

TO: PLANNING & REGULATORY COMMITTEE **DATE:** 22 MARCH 2017
BY: PLANNING DEVELOPMENT TEAM MANAGER
DISTRICT(S) MOLE VALLEY DISTRICT COUNCIL **ELECTORAL DIVISION(S):**
Dorking Hills
Mrs Watson
Dorking & The Holmwoods
Mr Cooksey

PURPOSE: FOR DECISION **GRID REF:** 515484 144822

TITLE: MINERALS/WASTE MO/2016/1752

SUMMARY REPORT

Land at Bury Hill Wood, off Coldharbour Lane, Holmwood, Surrey RH5 6HN

Details of a Landscape and Restoration Plan pursuant to Condition 14 of appeal ref: APP/B3600/A/11/2166561 dated 15 August 2015.

Planning permission was granted on appeal (ref: APP/B3600/A/11/2166561) for the construction of an exploratory well site, including plant, buildings and equipment with preliminary short-term drill stem test for one exploratory borehole, the erection of security fencing and associated works to an existing track on 7 August 2015. This was subject to 23 conditions.

Condition 14 details with a Landscape and Restoration Scheme for the application site for when drilling work and decommissioning have finished to return the land back to an afteruse compatible with forestry and to assist in absorbing the site back into the local landscape as soon as practical. Condition 14 requires information on soils; a programme for restoration, monitoring and aftercare; enhancement of biodiversity; planting specification including details on species and sizes; the reinstatement of the access track; and details of any elements of the ground and surface water monitoring to be retained.

The applicant has submitted a document entitled 'Landscape and Biodiversity Management Scheme' (LBMS) to cover the above matters. The document outlines that the site would be returned to a forestry afteruse in accordance with the Forestry Commission's Bury Hill and Redlands Forest Design Plan (2015). The scheme provides details of what tree species this would include.

Concern has been raised with regards to the wording contained in the LBMS with regards to the commitment for replanting of any plants that die or fail within five years following completion of restoration. Officers are satisfied with the wording provided in the LBMS with regards to this matter given the specific wording in Condition 14 requests such planting should be carried out. Officers are of the opinion that a condition can be imposed on this application stipulating this requirement. Furthermore it is clear in the Inspectors Report that the maintenance of the application site during the aftercare period would lay with the applicant or the Forestry Commission and how that arrangement is met would be between those two bodies and is not a matter for the County Council. .

26 letters of representation have been received raising varying concerns which are dealt with below. No objection is raised to the LBMS by Mole Valley District Council, the County Landscape Architect, the County Ecologist, the AONB Office or the Environment Agency.

Officers, having reviewed the submitted LBMS are satisfied that the LBMS provides the information required for Condition 14.

The recommendation is to APPROVE

APPLICATION DETAILS

Applicant

Europa Oil & Gas Ltd

Date application valid

28 October 2016

Period for Determination

23 December 2016

Amending Documents

Email dated 30 January 2017 and accompanying Landscape and Biodiversity Management Strategy January 2017 rev 7

SUMMARY OF PLANNING ISSUES

This section identifies and summarises the main planning issues in the report. The full text should be considered before the meeting.

	Is this aspect of the proposal in accordance with the development plan?	Paragraphs in the report where this has been discussed
Landscape and Restoration Plan	Yes	

ILLUSTRATIVE MATERIAL

Aerial Photographs

Aerial 1: Land at Bury Hill, Wood, Coldharbour Lane, Holmwood

Aerial 2: Land at Bury Hill Wood, Coldharbour Lane, Holmwood

Site Plan

Plan 1

Site Photographs

Photo 1 – Site access with Coldharbour Lane

Photo 2 – Site access with Forestry Commission barrier set back from site access

Photo 3 – The existing track

Photo 4 – View across the proposed site from the northern boundary

Photo 5 – Site of the proposed flare pit

BACKGROUND

Site Description

1. The permitted drill site is located in a rural area at Bury Hill Wood, part of Abinger Forest, within the Metropolitan Green Belt and in the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV). The site lies some 3.5 kilometres (km) to the south west of Dorking, west of South Holmwood and approximately 700 metres (m) to the north of the Village of Coldharbour. The Anstiebury Camp, a Scheduled Monument, is found some 800m south of the site between Abinger Road and Anstie Lane.
2. The 0.79 hectare (ha) site is located within an elevated part of the Greensand Hills, which divide the North Downs from the Low Weald and is some 2.4km north east of Leith Hill. The site is defined on the southern and western boundaries by well established gravelled tracks. The proposed site contains uneven ground; it is situated at a height of 236m Above Ordnance Datum (AOD). The site is found within a plantation managed by the Forestry Commission, with rising land to the east and north. The western part of the site falls within the Abinger Forest Ancient Replanted Woodland. There are a number of 'dells', former quarries thought to date from the 18th or 19th century on, and in, the vicinity of the site. The land to the west drops to a valley that has Coldharbour Village at its southern end. The site would be situated at approximately the same elevation as Coldharbour Village. Although no public rights of way are directly affected by the proposal, the public has open access to the Forestry Commission land and the woods are used for informal recreational purposes.
3. Access to the site would be gained via Coldharbour Lane and utilise an existing Forestry Commission entrance and 250m of existing access track. The access with Coldharbour Lane (D289) is approximately 600m north of the junction with Anstie Lane (D297)/Abinger Road (D289) and 1.5km south of Logmore Lane (D288). Coldharbour Lane links to the A24 via Knoll Road (D2841) and Flint Hill (A2003) to the south of Dorking.
4. There is a residential property known as Lower Meriden some 520m north west of the site and about 35m lower in elevation. The properties known as White Cottage, Ranmore Cottage and Ivy Cottage at the eastern end of Coldharbour Village and within its Conservation Area are some 512m from the southernmost end of the site. The Coldharbour Village Conservation Area extends from the junction of Coldharbour Lane, Abinger Road and Anstie Lane in a band that includes the majority of the village properties and ends just short of The Landslip to the west of Coldharbour.
5. There are two important aquifers present in the Dorking area, the Chalk and the Lower Greensand. The primary aquifer, the Chalk, is not present in the proposed borehole location. The secondary aquifer, the Lower Greensand, is exposed at surface and would be penetrated by the upper part of the proposed exploratory borehole.

Planning History

6. Planning application ref: MO09/0110 was refused by Surrey County Council (SCC) on 30 June 2011 for the following development: "Construction of an exploratory drillsite to include plant, buildings and equipment; the use of the drillsite for the drilling of one exploratory borehole and the subsequent short term testing for hydrocarbons; the erection of security fencing and the carrying out of associated works to an existing access and track all on 0.79 ha, for a temporary period of up to 3 years, with restoration to forestry." At the Planning and Regulatory Committee on 25 May 2011, Members had earlier resolved to refuse the application for the following reasons:

- (1) *The proposed exploratory drilling development will have a significant adverse impact on the Area of Outstanding Natural Beauty (AONB) in the setting of Leith Hill which cannot be mitigated and where exceptional circumstances including the public interest have not been demonstrated to justify the grant of planning permission. The proposal is therefore contrary to Government Planning Policy as set out in Minerals Policy Statement 1 (Planning and Minerals) November 2006 and Planning Policy Statement 7 (Sustainable Development in Rural Areas) August 2004, The South East Plan May 2009 Policy C3 (Areas of Outstanding Natural Beauty); the Surrey Minerals Plan 1993 Policy 1 (Environmental and Amenity Protection) and the Mole Valley Local Development Framework Core Strategy 2009 Policy CS13 (Area of Outstanding Natural Beauty and Area of Great Landscape Value).*
- (2) *There is insufficient evidence to demonstrate why the proposed exploratory drilling development cannot be located beyond the boundary of the Area of Outstanding Natural Beauty (AONB) designation. The proposal is therefore contrary to Government Planning Policy as set out in Minerals Policy Statement 1 (Planning and Minerals) November 2006 and Planning Policy Statement 7 (Sustainable Development in Rural Areas) August 2004 and Surrey Minerals Local Plan 1993 Policy 15 (Environmental & Ecological Impact of Hydrocarbon Development).*
- (3) *It has not been demonstrated to the satisfaction of the County Planning Authority that the proposed traffic management measures are adequate to protect the character of Coldharbour Lane; where the nature of the traffic activity would have the potential to irreversibly damage the historic banks and trees and lead to the industrialisation of the character of a quiet rural road; or adequate to protect the amenity of highway users and residents in Knoll Road, Coldharbour Lane and the broader vicinity; contrary to the Mole Valley Local Plan 2000 Policy MOV2 (The Movement Implications of Development) and Surrey Minerals Local Plan 1993 Policy 1 (Environmental and Amenity Protection).'*
7. The applicant then made an appeal to the Secretary of State against the refusal. The above reasons for refusal were subsequently amended by Surrey County Council in the run up to the first appeal Public Inquiry, with the second reason for refusal withdrawn and the third amended to read as follows: *'It has not been demonstrated to the satisfaction of the County Planning Authority that the proposed traffic management measures are adequate to protect the character of Coldharbour Lane; where the nature of the traffic activity would lead to the industrialisation of the character of a quiet rural road; or adequate to protect the amenity of highway users and residents in Knoll Road, Coldharbour Lane and the broader vicinity; contrary to the Mole Valley Local Plan 2000 Policy MOV2 (The Movement Implications of Development) and Surrey Minerals local Plan 1993 Policy 1 (Environmental and Amenity Protection).'*
8. The appeal was subsequently dismissed by the Secretary of State's Inspector on 26 September 2012. However, Europa Oil and Gas Ltd then successfully challenged the Inspector's decision in the High Court, and on 25 July 2013 the judge quashed the earlier appeal decision. Leith Hill Action Group, which was a defendant to the proceedings in the High Court, then appealed against the judge's decision. This appeal was dismissed by the High Court on 19 June 2014 and a new Public Inquiry was held in the spring of 2015. The Inspector issued his decision (ref: APP/B3600/A/11/2166561) on 7 August 2015 and allowed the appeal with the following formal decision reason: *'Having regard to the evidence presented to the inquiry, the written representations and visits to the appeal site and surroundings, I am convinced that the short-term harm to the identified interests of acknowledged importance would be clearly and demonstrably outweighed by the fully reversible nature and the benefits of the scheme in national and local terms...Accordingly, and having taken into account all other matters raised, this appeal succeeds'*. This Appeal Decision has 23 Conditions which are required to be complied with, some of which require the submission of detail for approval by the County Planning Authority.

9. In addition to the above, the applicant submitted a planning application for an underground drilling corridor of an exploratory hydrocarbon borehole (ref: MO/2014/1006) which was permitted, subject to four conditions, on 25 September 2015. This application will include the drilling of an underground drilling corridor from land at Bury Hill Wood (the land which is the subject of this planning application) to land under Coldharbour Village. The borehole would be drilled to an anticipated total depth of 1,450m true vertical measured depth in order to target the Downdip Portland Target, with a 'deviation tolerance zone' of 8.5 hectares. The underground route of the drilling operation was not included within the earlier planning application refused by SCC (see above, ref: MO09/0110 – allowed at appeal), which sought planning permission for the over ground exploratory drill-site operations.
10. The applicant has received approval of the following details submitted pursuant to conditions on Appeal Decision ref: APP/B3600/A/11/2166561. These are:
- Application ref: MO/2016/1292 - details of groundwater monitoring boreholes pursuant to Condition 15 approved in October 2016.
 - Application ref: MO/2016/1009 - details of a Dust Suppression Scheme pursuant to Condition 7, details of a Method Statement for the geochemical baseline soil testing pursuant to Condition 12, details of a Method of Construction / Reinstatement Statement pursuant to Condition 21, details of measures necessary to keep the public highway clean pursuant to Condition 22, and details of in-cab cameras / CCTV pursuant to Condition 23 approved in December 2016
 - Application ref: MO/2016/0981 - details of Light Management Plan pursuant to Condition 11 approved in December 2016
 - Application ref: MO/ 2016/1848 – details of a method statement for the surveying and reinstatement of the public highway pursuant to Condition 20(ii) approved in March 2017
11. The applicant has submitted the following schemes pursuant to conditions on the Appeal Decision however these applications have yet to be determined:
- a. Application ref: MO/2016/1194 - details of an Ecological Monitoring and Management Plan pursuant to Condition 9
 - b. Application temp ref: 2017/0028 – details of a noise monitoring plan pursuant to Condition 8
12. The applicant has also submitted three further planning applications. These are for:
- a. The installation of perimeter security fencing consisting of 2 metre (m) high Heras fencing and 3m high deer fencing; an office and wc at the site entrance; and office, welfare accommodation, water fuel and a generator, all ancillary to and in association with appeal decision APP/B3600/A/11/2166561 dated 7 August 2015 (application ref: MO/2016/1563 which is on this agenda)
 - b. The installation of perimeter fencing consisting of 2 metre (m) high Heras fencing and 3m high deer fencing, on office and WC at the site entrance; and office, welfare accommodation, water, fuel and a generator, for a period of 52 weeks (application ref: MO/2017/0222)
 - c. The installation of a 1.1 metre high reptile fence for an area of 0.016 hectares (application ref: MO/2017/0255)
- These applications have yet to be determined.

THE PROPOSAL

13. The applicant has submitted a planning application seeking to discharge Condition 14 from appeal decision ref: APP/B3600/A/11/2166561. The condition is as follows:

- Condition 14** *No development hereby permitted (save for anything done pursuant to Condition 15 (Ground and surface water monitoring) shall commence until a Landscape and Restoration Plan to be implemented on the cessation of phase 3 of the development (testing and evaluation) shall be submitted to and approved in writing by the County Planning Authority. The Landscape and Restoration Plan shall include details of:*
- Details of Landscape and Restoration Plan*
- i. The excavation, storage and reinstatement of soils to ensure the survival of the existing seed bank;*
 - ii. Programme for the implementation of the restoration monitoring and aftercare;*
 - iii. Provision for the enhancement of biodiversity focusing on native species and the results of the pre-commencement ecological survey whilst taking into account the use of the land for commercial forestry;*
 - iv. Planting specification including details of species, planting sizes and proposed numbers/ quantities/ seed mix & application as appropriate;*
 - v. The reinstatement of the access track; and*
 - vi. Details of any elements of the ground and surface water monitoring scheme approved under Condition 15 to be retained or continued on the site.*
- The plan as approved shall be carried out in full.*

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.

14. The applicant has submitted a Landscape and Biodiversity Management Strategy (LBMS) which sets out a vision and objectives, information on existing landscape components and habitats within and adjacent to the application site; and then a management aim and objective for each landscape/ habitat component. The document also sets out an implementation, monitoring and review strategy. The document contains the following elements in accordance with the requirements of Condition 14.

i. The excavation, storage and reinstatement of soils

15. **Excavation:** The LBMS would require the removal of both top and subsoils from the application site and their storing within the application site as bunds whilst operations take place and then the subsequent reinstatement of the soils as part of the decommissioning programme. The applicant states that topsoil and subsoil stripping and placement would conform with BS3882:2015¹ and BS8061: 2013² alongside the Defra publication 'Construction code of Practice for the Sustainable Use of Soils on Construction Sites'. The LBMS goes on to state that any ancient woodland indicator plant species within the soils would be transplanted into a temporary holding area for replanting within the site following soils restoration or relocated to suitable habitat off site. The LBMS outlines that the stripping, storage and spreading soil operations would be undertaken in the direst available conditions and never when soils are waterlogged, frozen or when ponding occurs. Also that tracked equipment is used to reduce compaction. The LBMS outlines that to avoid damage to soils that multiple handling should be avoided by placing the soils into bunds.

¹ BS3882:2015 - Topsoil

² BS8601: 2013 – Specification for subsoil and requirements

16. The LBMS outlines that top soil would be stripped first with topsoil from areas of wood sorrel being stored to one side of the topsoil stockpiles and separated from other topsoils through the use of a permeable geotextile membrane as an intermediary layer. Subsoil would then be stripped.
17. **Storage:** the top and sub soils would be stored in bunds by loose tipping and compaction to enable containment of potential spillages, casement breaks or water contamination. The LBMS says that stockpiles for both topsoil and subsoil would be stored in bunds no higher than 4.0m and preferably lower.
18. **Reinstatement:** the LBMS recognises that areas where soils should be placed will require de-compaction using ripping equipment before reinstatement of subsoils and then topsoils. The LBMS states that soils should be replaced across the soiling area using a sequential strip system. The document then goes on to outline that topsoil should be cultivated to full depth to relieve any compaction and all stones larger than 50mm be removed. After which hand weeding should take place with the use of herbicides if necessary.

ii. Programme for the implementation of the restoration, monitoring and aftercare

19. The LBMS provides a table of activities for restoration, monitoring and aftercare of the woodland that would be provided as part of the restoration of the application site. The aftercare regime for tree planting would include hand weeding where appropriate with the use of herbicide as needed; the use of deer proof fencing to remove damage from browsing deer and rabbits; and pruning as required. The LBMS outlines that any failed trees would be replaced.

iii. Provision for the enhancement of biodiversity

20. The LBMS recognises that trees will require felling as part of the overall scheme. A tree plan identifying which trees would require removal was submitted as part of the documentation submitted for the original planning application. The LBMS outlines that any trees removed as part of the proposal would be compensated for through new woodland planting following the reinstatement and profiling of soils. The LBMS outlines that the proposed planting would be in accordance with the Forestry Commission's Bury Hill and Redlands Forest Design Plan (2016) which sets out a long term vision for the Forest. This is then reflected in the planting strategy proposed in the LBMS.

iv. Planting specification

21. The LBMS outlines that woodland that is to be planted for reinstatement of the site is to accord with the Forestry Commission's Bury Hill and Redlands Forest Design Plan (2016). The species proposed are Sessile Oak, Wild Cherry and Sweet Chestnut. For the coniferous planting this would include Scots Pine, Douglas Fir and Common Juniper. Planting would be carried out in accordance with BS4428:1989³.

v. The reinstatement of the access track

22. To facilitate the development the applicant proposes to bring in either crushed stone or aluminium trackway to create a trafficable surface within the application site. This would allow for the exiting soil structures and existing access track to remain intact throughout the development and to avoid disturbance of Japanese Knotweed. The LBMS recognises that on cessation of the operations all crushed stone and/ or aluminium sheeting, alongside any geotextile liners, would need to be removed from the application site and to thereby leave the existing access track and subsoils. The LBMS outlines how the crushed stone/ aluminium tracks would be removed by vehicles remaining on these

³ BS4428:1989 Code of practice for general landscape operations (excluding hard surfaces)

surfaces and working back towards the exit/ entrance which is on Coldharbour Lane to avoid travelling over unprotected existing soils or unprotected existing track, lifting the crushed stone/ aluminium trackway as progress is made. The LBMS outlines the liners would be removed by hand.

23. Once re-exposed by the removal of the trackway and liners, the areas of retained access track and hardstanding would require no further works. Whereas areas of soils would be reinstated in accordance with the information set out above with regards to 'soils'. Areas where Japanese Knotweed could be present would have especial care taken to avoid disturbance.
24. Additionally any holes left by any temporary fencing would be backfilled manually using soils excavated to install the posts and then graded and tied in to final levels with soils cultivated and managed in accordance with the 'soils' section of the LBMS.

vi. Details of any elements of the ground and surface water monitoring scheme

25. As part of the development proposal the applicant has to install a number of groundwater monitoring boreholes to collect information and data on the local groundwater. These boreholes would remain on site during the reinstatement phase of the development proposal so that monitoring can continue in accordance with the requirements of the Environmental Permit. The boreholes would have a lockable steel headworks at the surface, each approximately 600mm in height with a footprint of less than 300mm x 300mm. Once the monitoring requirements of the Environmental Permit are fulfilled the boreholes would be decommissioned in accordance with the Environment Agency's good practice guidance to ensure that they do not form a preferential pathway for the mitigation of surface water into the groundwater system.
26. The decommissioning of the boreholes would involve the removal of the headworks, backfilling of the borehole with clean gravel to a depth of approximately 5m below ground level above which a bentonite seal would be installed to 1m below ground level. The top of the borehole would then be capped with a concrete plug and the area around the borehole reinstated by manual infilling, first with subsoil and then with topsoil, graded and tied in to final levels. The soils would then be cultivated and managed in accordance with the 'soils' section of the LBMS.

Japanese Knotweed

27. The LBMS outlines to avoid disturbing and/ or picking up Japanese Knotweed on the access track into the application site, tracked vehicles that would be used for excavating soils and placing them into bunds would be brought in on a wheeled low-loader. The LBMS outlines that the area where the Japanese Knotweed is located would be fenced along the infestation 7m laterally to demark where it is. The track way to gain access into the site would then be built up using a root barrier membrane laid on a layer of sand and covered with a further layer of sand before apply a layer of crushed stone or the aluminium trackway. The LBMS sets out preventative measures including signage and for site operators and contractors to be given instructions on identification of Japanese Knotweed; the treatment of visible regrowth using a non-residual translocated herbicide during the first available season for herbicide application (May – October) following the discharge of this condition and then subsequent seasons. The LBMS provides measures that should Japanese Knotweed be inadvertently chopped down that the resulting arisings would be kept within a demarcated area, allowed to dry and then once the stems are dead removed to a licensed waste disposal facility. This is all in accordance with the Environment Agency Code of Practice sections 2.1 and 2.2 'Managing Japanese Knotweed on development sites' version 3, amended 2013.

CONSULTATIONS AND PUBLICITY

District Council

28. Mole Valley District Council : No objection

Consultees (Statutory and Non-Statutory)

29. County Ecologist : No objection
30. County Enhancement Officer : The scheme covers all the aspects would be looking for restoration wise. Note the comment about French provenance of Sessile Oak. Juniper is an interesting choice.
31. County Geological Consultant : Satisfied with the details
32. County Landscape Architect : No objection
33. Surrey Wildlife Trust : Request the soil bunds and piles are fenced or covered to discourage badgers making setts in them
34. Sutton and East Surrey Water Plc : No comments to make
35. The Environment Agency South East : No objection
36. Gatwick Airport Safeguarding : The document does not conflict with safeguarding criteria.
37. National Trust : No comments to make
38. Natural England : No objection the details submitted are unlikely to have significantly different impacts on the natural environment than the original proposal.
39. Southern Water : No comments received
40. The Surrey AONB Office : No objection
41. Forestry Commission : refers to the Standing Advice for activities to be carried out in, on or near to ancient woodland.

Parish/Town Council and Amenity Groups

42. Capel Parish Council : As has already been pointed out the planning inspector specified that the after-care period should last for 5 years, not 'up to', and yet there is no enforcement of this in the conditions statement [the LBMS]. For example, What happens if new trees are planted on the site and they die after 3 years, how is the replanting going to be enforced and on whom. It is imperative that the applicant remains engaged with the operation and the council for the full five years and also remains legally accountable.
43. Holmwood Parish Council : No comments received
44. Westcott Village Association : No comments received
45. Wotton Parish Council : No comments received
46. Leith Hill Action Group (LHAG) : Satisfied with the information provided for subsections (v) and (vi) respectively. However question where the document states that the applicant will actually maintain planting in good, healthy condition and protected for damage for five years; question where it states that should any trees or shrubs die that they should be replanted within the next available planting season; and that is no actual programme included for restoration monitoring or aftercare.
47. CPRE : It is unfortunately that the opportunity have not been taken to eradicate the patch of Japanese Knotweed in conjunction with the Forestry Commission as this could be an ongoing problem; four meter high top soil piles are higher than normally considered to be acceptable. If there is insufficient room on site perhaps alternative arrangements should be made. Could not find reference to the replacement of dead trees in the document. Wish for understorey planting to be provided in the broadleaf areas. Wish for a mix of sizes of trees to be planted. Wish for watering to be carried out during any dry period not just June, July and August.
48. Frack Free Surrey : No comments received

Summary of publicity undertaken and key issues raised by public

49. The application was originally publicised by the posting of eight site notices. A total of 291 owner/ occupiers of neighbouring properties were directly notified by letter. 22 letters of representation were received following that consultation. Subsequently the applicant modified the LBMS following consultee comments. A further four letters of representation were received following that. The following comments have been raised:

Principle of the Development

- Object to the applicant appealing the condition. The applicant must comply with their work.
- Object as the applicant will destroy an Area of Outstanding Natural Beauty and they do not want to restore it.
- It is outrageous that this application is being seriously considered in ancient woodland and in the AONB and borders a SSSI.
- The site is an AONB and the community do not want drilling even if exploratory. It will scar the landscape and historic roads will be destroyed by lorries squeezing past
- The development should not be happening in the AONB
- Objection
- Object to the destruction of the forest and the intended fracking.

Groundwater and contamination matters

- There is no copy of the Scheme of Groundwater Monitoring provided.
- There is no information as to measures to protect the site from contamination by escape of hazardous fluids at depth but which could pass into the soils immediately under lying the site and which could migrate laterally into the soils and shallow aquifers.
- Concern that the well casings crack and leak the toxic chemicals and will cause irreparable damage to the aquifers below
- The drilling will be too close to the Pippbrook Stream which no restoration plan could reverse.
- The restoration plan should include information on what chemicals will be used. The Environment Agency have said this information will come in as part of the Environmental Permit but no Permit has been submitted. The restoration plan should not be approved until the Permit application has been made.
- Remain concerned by the risks to groundwater, spring systems and aquifers. Why is water quality not referred to in the environmental restoration plan. If contamination occurs how will this be reversed?
- Request information on how Europa will restore the land beneath the site.
- Where has the environmental risk considerations of drilling causing further faults and earth movements been taken into account
- The drilling will affect one of the aquifers which provides drinking water to the surrounding towns and villages.
- Request that an analysis of the pollution that could spread from the site into the surrounding woodland and beyond be completed before work commences.

50. Officer comment: landscape and restoration plan deals with the shallow soil environment of the site, rather than the deeper rock environment. The information on measures to protect the site from contamination, mitigation measures, were included in the Environmental Statement (November 2014) and associated appendices as well as the subsequent Hydrogeological Risk Assessment (February 2015) which were dealt with earlier in the planning application process. These issues were also discussed in depth at the planning inquiry. These details will also be covered in the Environmental Permit. During work on an oil and gas exploration site the protection of soils and rocks beneath the site is provided by many measures, including:
- A sealed membrane across the site, with perimeter ditches for collection of site surface run off

- Bunding and containment measures
 - Adopting good working practices
 - Well casing and appropriate cementing techniques
 - Only being able to use substances classified as non-hazardous, unless the amounts used are no small that they will not impact groundwater
51. The wells are drilled and cased to standards compliant with Offshore Installation and Wells (Design and Construction, etc) Regulations 1996 (DCR). These regulations apply to all wells drilled with a view to the extraction of petroleum regardless of whether they are onshore or offshore. They are primarily concerned with well integrity. The Health and Safety Executive are the lead regulator on this aspect. Provided a well is drilled and installed in line with the requirements outlined in these regulations the measures taken will be adequate to provide protection to the aquifers.
52. The site is located near to the Pipp Brook stream but the proposed well drilling site is not in direct hydraulic continuity with the stream. Mitigation measures, in the form of the site membrane and perimeter ditch, have been proposed to prevent any over-land run-off from the site to the stream. Baseline monitoring of the Pipp Brook stream will be required prior to work commencing. As part of the environmental permit requirements enhanced monitoring will be required of the Pipp Brook stream during works.
53. The chemicals to be used on site will be agreed if/when an environmental permit application is made to the Environment Agency. The chemical use on site should not be agreed as part of the restoration plan. The restoration plan relates to the initial removal and subsequent replacement of vegetation and soils across the site and re-planting proposals, along with testing. The soils testing will relate to substances on the site but the restoration plan is not the appropriate document in which to agree the chemical use on the site.
54. The information on the risks to groundwater, and water quality, was included in the Environmental Statement (November 2014) and associated appendices as well as the subsequent Hydrogeological Risk Assessment (February 2015) which were dealt with earlier in the planning application process. These issues were also discussed in depth at the planning inquiry.

Restoration bonds

- There should be a bond for environmental clean up
 - What assurances do we have that the site will be returned to its former state? What happens is the applicant goes into liquidation during the works?
 - What commitment is the company making to guarantee the restoration works? Request a bond is provided from the company such that the funds are released to a third part to make good on their commitment. This should be a requirement of the proceeding.
 - What benefits will the potential extraction of oil bring to the local community? Will the money be invested into schools?
55. Officer comment: Para 041 ref ID 27-041-20140306 of the NPPG says that restoration should be secured by suitable planning conditions, and where necessary, through planning obligations. The Inspector did not feel it necessary to place a bond on the development for restoration of the site.

The fencing application

- The applicant wants to make the site bigger for fencing and security. This will disturb ore wildlife and woodland.
- The plan appears to regard the site as a 0.79 ha area and does not recognise the fencing application.
- If application 2016/0170 is permitted, will this plan need amending?

Japanese Knotweed

- Note the presence of Japanese Knotweed the movement of lorries will present a risk of spreading the weed further down Coldharbour Lane.
- Japanese Knotweed – dispute this is just to the south of the track. It looks like it goes over the track and its extent is unknown. There are no plans for how any small pieces of JK that may be inadvertently churned up may be disposed of

56. Officer comment: this is discussed below.

Ecological assessment

- A full assessment of the plant and animal life in and around Pipp Brook should be taken into account as part of the environmental restoration plan. Otherwise how would you know if the Pipp Brook becomes contaminated?
 - Have the applicant carried out any studies of the wildlife present in this area? when where the studies carried out and for what duration
 - There are several established and mature trees which are noted to be retained as existing. Although there is detail on how to protect and conserve these trees, there is no detailed risk assessment to these trees which fall along the barrier of the drill site should there be a spillage, casement break, water contamination.
 - Two trees were inspected for bats (para 4.2). If the trees are removed this would be unlawful disturbance. Request this assessment be completed.
57. Officer comment: an ecological assessment was carried out as part of the EIA for the planning application for the exploratory wellsite. However the restoration plan is for restoration of the application site and planting not for land beyond the application area. Condition 9 requires further ecological surveys to be undertaken for the site and this condition remains yet to be determined. The site would be bunded and would also have a perimeter interceptor ditch so that any runoff from the application area would go to the ditches whereby any spillages/ contamination would be tankered off of site.

Soils

- There is no detail within the scheme to determine the substructure of the soil and any risk assessment of the possibility of contamination of the soil and subsequent spread of contamination given the permeable and free draining nature of the soil in this area.
58. Officer comment: The site would be bunded and would also have a perimeter interceptor ditch so that any runoff from the application area would go to the ditches whereby any spillages/ contamination would be tankered off of site.

Ancient woodland

- The application says that ancient woodland indicator plant species are to be transplanted into temporary holding areas for replanting within the site following soils restoration. There is no information provided on the holding areas.
 - Given the land is part of the ancient woodland I do not feel the application provides adequate provision to allow for the diversity and maturity of plant species found in the surrounding areas of the site.
 - The Bury Hill and Redlands Woods are classed as predominantly ancient woodland where approximately 236ha of the wood is classed as plantation on ancient woodland. These have a diverse structure with over 25 tree species predominately a conifer forest with Corsican Pine, Scots Pine, Douglas fir and Western Hemlock, Beech, Birch, small groups of Oak and Sweet Chestnut.
59. Officer comment: the Forestry Commission's Bury Hill and Redlands Forest Design Plan and the Long Term Vision Plan on page 18 of that document, the application site is intended to be 80% conifers as the area was not ancient woodland. The County Ecologist is satisfied that the applicant has noted the species and % conifer cover and considers the species proposed are appropriate for future timber management in this

compartment. The species listed by representations are not timber trees. The ancient woodland holding area is shown on plan L301 Earthworks Plan: Phase 1 Soils Excavation which shows it to be in the north east corner of the application site.

Aftercare

- The land is to be fenced off for 5 years to allow for regrowth of the habitat of the area. I do not feel this is sufficient timeframe to replace ancient woodland
- The scheme only covers for a period of 5 years. This is wholly inadequate for the diversity of species and the character of the land.
- Will any plant that fails be replaced within the guaranteed period and tended and monitored.

60. Officer comment: Having consulted the Forestry Commission's Bury Hill and Redlands Forest Design Plan and the Long Term Vision Plan on page 18, the application site is not intended to be planted back with ancient woodland species but 80% conifers as the area was not ancient woodland. The species proposed are appropriate for future timber management. Therefore the timeframe fits with that timescale.

Protected species

- The site is in a BOA and near a SSSI. Where is the method statement for the conservation of these species and the risk assessment should there be contamination or spillage within this area.

Management

- It would have been helpful to have examples where the general principles governing woodland re-instatement and long term habitat management have actually been applied in practice for the protection of soil integrity and woodland habitats.

Tree inspections

- Para 4.8 refers to the need for inspections to be made by a suitably qualified arboriculturalist – surely this needs to be independent.
- The applicant mentions 'a number of trees' - can they be more specific.

Access track

- The access track – will measures be taken to preserve the stone. If stone is to be used then this will disturb the JK. I cannot see how an aluminium trackway can be laid on top.

Ecological benefits

- How does Europa plan to increase the ecological value of the site?

Misunderstanding of the application

- Concerned the applicant is seeking to discharge the condition as the condition was applied to protect the landscape, neighbouring roads and access.
- The applicant is appealing the details of the landscape and restoration plan so they don't want a record of it or restore it. This is unacceptable.

Conditions 18 and 19

- Request further details of the access proposed via Coldharbour Lane since there is limited space for 2 cars to pass safely I do not see how HGVs can pass along this lane.

Condition 20(ii)

- There needs to be strict monitoring of the ancient road before and after the works. The road is not wide enough for two lorries to drive up.

Long term monitoring

- Recommend post monitoring of the site for 50 years after the well has closed

PLANNING CONSIDERATIONS

61. The guidance on the determination of planning applications, found at the end of this report, is expressly incorporated into this report and must be read in conjunction with the following paragraphs. In this case the statutory development plan for consideration of the application consists of the Surrey Minerals Local Plan 2011 (SMP2011), the Mole Valley Local Plan 2000 (MVL2000) and the Mole Valley District Core Strategy 2009 (MVCS2009). In considering this application the acceptability of the proposed development will be assessed against relevant development plan policies and material considerations. The proposal will also be assessed against the criteria and information requirements set out in Condition 14 as posed by the Inspector.
62. Condition 14 was imposed by the Planning Inspector to ensure that the application site could be absorbed back into the landscape as soon as practical and to enhance nature conservation. The Inspector noted the complexity of providing aims and objectives in the LBMS which meet planning principles but are then consistent with the Forestry Commission's management regime, namely who would carry out the planting. The Planning Inspector was satisfied that such a condition can be imposed and commented that "*It must be assumed for the purposes of this permission that the landscape restoration scheme will reach maturity. To ensure this there must be a maintenance element*". The Inspector left it that such maintenance regime would be an agreement between the applicant and the Forestry Commission but that the scheme would run with the land.
63. Whilst concern has been raised with regards to ancient woodland, the application site is not designated as ancient woodland. The land immediately adjacent to the west of the application site is designated as plantation on ancient woodland. Semi natural ancient woodland lies beyond this. Officers consider that ancient woodland is not a consideration for this proposal.
64. Consideration of the LBMS and how it satisfies the requirements of Condition 14 is set out below.

Landscape and Restoration Plan

Surrey Minerals Plan 2011

Policy MC14 - Reducing the adverse impacts of mineral development

Mole Valley Core Strategy 2009

Policy CS13 – Landscape Character

Policy CS15 – Biodiversity and Geological Conservation

65. For the avoidance of doubt Condition 14 requests that a scheme for Landscape and Restoration is submitted. The applicant has submitted a document entitled Landscape and Biodiversity Management Scheme to address Condition 14.
66. Policy MC14 of the SMP11 requires consideration to be given to impacts from mineral related development on the appearance, quality and character of the landscape and any features that contribute to its distinctiveness. Policy CS13 point 1 of the MVCS2009 outlines that all new development must respect and, where appropriate, enhance the character and distinctiveness of the landscape character area in which it is proposed. Landscape enhancement works may be required to avoid adverse impacts associated with new developments. Policy CS15 point 4 states that planting and other schemes that promote biodiversity will be expected as part of development schemes, focusing on native species from the locality and particularly trees. There is no relevant policy within the MVL2000 for this proposal.

67. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Paragraph 036⁴ of the National Planning Practice Guidance (NPPG) outlines that the responsibility for the restoration and aftercare of mineral sites lies with the minerals operation and, in the case of default, the landowner. In this case this would be the Forestry Commission. Para 037⁵ goes on to state that high quality restoration and aftercare of mineral sites should take place at the earliest opportunity.

Condition 14 (i) the excavation, storage and reinstatement of soils to ensure the survival of the existing seed bank

68. As outlined above the LBMS provides details for how soils will be stripped then stored and then subsequently reinstated on the application site to ensure that soils are not mis-handled, compacted or over handled. CPRE have commented that it states that topsoils would be stored to a height of 4.0m and this is higher than normally considered to be acceptable.
69. MAFFs "Sheet 2: Building Soil Storage Mounds with Excavators and Dump Trucks" outlines that the key operational points to minimise the degree and extent of severe soil compaction are to minimise compaction and minimise the wetting of soils. With regards to storage operation, the guidance outlines that mounds should be sited on dry ground, that machines should only work when ground conditions enable their maximum operating efficiency; that the operation should follow a detailed soil stripping/ storage plan; that top and subsoils should be stored in their respective mounds; that trucks and machinery should not back track over soils. Para 2.7 of the document says the maximum possible height for storage of soils is typically 3-4m.
70. The County Geological Consultant (CGC) has reviewed the information with regards to the information provided on excavation, storage and reinstatement of soils for the application site and raises no objection to the methods proposed, how the soil would be stored and how the soils would be replaced. The CGC recommends this aspect of the condition can be discharged.
71. The Surrey Wildlife Trust had requested that the temporary soil stockpiles at the application site be fenced off or covered to help avoid badgers constructing setts in them. The applicant responded commenting that they consider it unlikely that badgers would want to establish setts in the stockpiles whilst operations (the drilling operations) are being undertaken. The applicant considers given the temporary and short term timescale of the proposal that this would be insufficient time for badgers to colonise the soil mounds.
72. Having reviewed the Surrey Wildlife Trust's comments Officers consider that the imposition of a fence around the soil stockpiles to prevent badgers making a sett/ setts in the stockpiles is disproportionate. The County Ecologist has commented that a fence that will keep out a badger needs to be strong, usually chain link, and 125 centimetres or more in height. Thus it would need to be dug at least 30 centimetres (and preferably 50 centimetres) into the ground and with a piece at the bottom set at right angles facing outwards from the stockpile for a distance of about 50 centimetres underground. Alternatively, bending the bottom of a chain-link fence outward and downward at an angle of 45' may deter some badgers, but is unlikely to keep out a determined animal. With regards to covering the soil stockpiles Officers consider this would make the monitoring of the stockpiles for any potential badger activity problematic. The applicant has stated that they consider that highly unlikely that badgers would want to establish setts within the soil mound given that there would be insufficient time to colonise the soil mounds due to the short duration of the works. Officers recommend that a watching brief

⁴ Paragraph 036 Reference ID: 27-036-20140306

⁵ Paragraph 037 Reference ID: 27-037-20140306

is kept of the soil stockpiles to monitor any potential badger activity and if badgers are identified action can be taken; and that this can be required by condition.

Condition 14 (ii) Programme for the implementation of the restoration, monitoring and aftercare

73. As outlined above the LBMS provides details for how the site would be restored to woodland use in accordance with the Forestry Commissions own planned regime. The LBMS sets out the regime for monitoring the welfare of the planted woodland and an aftercare regime. CPRE have commented that watering is only proposed in the months of June, July and August and that there can be periods of drought in the spring and autumn. Table 4.5 of the LBMS sets out the management tasks that would be carried out to ensure the survival of the woodland and within this table point three is for the *“maintenance of good levels of soil fertility and moisture”*. This includes measures for irrigation and it specifically states that *“irrigation may be required during dry periods [...] watering min. 8 times during dry months”*. Table 6.0 provides further details of when activities would take place month by month and Officers note that in this table it states watering would take place during the months June, July and August. Officers recognise that table 6.0 outlines that watering would take place during those months however it should be borne in mind that the planting that would take place are forestry transplants and are not considered vulnerable planting within a forestry plantation. The watering period proposed marries with periods that are at high risk of drought. Given the land is to be returned to forestry plantation the aim would be to ensure that the trees survive.
74. Concern has been raised by LHAG and Capel Parish Council that the LBMS is not explicit enough that any planting that fails or dies in the five year aftercare period will be re-planted and by whom. Paragraph of the LBMS states *“descriptions of the management aim, objectives and prescriptions for each Landscape Management Component are provided below. These prescriptions should be assumed to be for a 5 year period unless stated otherwise”*. Paragraph 4.52 of the LBMS states *“where any new tree planting fails to establish well or subsequently deteriorates, measures shall be taken to resolve any underlying problems. All poorly established and failed or vandalised trees shall be replaced as per contractual obligations. Following establishment, and where necessary, maintenance works may include occasional formative pruning to promote healthy tree growth”*. Paragraph 5.4 states *“the prescriptions give operational guidance for the implementation and management of the proposed landscape scheme for up to 5 years, if required, with subsequent Site management being incorporated into the Forest Plan for Bury Hill & Redlands [...]”*.
75. The second part of Condition 14 requires all planting implemented pursuant to the permission to be maintained for five years from completion of restoration stating: *“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”*.
76. As outlined above paragraph 4.3 of the LBMS states that the aims, objectives and prescriptions should be assumed for a five year period unless stated otherwise. Officers interpret LBMS as proposing to carry out management of the new planting for five years but that not all the management activities may need to carry on for a period of five years. For example rabbit proof fencing could be removed earlier than five years. Furthermore the above comments taken from the LBMS are required to be viewed in the context of the Inspectors comments with regards to whether it will be the applicant that carries out the aftercare duties or the Forestry Commission. As planning permission runs with the land the aftercare duties may fall to the applicant or the Forestry Commission and this was discussed at paragraphs 127-129 of the Inspectors report. Paragraph 127 says *“as mentioned previously, the permission runs with the land and the necessary work would have to be overseen by the Appellants or their successors in title – the FC”*. The intention is to return the application site to commercial forestry use as part of the wider Bury Hill

and Redlands plan. There is a possibility that the aftercare period would revert to the Forestry Commission who are the 'responsible landowners' and it is in their interests to ensure the tree crop is established.

77. Given this Officers consider that the LBMS does provide adequate details for the maintenance and management of the land in the five year period. Regardless of this Condition 14 does state a requirement for replacement planting should planting fail or die and this is secure by the fact that wording is in the condition itself. To provide reassurance to consultees concerned about this matter Officers propose that a condition be imposed on this approval reiterating the requirement for replacement planting within the five year period post restoration of the site should any planting fail or die.

Condition 14 (iii) provision for the enhancement of biodiversity focusing on native species whilst taking into account the use of the land for commercial forestry

78. As outlined above the LBMS makes provision for planting to be in accordance with Woodland Plan for Bury Hill Wood which covers the exploratory well site. This is because the land is to be returned to commercial forestry use and therefore the LBMS should fit in to. The County Landscape Architect and County Ecologist consider the LBMS does. Whilst the condition requires consideration for biodiversity the afteruse for the site is for commercial forestry which is to be governed by the Woodland Plan for Bury Hill Wood and managed in the long term by the Forestry Commission. The LBMS sets out species that reflect this including native species and species of the woodland in the locality to which this parcel of land will need to assimilate with. Officers are satisfied that the LBMS as submitted meets the requirement of this condition given the need for the site to fit with the Woodland Plan for Bury Hill Wood.

Condition 14 (iv) Planting specification

79. The LBMS proposes to carry out planting in accordance with the Forestry Commission's Bury Hill and Redlands Forest Design Plan (2016) which sets out a long-term vision for the Forest. The Forest Design Plan includes a plan for the 'Intended Medium Term Structure in ~ 20 Years' which proposes two different medium term objectives split between two areas within the Site: 'Predominantly (>80%) native and honorary-native broadleaf woodland' and 'Predominantly (>80%) coniferous woodland'. Trees to be planted within the area allocated for broadleaf woodland within the Forest Design Plan will be predominantly Sessile Oak, with lesser plantings of Wild Cherry and an honorary native species, Sweet Chestnut. The area proposed for coniferous planting is to include Scots Pine, Douglas Fir, and a small percentage of Common Juniper.
80. Comments have been made within representations that the species mix does not reflect the wider area or the ancient woodland of the local area or matches the list set out in the 2009 Environmental Statement. The long term vision plan of the Forest Design Plan states that it is intended to be 80% conifers as this area was not ancient woodland. The applicant has noted the species and % conifer cover and the County Ecologist comments that the species proposed in the LBMS are appropriate for future timber management in this compartment. Furthermore the species listed in the 2009 Environmental Statement are not timber trees and Ash can no longer be planted. The County Landscape Architect has commented that the intention of the application site is for the site to be returned back to commercial forestry not for amenity or biodiversity purposes. Consequently the trees would have to be planted with an end purpose in mind i.e. forestry. The County Landscape Architect and County Ecologist are satisfied with the planting specification proposed and that it meets the Forestry Commission Design Plan.

Condition 14 (v) The reinstatement of the access track

81. The applicant has provided details of how the access track would be reinstated and this is outlined above. LHAG had commented that there was a lack of information on this

criteria in previous drafts of the LBMS however with regards to version 7, LHAG raise no objection and are satisfied with the information. No other consultee has raised objection to how the access track would be reinstated or how the soils would be handled as part of this. Officers are satisfied the information provided meets the requirement of this subheading.

Condition 14 (vi) Details of any elements of the ground and surface water monitoring scheme

82. The applicant has provided details that items required for the ground and surface water monitoring scheme would be required to remain in place after reinstatement of the application site due to the need to continue to monitor the ground and surface water as part of the Environmental Permit. The LBMS does then provide details as to how the boreholes associated with this element would be removed. LHAG have commented they are satisfied with the information provided. The Environment Agency raise no objection to the details provided.
83. In addition to this, the Environment Agency have provided further comments with regards to representations and concerns received on this application in relation to groundwater. These are covered below within the representations received section of the report.

Japanese Knotweed

84. Japanese Knotweed lies in an area approximately 23m x 19m immediately south of the access track into the application site, approximately 97m from Coldharbour Lane.
85. Japanese Knotweed is an invasive plant and is a Schedule 9 listed plant covered by the Wildlife and Countryside Act 1981 (as amended). Schedule 9 of the Act states it is an offence to plant or otherwise cause the species to grow in the wild. Section 14(2) of the Wildlife and Countryside Act 1981 states that "if any person plants or otherwise causes to grow in the wild any plant which is included in Part 2 of Schedule 9, he shall be guilty of an offence". Japanese Knotweed is classed as 'controlled waste' and as such must be disposed of safely at a licensed landfill site according to the Environmental Protection Act (Duty of Care) Regulations 1991. Soil containing rhizome material can be regarded as contaminated and, if taken off a site, must be disposed of at a suitably licensed landfill site and buried to a depth of at least 5 metres.
86. According to the Environmental Protection Act (EPA) 1990 controlled waste, must be disposed of at appropriately licensed landfills. Japanese knotweed plant material and/or any knotweed contaminated soil which you discard, intend to discard or are required to discharge is likely to be classified as controlled waste. Costs can also be incurred from the spread of Knotweed into adjacent properties and for the disposal of infested soil off site during development which later leads to the spread of Knotweed onto another site. Japanese Knotweed is mainly spread through rhizome fragments or cut stems.
87. The Environment Agency, Department for Environment, Food and Rural Affairs (DEFRA) and Natural England Guidance "Prevent Japanese knotweed from spreading" (March 2016) outlines that spraying with chemicals (known as 'herbicides') is an effective treatment to stop invasive plants from spreading but that only approved herbicides should be used. The guidance outlines that re-spraying of the plant would be required and that it can take up to three years to treat Japanese Knotweed until the underground rhizomes become dormant. In addition to spraying Japanese Knotweed, the plant can be treated by burying or burning however there are strict requirements for carrying out these activities. The guidance does outline that Japanese Knotweed can be disposed of off-site however it is then classified as controlled waste and would therefore need to be treated and disposed of at an appropriately licensed site.

88. The Environment Agency “Managing Japanese Knotweed on development sites (version 3, amended 2013)⁶ outlines that it is important to only disturb a minimum amount of Japanese Knotweed and it should be controlled by using herbicide over a suitable period of time, usually two – five years. The County Landscape Architect and County Ecologist have reviewed the information provided with regards to Japanese Knotweed and raise no concerns with regards to the detail provided. The commitment to spraying the Japanese Knotweed in the first available season post determination of this application is noted.

HUMAN RIGHTS IMPLICATIONS

89. The Human Rights Act Guidance for Interpretation, found at the end of this report, is expressly incorporated into this report and must be read in conjunction with the following paragraph.
90. It is the Officers view that the scale of any potential impacts are not considered sufficient to engage Article 8 or Article 1 and that the scheme as proposed would provide good quality restoration and an aftercare strategy for the site. As such, this proposal is not considered to interfere with any Convention right.

CONCLUSION

91. The achievement of good quality restoration, the appropriate use of soils and the provision of aftercare is an objective for this application. The applicant has provided details of the restoration scheme including information on how soils would be placed, where they would be placed and how the types of soils available on site will be utilised to ensure the overall landscape design can be achieved. The CGC is satisfied with the information presented on soil handling and storage.
92. The applicant has provided a landscape scheme including information on the planting species, where particular planting would take place on the site and why; and the context and background as to what has lead to the design of the site. Both the County Landscape Architect and County Ecologist are satisfied with both the proposed restored landscape design and also with the technical detail. And lastly the applicant has provided an outline aftercare strategy setting out stages for when work would be carried out on site and where within the site. Concern has been raised by LHAG and Capel Parish Council that the LBMS is not explicit enough to stipulate that any planting that fails or dies in the five year aftercare period would be replaced and by whom. However Officers are satisfied that the applicant (or successors in title of the land) are bound to the replacement of failed or plants that have died due to the explicit wording of Condition 14. Given the concerns raised Officers recommend that a condition be imposed stipulating this requirement for replacement of failed or deceased plants. Officers consider that the details submitted satisfy the requirements of Condition 14.

RECOMMENDATION

That application MO/2016/1752 be approved.

Conditions:

- The development hereby approved shall be carried out in all respects in accordance with the following plans/drawings:
 Drawing L301 Earthworks Plan: Phase 1 Soil Excavation dated 24.01.2017
 Drawing L302 Earthworks Plan: Phase 2/ Phase 3 Soils Storage dated 18.07.2016

⁶ Withdrawn on 11 July 2016

Drawing L303 Earthworks Plan: Phase 4 Soils Reinstatement dated 18.07.2016
 Drawing L304 Landscape Proposals Plan: Phase 1 Site Clearance and Preparation dated 18.07.2016
 Drawing L305 Landscape Proposals Plan: Phase 2/ Phase 3 Assembly/ Drilling/ Testing dated 24.01.2017
 Drawing L306 Landscape Proposals Plan: Phase 4 Reinstatement of Site dated 18.07.2016

2. All planting implemented pursuant to the Landscape and Biodiversity Management Plan January 2017 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.
3. A watching brief shall be kept of the soil stockpiles on site as indicated on plan L302 Earthworks Plan: Phase 2/ Phase 3 Soils Storage dated 18 July 2016 and plan L305 Landscape Proposals Plan: Phase 2/ Phase 3 Assembly/ Drilling. Testing dated 24 January 2017 to ensure no badgers are found to be constructing setts within the soil piles. Should a badger sett be found to be established or in the process of being established, an Ecological Clerk of Works should be brought to site to determine the appropriate course of action. The County Planning Authority should be notified of this within 3 working days.

Reasons:

1. To ensure the permission is implemented in accordance with the terms of the application and to enable the County Planning Authority to exercise planning control over the development pursuant to Surrey Minerals Plan 2011 Policy MC14.
2. To ensure the permission is implemented in accordance with the terms of the application and to enable the County Planning Authority to exercise planning control over the development pursuant to Surrey Minerals Plan 2011 Policy MC14.
3. In the interests of wildlife conservation to comply with Surrey Minerals Plan 2011 Policy MC14

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BACKGROUND PAPERS

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

Government Guidance

[National Planning Policy Framework 2012](#)

[Planning Practice Guidance](#)

The Development Plan

[Surrey Minerals Plan Core Strategy Development Plan Document \(DPD\) 2011](#)

Mole Valley Core Strategy 2009

Other Documents

MAFF "Good Practice Guide for Handling Soils", Sheet 2: Building Soil Storage Mounds with Excavators and Dump Trucks

Woodlands of Bury Hill and Redlands Forest Plan, South England Forest District, Forestry Commission, 2016
Environment Protection Act 1990
'Prevent Japanese knotweed from spreading', Gov.uk, 2016

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