultant 31 July 2019
CD.L1/3	Air Quality Consultant 27 November 2019
CD.L2/1	Alford PC 24 June 2019
CD.L2/2	Alford PC Traffic Safety - June 2019
CD.L2/3	Alford PC 9 December 2019
CD.L2/4	Alford PC 15 May 2020
CD.L3/1	Assistant Historic Buildings Officer 23 October 2019
CD.L3/2	Assistant Historic Buildings Officer 22 October 2019
CD.L4	Bramley PC
CD.L5/1	Civil Aviation Authority 7 April 2020
CD.L5/2	Civil Aviation Authority 21 April 2020
CD.L5/3	Civil Aviation Authority 22 April 2020
CD.L5/4	CAA Planning Guidance Aug 2021
CD.L6	Correspondence between the County Planning Authority and the Environmental Health Officer

CD.L7/1	Countryside Access Team (Rights of Way) Interim 24 October 2019
CD.L7/2	Countryside Access Team (Rights of Way) Interim 29 October 2019
CD.L7/3	Countryside Access Team (Rights of Way) 8 November 2019
CD.L8/1	County Arboricultural Officer
CD.L8/2	County Arboricultural Officer multistem calculation attachment
CD.L8/3	County Arboricultural Officer aerial
CD.L9	County Archaeology Officer
CD.L10/1	County Ecologist 9 August 2019
CD.L10/2	County Ecologist 16 December 2019
CD.L10/3	County Ecologist 8 January 2020
CD.L10/4	County Ecologist 6 March 2020
CD.L10/5	County Ecologist 26 March 2020
CD.L10/6	County Ecologist 26 May 2020 (1)
CD.L10/7	County Ecologist 26 May 2020 (2)
CD.L11/1	County Highway Authority 29 July 2019
CD.L11/2	County Highway Authority 20 February 2020
CD.L11/3	County Highway Authority 28 February 2020
CD.L11/4	County Highway Authority 27 April 2020
CD.L11/5	County Highway Authority 7 May 2020 (1)
CD.L11/6	County Highway Authority 7 May 2020 (2)
CD.L11/7	County Highway Authority 11 May 2020 am
CD.L11/8	County Highway Authority 11 May 2020 pm
CD.L11/9	County Highway Authority 11 May 2020 pm attachment
CD.L11/10	County Highway Authority 19 May 2020
CD.L11/11	County Highway Authority 28 May 2020
CD.L11/12	County Highway Authority 23 November 2020
CD.L11/13	County Highway Authority 25 November 2020
CD.L12/1	County Historic Buildings Officer 6 May 2020 (1)
CD.L12/2	County Historic Buildings Officer 6 May 2020 (2)
CD.L13/1	County Restoration and Enhancement Team 7 July 2019
CD.L13/2	County Restoration and Enhancement Team 13 December 2019
CD.L14	CPRE Surrey
CD.L15/1	Cranleigh PC 10 July 2019
CD.L15/2	Cranleigh PC 12 December 2019
CD.L16	Dunsfold Aerodrome Ltd
CD.L17	Dunsfold Airport Ltd
CD.L18/1	Dunsfold PC 18 December 2019
CD.L18/2	Dunsfold PC 26 January 2020
CD.L18/3	Dunsfold PC 22 October 2020

CD.L18/4	Dunsfold PC undated
CD.L19/1	Environment Agency 19 July 2020
CD.L19/2	Environment Agency 7 October 2019
CD.L19/3	Environment Agency 3 January 2020
CD.L19/4	Environment Agency 7 January 2020
CD.L19/5	Environment Agency 9 January 2020
CD.L19/6	Environment Agency 27 January 2020
CD.L19/7	Environment Agency 26 February 2020
CD.L19/8	Environment Agency 5 November 2020
CD.L20	Environmental Assessment Team
CD.L21/1	Environmental Health Officer 31 July 2019
CD.L21/2	Environmental Health Officer 6 December 2019
CD.L21/3	Environmental Health 14 Jan 2020
CD.L22	Forestry Commission
CD.L23	Gatwick Airport
CD.L24/1	Geotechnical consultant 5 July 2019
CD.L24/2	Geotechnical Consultant 22 July 2019
CD.L24/3	Geotechnical Consultant 4 December 2019
CD.L25	Gypsy and Traveller Community response
CD.L26	Hambledon PC
CD.L27/1	Hascombe Estate 31 October 2019
CD.L27/2	Hascombe Estate 8 November 2020 (1)
CD.L27/3	Hascombe Estate 8 November 2020 (2)
CD.L27/4	Hascombe Estate 23 November 2020
CD.L28/1	Health and Safety Executive 9 May 2019 (self-service report)
CD.L28/2	Health and Safety Executive 22 July 2019
CD.L29	Highways info team - common land
CD.L30	Highways 28 October 2019 (re conditions)
CD.L31/1	Highways 28 October 2020 (re applicant's clarification statement of 19 Aug 19)
CD.L31/2	Highways 30 October 2020 (re applicant's clarification statement of 19 Aug 19)
CD.L31/3	Highways 17 November 2020 (re applicant's clarification statement of 19 Aug 19) (unsuitable for HGV signage clarification)
CD.L32/1	Highways 17 November 2020 (re s278) (1)
CD.L32/2	Highways 17 November 2020 (re s278) (2)



CD.L33	Highways 17 November 2020 (re objection)
CD.L34/1	KKWG 7 July 2019
CD.L34/2	KKWG 7 July 2019 (attachment)
CD.L34/3	KKWG 31 August 2019
CD.L34/4	KKWG 31 August 2019 (attachment)
CD.L34/5	KKWG 25 February 2020
CD.L34/6	KKWG 25 February 2020 (first attachment)
CD.L34/7	KKWG 25 February 2020 (second attachment)
CD.L34/8	KKWG undated (objection to officer report)
CD.L35/1	See CD.E32
CD.L35/2	See CD.E32/1
CD.L35/3	See CD.E32/2
CD.L36/1	Lead local flood authority 19 June 2019
CD.L36/2	Lead local flood authority 23 July 2019
CD.L37/1	Lighting consultant 4 July 2019
CD.L37/2	Lighting consultant 25 November 2019
CD.L38	Local Member
CD.L39	National Grid
CD.L40/1	Natural England 3 July 2019
CD.L40/2	Natural England 14 August 2019
CD.L40/3	Natural England 10 December 2019
CD.L41	Noise Consultant and officer
CD.L42	Protect Dunsfold
CD.L43	Protect Dunsfold Ltd and Waverley Friends of the Earth
CD.L44	Public Health England
CD.L45	Public Health Surrey
CD.L46/1	SGN 5 June 2019
CD.L46/2	SGN 21 January 2020
CD.L46/3	SGN Attachment - Dig Safely Measures booklet
CD.L46/4	SGN Attachment - Know what's below booklet
CD.L46/5	SGN Attachment - Valve safety advice
CD.L47/1	Surrey Hills AONB 25 & 29 July 2019
CD.L47/2	Surrey Hill AONB 25 July 2019 attachment
CD.L47/3	Surrey Hills AONB 27 August 2019
CD.L47/4	Surrey Hills AONB 21 November 2019
CD.L47/5	Surrey Hills AONB 3 December 2019

CD.L48/1	Surrey Wildlife Trust 5 July 2019
CD.L48/2	Surrey Wildlife Trust 4 December 2019
CD.L49	Trew Fields
CD.L50/1	Waverley BC 5 August 2019
CD.L50/2	Waverley BC 5 August 2019 (Air Quality review)
CD.L50/3	Waverley BC 5 August 2019 (Arboriculture review)
CD.L50/4	Waverley BC 5 August 2019 (Archaeology and Cultural Heritage Assessment review)
CD.L50/5	Waverley BC 5 August 2019 (Ecology review)
CD.L50/6	Waverley BC 5 August 2019 (Hydrogeology review)
CD.L50/7	Waverley BC 5 August 2019 (LVIA & Lighting review)
CD.L50/8	Waverley BC 5 August 2019 (Major Accidents Disaster Risk review)
CD.L50/9	Waverley BC 5 August 2019 (Noise review)
CD.L50/10	Waverley BC 5 August 2019 (Env report and EIA Screening opinion review)
CD.L50/11	Waverley BC 5 August 2019 (Waste review)
CD.L50/12	Waverley BC 21 January 2020
CD.L50/13	Waverley BC 19 November 2020
CD.L50/14	Waverley BC 25 November 2020
CD.L51/1	Waverley BC Portfolio Holder for Environment and Sustainability 6 August 2019
CD.L51/2	Waverley BC Portfolio Holder for Environment and Sustainability 6 August 2019 (attachment - listening panel summary)
CD.L51/3	Waverley BC Portfolio Holder for Environment and Sustainability 21 January 2020
CD.L51/4	Waverley BC Portfolio Holder for Environment and Sustainability 23 June 2020
CD.L51/5	Waverley BC Portfolio Holder for Environment and Sustainability 23 November 2020
CD.L52/1	Waverley BC - common land
CD.L52/2	Waverley BC - common land - attached map
CD.L52/3	Waverley BC - common land - attached register
CD.L52/4	Waverley BC - common land - Commons Commissioner decision 26 June 1978
CD.L53/1	Waverley Friends of the Earth 31 October 2019
CD.L53/2	Waverley Friends of the Earth undated update
CD.L54/1	Witley PC 25 June 2019
CD.L54/2	Witley PC 3 July 2019
CD.L55/1	Woodland Trust 8 July 2019
CD.L55/2	Woodland Trust November 2019

**APPENDIX 4 Recommended conditions should permission be granted****Approved Plans and Drawings**

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

<b>DRAWING NO</b>	<b>REV</b>	<b>TITLE</b>	<b>DATE</b>
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.



# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

## SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

## SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

## SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.