

**TO:** PLANNING & REGULATORY COMMITTEE

**DATE:** 13 September 2017

**BY:** PLANNING DEVELOPMENT TEAM MANAGER

**DISTRICT(S)** MOLE VALLEY DISTRICT COUNCIL

**ELECTORAL DIVISION(S):**

**Dorking Rural  
Mrs Clack**

**PURPOSE:** FOR DECISION

**GRID REF:** 518846 148651

**TITLE:** MINERALS/WASTE MO/2017/0916

## SUMMARY REPORT

### **Brockham Well Site, Felton's Farm, Old School Lane, Brockham, RH3 7AU**

Installation of on-site facilities comprising hardstanding, site office, site toilet facilities, site security office and mess facility; storage containers; lighting units incorporating CCTV equipment; 2.4 metres high palisade fence and gates; electrical control buildings; portable site generator with 2 no. enclosed fuel tanks, and parking area for car/van until 31 December 2036 with restoration to agriculture (retrospective).

The Brockham Well Site is found on land at Felton's Farm, which is accessed via the existing access track which connects to Old School Lane, approximately 600m east of the well site. An approximately three metres high grassed bund forms the north and east boundary, with hedgerows forming the southern and western boundaries. The closest residential properties are the cottages adjacent to Felton's Farm buildings just off Old School Lane approximately 585m to the east. The well site is within the Metropolitan Green Belt and the Site of Special Scientific Interest Impact Risk Zones.

The installation of on-site facilities would normally constitute permitted development under the terms of Class A and B Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO), however Condition 4 of existing planning permission ref: MO06/1294 has withdrawn these rights requiring the prior agreement in writing of the County Planning Authority **before** the commencement of the development. As these facilities are already on-site, this procedure of prior agreement in writing of the County Planning Authority is not applicable and therefore a planning application is required for these facilities in this case.

Brockham Parish Council, Brockham Oil Watch, Campaign to Protect Rural England and 54 letters of representation all object and raise various concerns with this application, in respect of: planning issues, climate change and the use of green energy resources, heritage and visual impact, environment and public health, traffic, concerns regarding oil production and drilling activities and legal matters. Officers consider the facilities under this retrospective application are for the purposes of administrative, parking and equipment storage uses ancillary to the existing permitted oil production activities.

This retrospective application is for the retention of the on-site facilities at the Brockham Well site for the duration of the existing planning permission, which is until 31 December 2036. Officers consider following advice from technical consultees and subject to the imposition of planning conditions, the facilities would not result in an unacceptable lighting, visual and noise impact on the amenity. Officers also consider that a relevant condition is imposed to the data protection issue for the use of CCTV equipment. The development is for a temporary period,

commensurate with the existing operational wellsite, and once restored would preserve the openness of the Green Belt in the long term. Officers therefore do not consider the proposal to be inappropriate development in the Green Belt, and is in accordance with the development plan.

**The recommendation is to PERMIT subject to conditions.**

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## APPLICATION DETAILS

### ***Applicant***

Angus Energy

### ***Date application valid***

26 May 2017

### ***Period for Determination***

22 September 2017

### ***Amending Documents***

None

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## 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.

	<b>Is this aspect of the proposal in accordance with the development plan?</b>	<b>Paragraphs in the report where this has been discussed</b>
<b>Lighting and Visual Impact</b>	Yes	43 – 46
<b>Data Protection</b>	Yes	47 – 48
<b>Noise</b>	Yes	49 – 52
<b>Other Issues</b>	Yes	53 – 56
<b>Green Belt</b>	Yes	57 – 64

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## ILLUSTRATIVE MATERIAL

### **Site Plan**

Drawing Ref. 1215/2237/2D Brockham Site Location Plan dated 1/2/17

Drawing Ref. 1215/2237/11B Brockham Site Layout dated 1/2/17

### **Aerial Photographs**

Aerial 1      Brockham Well Site

Aerial 2      Brockham Well Site

### **Site Photographs**

Figure 1	Security gate and fencing
Figure 2	Lighting unit incorporating CCTV equipment
Figure 3	Site office
Figure 4	Site security office
Figure 5	Site toilet facility
Figure 6	Mess facility
Figure 7	Storage containers for onsite equipment
Figure 8	Electrical control building
Figure 9	Site generator with two enclosed fuel tanks
Figure 10	Hardstand and parking area
Figure 11	View from the main entrance
Figure 12	View from the northern bund

## BACKGROUND

### *Site Description*

1. The Brockham Well Site is found on land at Felton's Farm, which is situated approximately 570 metres (m) west of Old School Lane. The site lies approximately 1 kilometres (km) southwest of Brockham Village and 2km south east of Dorking. The Dorking to Horsham railway line runs approximately 250m to the west of the well site compound. Tanners Brook is found some 465m to the east of the well site and footpath No 86 crosses the access track some 260m to the east of the compound. The application site is within the Metropolitan Green Belt and the Site of Special Scientific Interest Impact Risk Zones.
2. There are three existing wellheads at Brockham Well Site, namely Brockham 1 (BRX1), Brockham 2 (BRX2) and Brockham 4 (BRX4). There is a sidetrack well off of BRX1 which is used for water reinjection and this has been numbered as Brockham 3 (BRX3) by the Oil and Gas Authority (OGA). There are also two sidetrack wells off of BRX2 which have been used for production of oil and these have been numbered BRX-2Y and BRX-2Z. BRX-2Y was last in production in January 2016 and was producing from the Portland Sandstone. The BRX4 well was drilled in 2007. The applicant states that a sidetrack well off of BRX4, which is known as BRX4-Z drilled in 2017, is a proposed production well. No planning permission has been granted for the drilling of and production from BRX4-Z. Surrey County Council is now in discussion with the applicant on this matter.
3. The application site is accessed via the existing access track which connects to Old School Lane, approximately 600m east of the well site. An approximately three metres high grassed bund forms the north and east boundary, with hedgerows forming the southern and western boundaries. The closest residential properties are the cottages adjacent to Felton's Farm buildings just off Old School Lane approximately 585m to the east.

### *Planning History*

4. In May 1987, planning permission (ref. MO86/1112) was granted for the drilling of an exploratory well and access road. An exploratory borehole known as BRX1 was drilled in August 1987.
5. In January 1995, planning permission (ref. MO92/0969) was granted for the retention of the existing wellsite for further appraisal and drilling of up to 5 additional wells, installation of production and road tanker facilities. This included the drilling of wellhead BRX 2 which was drilled in 1998. This planning permission was also subject to a legal agreement dated 9 January 1995 for lorry routing to/ from the wellsite, which restricted the number of tankers to 6 loads (12 movements) per day for a maximum of 6-months for the duration of flow testing.

6. In December 2000, planning permission (ref. MO00/1706) was granted for the retention of an existing well site and access road for a temporary period of 12 months and temporary installation of equipment for the carrying out of production testing operations over 3 month period. This testing was for wellhead BRX1 which was completed in May 2001.
7. In December 2001, planning permission (ref. MO01/1288) was granted “For the retention of the existing 1.2 ha well site and access road, the erection of production equipment and the production of oil and export by tanker”. This was primarily for BRX1 as the applicant stated that BRX2 would need further reservoir evaluation. Condition 4 limited the development to cease on or before 31 December 2006 and Condition 5 restricted General Permitted Development Rights (GPDO). This planning permission was also granted for a set of on-site equipment, which includes the following:
  - A beam pump
  - Four/five stock oil tanks
  - An oil/water heater
  - Oil and water export pumps
  - A gas vent stack
  - A diesel powered generator
  - A small office/site hut
  - Two storage containers
8. On 10 May 2007, planning permission (ref. MO06/1294) was granted for the continued use of 1.2ha of land for the production, treatment and export of crude oil from an existing well site without compliance with Condition 4 of planning permission ref: MO01/1288 dated 11 December 2001 such that the development shall cease and site restoration be completed by 31 December 2036 and GPDO rights are also restricted. The legal agreement dated 9 January 1995 was superseded and updated by the Section 106 legal agreement dated 25 April 2007. This planning permission was for BRX1 and BRX2 to allow production from both these wellheads for a period until 2036. Planning permission was also granted for various on-site equipment, which includes the following:
  - Gas and diesel storage tanks
  - Security lighting and fencing
  - Container storage facility
  - Container workshop
  - Port-a-cabin site office
  - Containerised steam boiler
  - Containerised super silenced generator
  - Heat exchangers
  - Two wellheads and beam pumps with equipment
  - Electrically driven pump
  - Three oil storage tanks
  - Water holding tank
9. On 19 June 2007 planning permission (ref: MO07/161) was granted for the installation and operation of a drilling rig for a workover programme on an existing well (BRX1) and the drilling of a new well (BRX4). This permission was time limited and required all works to cease by 31 December 2008. A letter on file confirms that BRX4 was drilled in July 2007. The Officer report for this application outlines that BRX4 was to replace the lost production from BRX1. For the avoidance of doubt, no planning permission has been granted for oil production from BRX4.
10. On 1 September 2008, planning permission (ref. MO08/0894) was granted for the construction of a concrete hardstanding of some 1,841 square metres. The hardstanding is a result of an environmental review and discussions with the Environment Agency. The

hardstanding will then be removed from the site on or before 31 December 2036 and the land restored in accordance with the approved restoration scheme.

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## THE PROPOSAL

11. This retrospective application is to seek planning permission for the installation of on-site facilities until 31 December 2036 with restoration to agriculture comprising:

### *Fencing and Security Gate*

- The applicant states that the original fence was in a poor condition. Therefore, a new fence is needed to replace the old fence. The new fence is painted green with a “palisade” design and approximately 2.4 metres in height. Security gates are also provided for entrance and rear emergency access. They are altogether approximately 315 metres in length.

### *Lighting units incorporating CCTV equipment*

- Five lighting units of approximately 6 metres in height incorporating CCTV equipments are installed. The CCTV equipment is installed towards the top of the lighting columns and face inwards at low level at the site.

### *Site office*

- The site office was originally located at the present position of the site security office. The old site office was removed from the site. The current site office is located at the eastern part of the site and is a dark green painted steel cabin of approximately 2.60 metres high x 2.90 metres wide x 6.10 metres long, which covers an area of approximately 17.69 square metres.

### *Site security office, site toilet facility and mess facility*

- The site security office, site toilet facility and mess facility are located at the south-eastern part of the site, which is next to the site entrance gate. The site security office is a green painted steel container/office of approximately 2.44 metres high x 3.05 metres wide x 9.75 metres long, which covers an area of approximately 29.74 square metres. The site toilet facility is a purpose-built dark green painted steel block/cabin of approximately 2.40 metres high x 2.48 metres wide x 2.10 metres long, which covers an area of approximately 5.21 square metres. The mess facility is a dark green painted steel container/office of approximately 2.58 metres high x 2.43 metres wide x 8.17 metres long, which covers an area of approximately 19.85 square metres.

### *Storage containers*

- Two storage containers for on-site equipment are located at the eastern part of the site. They are green painted, which each of them is approximately 2.59 metres high x 2.43 metres wide x 6.06 metres long. Two containers cover an area of approximately 29.45 square metres.

### *Electrical control building and portable site generator with two enclosed fuel tanks*

- The electrical control building and a site generator with two enclosed fuel tanks are located at the western part of the site. The electrical control building is approximately 3 metres long x 3 metres wide x 2.5 metres high. A portable site generator is to provide

power to the onsite-site facilities and two small enclosed fuel tanks are located adjacent to the generator.

*Concrete hardstanding and parking area*

- A total area of approximately 48.50 square metres concrete hardstanding is installed to provide support to the facilities, including site office, site security office, site toilet facility and mess facility. A car/van parking area is also provided and is located at the southern part of the site, which is next to the mess facility. It covers a total area of approximately 7.40 square metres.

## **CONSULTATIONS AND PUBLICITY**

### ***District Council***

12. Mole Valley District Council  
No objection.

### ***Consultees (Statutory and Non-Statutory)***

13. County Environmental Assessment Officer  
A screening opinion under the Environmental Impact Assessment (EIA) Regulations 2017 was adopted on 16 May 2017, which evaluated the proposed development in line with the EIA Regulations and the advice set out in the National Planning Practice Guidance on EIA. It was concluded that there are not likely to be any significant environmental effects in terms of the meaning of significant given in the above Regulations and therefore the proposed development would **not** be EIA development.
14. County Noise Consultant  
Noise emissions from the development are subject to Conditions 12, 13 and 14 of the existing planning permission (ref. MO06/1294). Although these conditions do not accord with the current guidelines and regulations, it is not recommended to set out two separate conditions covering oil production and the current application as this is considered to be not practicable and enforceable.
15. Environment Agency  
No objection.
16. Transportation Development Planning  
No objections.
17. Rights of Way  
No comments received.
18. SES Water  
No comments received.
19. Thames Water  
No comments received.

### ***Parish/Town Council and Amenity Groups***

20. Brockham Parish Council
  - The applicant informed the Parish Council that the improvement and refurbishments of the facilities are needed for the increased production.

- The consideration of this retrospective application should be postponed as this application is premature and there is currently a legal dispute between the applicant and the Surrey County Council.
21. Brockham Oil Watch
- Objection to the application as the applicant has not demonstrated adequately that there is a need for the proposed development. With the exception of the parking area and the installation of the CCTV cameras, planning application is not required for the maintenance and renewal of the facilities.
  - There is a direct relationship between the disputed sidetrack and the current application. Therefore, no new applications including this current application should be considered unless the dispute is resolved.
22. Campaign to Protect Rural England
- The County Planning Authority should not determine this planning application until a retrospective application has been submitted for the sidetrack BR-X4Z.
  - This planning application is also considered an improvement of facilities for a drilling operation or increased oil production.
23. Brockham Green Village Society
- No comments received.

***Summary of publicity undertaken and key issues raised by public***

24. The application was publicised by the posting of 2 site notices and an advert was placed in the local newspaper. A total of 9 of owner/occupiers of neighbouring properties were directly notified by letter.
25. On 26 July 2017, Officers consider that the development is ancillary to hydrocarbon production at the application site, which is a form of development not inappropriate in the Green Belt. Therefore, the application was re-publicised by the posting of 2 site notices and a total of 9 of owner/occupiers of neighbouring properties were directly re-notified by letter.
26. 55 letters of representation have been received. 1 letter supports this application, while 54 letters object to the development. These letters raise the following comments:

*Economic benefit*

- Job opportunities

*Legal Concern*

- This application should be postponed until the current legal dispute is settled

*Concerns regarding oil production and drilling activities*

- No planning permission for the drilling activities
- Drilling activities outside the permitted working hours
- Vehicles do not follow the permitted routes
- Oil production is not in line with the national plan which keeps the area in a rural character
- Toxic and hazardous chemicals will be use during the proposed extraction process
- The purpose of these facilities is to facilitate illegal extraction activities

*Traffic*

- A potential increase in traffic flow along a cycle route
- Concerns regarding the HGV's movements

*Environment and Public Health*

- A potential to flood risk

- Contamination of groundwater and water bodies
- Air pollution
- Light and noise pollution
- A disregard to natural environment and wildlife
- A threat to public health

#### *Heritage and Visual Impact*

- Impacts on the six grade 2 listed buildings which are within 1km of the application site

#### *Climate Change and Green Energy*

- Green energy should be used
- Not appropriate to use fossil fuels

#### *Planning Issues*

- Planning permission is not required for these facilities
- These facilities are without planning permission

27. Of the comments received, the areas of most concern are:

- This application should be postponed until the current legal dispute is settled (21 comments)
- The purpose of these facilities is to facilitate illegal extraction activities (11 comments)
- Planning permission is not required for these facilities (3 comments)
- These facilities are without planning permission (1 comment)
- Light and noise pollution (1 comment)
- Six grade 2 listed buildings are within 1km of the application site (1 comment)

28. Officers received other concerns regarding the drilling activities and its impacts on economy, environment and public health. However, this retrospective application is the facilities for the purposes of administrative, parking and equipment storage use ancillary to the existing permitted oil production activities. Officers do acknowledge the concerns made by the public.

## **PLANNING CONSIDERATIONS**

### **Introduction**

29. The guidance on the determination of planning applications contained in the Preamble/Agenda frontsheet is expressly incorporated into this report and must be read in conjunction with the following paragraphs.
30. In this case the statutory development plan for consideration of the application consists of the Surrey Minerals Local Plan 2011, Mole Valley District Core Strategy Development Plan Document 2009 and Mole Valley Local Plan 2000.
31. Mole Valley Local Plan 2000 (MVL 2000) is currently being reviewed and will eventually be replaced by the Mole Valley District Core Strategy Development Plan Document 2009 (MVD 2009). Officers consider that both MVL 2000 saved policies and the MVD 2009 are relevant for consideration of this application.
32. In considering this application the acceptability of the development will be assessed against relevant development plan policies and material considerations.

### **Removal of Permitted Development Rights**

33. 3 letters of representation have commented that the facilities in this application are without planning permission, while 1 letter of representation stated that planning permission is not required for these facilities.
34. Officers consider that these facilities would normally constitute permitted development under the terms of Class A and B Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO). However, Condition 4 of the existing planning permission (ref: MO06/1294) has withdrawn these rights requiring the prior agreement in writing of the County Planning Authority<sup>1</sup>.
35. Paragraph 023<sup>2</sup> of the Planning Practice Guidance (PPG) clearly states that for the purposes of planning, contact with the local planning authority is necessary **before** carrying out permitted development where prior approval from the local planning authority is required in advance of development. Paragraph 068<sup>3</sup> of the PPG continues to state that a statutory undertaker should give notice to a local planning authority **before** carrying out permitted development if it is a condition in a relevant class in Schedule 2 to the General Permitted Development Order. As the facilities are already on site, the procedure of prior agreement in writing of the County Planning Authority is not applicable and therefore planning application is required for these facilities in this case.

### EIA Screening

36. The proposed development was evaluated by the County Planning Authority in line with the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 and the advice set out in the National Planning Practice Guidance on Environmental Impact Assessment (EIA). On 16 May 2017 the County Planning Authority adopted a screening opinion under Regulation 7 of the above EIA Regulations, where it considered the proposed development in the context of Schedule 2, and based on the information submitted, is of the opinion that there are not likely to be any significant environmental effects (in terms of the meaning of significant in the EIA Regulations) and therefore it was recommended that the proposed development would not be EIA development.
37. In assessing the application against development plan policy it will be necessary to determine whether the proposed measures for mitigating any environmental impact of the development are satisfactory. In this case the main planning considerations are: Environmental & Amenity Issues and Green Belt.

### ENVIRONMENTAL & AMENITY ISSUES

#### **Surrey Mineral Plan 2011 Core Strategy Development Plan Document (SMP 2011)**

Policy MC14 – Reducing the adverse impacts of mineral development

#### **Mole Valley Local Plan 2000 (MVLPA 2000)**

Policy ENV22 – General Development Control Criteria

Policy ENV23 – Respecting for Setting

Policy ENV57 – Lighting Proposals

38. Paragraph 56 of the National Planning Policy Framework (NPPF) states that the County Planning Authority attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, which is indivisible from good planning and should contribute positively to making places better for people. Paragraph 109 also states that new development should be prevented from contributing to or being put at unacceptable risk, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 122 states that the County Planning Authority should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where

<sup>1</sup> See condition 4 of planning permission ref. MO06/1294 dated 10 May 2007

<sup>2</sup> Reference ID: 13-023-20140306

<sup>3</sup> Reference ID: 13-068-20140306

these are subject to approval under pollution control regimes. Paragraph 123 also states that planning policies and decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
  - Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
  - Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
  - Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
39. SMP 2011 Policy MC14 states that mineral development will be permitted only where a need has been demonstrated and the applicant has provided information sufficient for the mineral planning authority to be satisfied that there would be no significant adverse impacts arising from the development. In determining planning applications, potential impacts will be considered.
40. MVLP 2000 Policy ENV22 states that where the principle of proposed development accords with the other policies of this Plan a design and layout will be required which is appropriate to the site in terms of its scale, form and appearance and external building materials; does not significantly harm the amenities of the occupiers of neighbouring properties by reason of overlooking or its overshadowing or overpowering effect, noise, traffic or other adverse environmental impact; respects the character and appearance of the locality; has regard to attractive features of the site such as trees, hedges, walls or buildings that contribute to the character of the locality; provides any necessary screening and landscaping suitable to the character of the locality; provides safe access to the site and adequate parking to adopted standards; and provides a satisfactory environment for occupiers of the new development. Paragraph 4.109 states that a planning condition to limit the working hours of operation of a proposed use will be imposed on any permission where the use is only acceptable if occupiers of affected properties are not disturbed at anti social times. These will normally be during the night, early morning, Saturday afternoons, Sundays and Bank Holidays.
41. MVLP 2000 Policy ENV23 also states that development will normally be permitted where it respects its setting taking account of the following: (1) the scale, character, bulk, proportions and materials of the surrounding built environment. Developments will not be permitted where it is considered they would constitute over-development of the site by reason of scale, height or bulk or in relation to the boundaries of the site and/or surrounding developments; (2) public views warranting protection. Opportunities will be sought to create attractive new views or vistas; (3) townscape features such as street patterns, familiar landmark buildings, and the space about buildings; (4) the roofscape. Pitched roofs will normally be expected and any plant, machinery or lifts being incorporated within the roof structure; (5) the impact of the development within or conspicuous from the Green Belt on the rural amenities of the Green Belt by reason of its siting, materials or design; (6) the impact on the landscape of the proposed siting and appearance of new agricultural buildings or works or any other appropriate/exceptional development in the countryside.
42. MVLP 2000 Policy ENV57 states that proposals for the illumination of buildings and other facilities will not be permitted where they would significantly and adversely affect the amenities of residential properties, Conservation Areas or Listed Buildings, or the character and appearance of the countryside. Where permission is granted, consideration will be given to imposing conditions to limit the impact of the illumination.

## Lighting and Visual Impact

43. 1 letter of representation has commented that this application would lead to light pollution. Another letter of representation has also raised a concern that the current application may affect six Grade II buildings, which are all located within 1km of the site. The five lighting units of approximately 6 metres in height incorporating CCTV equipments are considered to have a potential visual impact on the nearby environment.
44. In accordance with the Committee's Report dated 14 November 2001 for the planning application (ref. MO/2001/1288), paragraph 10 states that artificial lighting would be required so as to permit safe working during the winter months. This would not be necessary outside normal working hours. Paragraph 7 of the Committee's Report dated 11 October 2006 for the planning application (ref. MO06/1294) also states that the compound is secured by a fence line and security lights, remaining locked when unmanned. Officers consider that lighting units have been installed at the site and they are for the purposes of security and operational need.
45. Paragraph 4.245 of MVLP 2000 states that lights should be appropriately shielded directed to the ground and sited to minimise the impact on adjoining areas, and be of a height and illumination level reasonably required to serve their purpose. Conditions may be imposed to control the hours of illumination. The application site is currently subject to a condition on the restriction of activities under the existing planning permission (ref. MO06/1294)<sup>4</sup>. Condition 5 states no light except intermittent security or safety lighting within the site shall be illuminated, except between 0730 and 1800 hours Mondays to Fridays, and 0800 to 1300 hours Saturdays, and there shall be no working on Sundays or National and Bank Holidays.
46. The site has been worked for oil production and it is not covered by any landscape designations or heritage conversation areas. The site is over 500 metres away from the nearest property and the site has a lower level than the surrounding areas. The site is also well-screened by existing hedgerows, trees and a 2 to 3 metre high-grassed bund. Given the nature of the site and the lighting units temporarily provided are within the boundaries of the application site, Officers consider that they would not give rise to any adverse visual impacts on the surrounding environment. All the facilities including the lighting units will be removed by 31 December 2036 and the site will be restored to agriculture. However, a condition regarding the restriction on the operations and working hours will be imposed in this application to impose control on the operations and lighting, so as to protect local amenity.

## Data Protection

47. CCTV equipments are installed towards the top of the lighting columns and face inwards at low level in with the site. The CCTV equipments are fixed bullet cameras for monitoring purpose. The applicant also submitted the Code of Practice for Surveillance Cameras and Personal Information dated 21 May 2015 in this application. The applicant sets out that they are required to follow the Code as they are one of the registered members of the Information Commissioner's Office. They are also required to meet the legal requirements operators of surveillance cameras under the Data Protection Act 1998, the Freedom of Information Act 2000, the Protection of Freedom Act 2012 (POFA), the Human Rights Act 1998 and the Surveillance Camera Code of Practice issued under the POFA code.
48. Officers consider that the CCTV equipments are for the purpose of monitoring. The applicant has also provided sufficient information to demonstrate the protection of data and use of CCTV cameras are strictly in accordance with the legal requirements. Should planning permission be granted, a condition is imposed on the relevant permission to require compliance with the said Codes of Practice and Acts.

<sup>4</sup> See condition 5 of planning permission ref. MO06/1294 dated 10 May 2007

## Noise

49. 1 letter of representation has commented that this application would cause noise pollution. The application site is currently subject to three conditions on noise control under the existing planning permission (ref. MO06/1294)<sup>5</sup>. Condition 12 requires the applicant to take appropriate measures to minimise noise disturbance from operations by including appropriate acoustic enclosures on all suitable equipment so as to protect nearby residents and users of the local network of public rights of way. Condition 13 requires the applicant to ensure that the noise arising from the operations or the use of any plant or equipment associated with such operations on the site of the development hereby permitted, may not exceed the 1/3 octave values (criterion value), when measured in free field conditions or recalculated as at, any noise sensitive location. Condition 14 then limits noise generated from the generators to no more than 35dBA Leq (1 hour) during the night time hours between 22.00 and 07.00.
50. The County Noise Consultant (CNC) recognises that the portable site generator is considered to be the only potential item which will generate noise. Although the CNC agrees that there are conditions under the existing planning permission (ref. MO06/1294) to control the noise emissions, these conditions do not accord with current legislations and guidelines. The CNC considers that this retrospective application is for the on-site facilities. It is not considered to be practicable or enforceable to have two sets of noise conditions covering the same site. Therefore, the CNC considers the development acceptable and that noise can be covered by the existing conditions.
51. According to paragraph 003 of the PPG<sup>6</sup> and paragraph 206 of the NPPF, both documents state that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Paragraph 004<sup>7</sup> and 005<sup>8</sup> of the PPG continues to state that whether it is appropriate for the County Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. Conditions should help to deliver development plan policy and accord with the requirements of the NPPF, including satisfying the 6 tests for conditions. The 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made. Any proposed conditions that fail to meet any of the 6 tests should not be used.
52. Officers consider that this retrospective application is for the installation of the on-site facilities only and the application site is subject to the existing planning permission (ref. MO06/1294). Officers consider that it is not enforceable to have two sets of planning conditions on noise control covering the same site. The proposed noise conditions are considered to fail to meet the 6 tests for conditions. Officers therefore consider that this application should be covered by the existing conditions on noise control. However, an informative shall be imposed to remind the applicant regarding the noise control under the existing planning permission (ref. MO06/1294).

## Other Issues

53. Brockham Parish Council, Brockham Oil Watch, Campaign to Protect Rural England and 10 letters of representation also have objections to this retrospective application as these facilities are considered to be the improvement of facilities to increase oil production. 21 letters of representation, Brockham Parish Council, Brockham Oil Watch and Campaign to Protect Rural England also have commented that this retrospective application should also be postponed until the legal dispute regarding the drilling activities on the sidetrack well BRX-4Z between the Surrey County Council and the applicant is settled.

<sup>5</sup> See conditions 12, 13 & 14 of planning permission ref. MO06/1294 dated 10 May 2007

<sup>6</sup> Reference ID: 21a-003-20140306

<sup>7</sup> Reference ID: 21a-004-20140306

<sup>8</sup> Reference ID: 21a-005-20140306

### *Permitted Oil Production Activities*

54. The existing planning permission (ref. MO06/1294) was granted to allow the applicant to produce oil by using permitted production wellheads BRX1 and BRX2 until 31 December 2036. Under this existing planning permission, the permitted development rights were also withdrawn and therefore prior agreement in writing of the County Planning Authority is required before carrying out any development under Condition 5 of this existing planning permission. Whilst these ancillary facilities are for the purposes of administrative, parking and onsite equipment storage uses only, they are already at the site, and therefore (i.e. retrospective) planning permission is required.

### *Other Oil Production Activities*

55. According to the PPG, planning permission is required for each phase of hydrocarbon extraction<sup>9</sup>. The applicant can also make a planning application to cover more than one phase of extraction, provided that all relevant information, including environmental information, is adequate to support the full extent of the application<sup>10</sup>. Paragraph 147 of the NPPF also states that minerals planning authorities should clearly distinguish between the three phases of development (exploration, appraisal and production) and address constraints on production and processing within areas that are licensed for oil and gas exploration or production when planning for on-shore oil and gas development, including unconventional hydrocarbons.
56. Officers are in a discussion with the applicant in respect of the drilling activities on the sidetrack well BRX-4Z. In the views of Officers, it is a fact that no planning permission has been granted by the County Planning Authority for the production of oil from the wellheads other than BRX1 and BRX2. In any event, there are no proposed or new oil production and drilling activities in this retrospective application. For the avoidance of doubt, Officers recommend that an informative is imposed to remind the applicant that the grant of planning permission relates solely to the installation of the on-site facilities as ancillary development to the permitted drilling and production activities under planning permission (ref. MO06/1294) which relates to BRX1 and BRX2.

## **GREEN BELT**

### **Surrey Mineral Plan 2011 Core Strategy Development Plan Document (SMP 2011)**

Policy MC3 – Spatial Strategy – mineral development in the Green Belt

Policy MC17 – Restoring mineral workings

### **Mole Valley District Core Strategy Development Plan Document 2009 (MVDCS 2009)**

Policy CS1 – Where Development will be Directed (A Spatial Strategy)

57. The protection of Green Belts around urban areas is one of the key planning principles of the NPPF. Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 90 of the NPPF identifies that mineral extraction is not appropriate in Green Belt provided they preserve openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.
58. SMP 2011 Policy MC3 states that mineral extraction in the Green Belt will only be permitted where the highest environmental standards of operation are maintained and the land restored to beneficial after-uses consistent with Green Belt objectives within agreed time limits. Policy MC17 states that mineral working will be permitted only where the mineral planning authority is satisfied that the site can be restored and managed to a high standard. The restoration of mineral workings should be completed at the earliest opportunity and progressive restoration will be required where appropriate. The applicant

<sup>9</sup> Reference ID: 27-093-20150415

<sup>10</sup> Reference ID: 27-094-20140306

will be expected to agree a scheme with the mineral planning authority detailing how the land will be restored and managed before, during and after working. Restored sites should be sympathetic to the character and setting of the wider area; and capable of sustaining an appropriate after-use.

59. MVDCS 2009 Policy CS1 states that development will be considered in the light of Government Policy on Green Belt.

### **Openness of the Green Belt**

60. This retrospective application includes a range of temporary supporting facilities, which are located on s permitted oil production wellsite. Consequently, these facilities would introduce structures and activities to land where they would adversely impact the openness of the Green Belt, albeit for a temporary period until 31 December 2036.

61. According to submitted supplementary information and the Committee Report dated 11 October 2006 for the planning application for the continued use of the site for production wells until 31 December 2036 (ref. MO06/1294), some of these facilities have already been installed on the site, including the following:

#### *Security fencing*

The applicant states that the original fence was in a poor condition and has been replaced with a green, palisade design fence with rear emergency access and the security gates of approximately 2.4 metres in height.

#### *Security lighting*

The lighting units of approximately 6 metres in height are retained and CCTV equipment is installed towards the top of the lighting columns and face inwards at low level at the site.

#### *Site office*

The original Portakabin site office was removed from the site. The current site office is a dark green painted steel cabin of approximately 2.60 metres high x 2.90 metres wide x 6.10 metres long, which covers an area of approximately 17.69 square metres.

#### *Container storage facility*

The original container storage facility is replaced by the two green painted storage containers, which each of them is approximately 2.59 metres high x 2.43 metres wide x 6.06 metres long and a mess facility, which is a dark green painted steel container/office of approximately 2.58 metres high x 2.43 metres wide x 8.17 metres long. They all cover an area of approximately 49.3 square metres.

62. The original container workshop and the gas and diesel storage tanks were removed from the site, while the containerised generator is remained at the site. The following items are considered to be new on-site facilities, including:

#### *Site security office*

The site security office is located at the south-eastern part of the site, which is next to the site main entrance gate. The site security office is a green painted steel container/office of approximately 2.44 metres high x 3.05 metres wide x 9.75 metres long, which covers an area of approximately 29.74 square metres.

#### *Site toilet facility*

The site toilet facility is located next to the site security office. The site toilet facility is a purpose-built dark green painted steel block/cabin of approximately 2.40 metres high x 2.48 metres wide x 2.10 metres long, which covers an area of approximately 5.21 square metres.

*Electrical control building and portable site generator with two enclosed fuel tanks*

The electrical control building and a site generator with two enclosed fuel tanks are located at the western part of the site, which is next to the original containerised generator. The electrical control building is approximately 3 metres long x 3 metres wide x 2.5 metres high. A portable site generator is to provide power to the onsite-site facilities and two small enclosed fuel tanks are located adjacent to the portable generator.

*Concrete hardstanding and parking area*

A total area of approximately 48.50 square metres concrete hardstanding is installed to provide support to the facilities, including site office, site security office, site toilet facility and mess facility. Parking area is also provided for car/van and it is located at the southern part of the site, which is next to the mess facility. It covers a total area of approximately 7.40 square metres.

### **Officers' Assessment**

63. This retrospective application includes a range of temporary supporting facilities, which are located on an active oil wellsite. All of these facilities have already been installed at the site and so the impacts are understood. The site is well-screened by existing hedgerows, trees and a 2 to 3 metre high-grassed bund. The operation and removal of the facilities will also be tied to the approved timescale for the permitted oil production activities and operations on the site, which is until 31 December 2036 under the existing planning permission (ref. MO06/1294) with restoration to agriculture.
64. The proposed development is reversible and would not prevent the long term restoration and aftercare of the site. Since the facilities are all within the site boundary, this application also would not increase the footprint of the site area. The scale of the development is modest and proportionate to the need for infrastructure at the site to enable lawful hydrocarbon production. Officers therefore consider that the facilities would have a minor impact on the Green Belt, and therefore limited harm and would otherwise accord with Green Belt policy nationally and in the Development Plan.

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### **HUMAN RIGHTS IMPLICATIONS**

65. The Human Rights Act Guidance for Interpretation, contained in the Preamble to the Agenda is expressly incorporated into this report and must be read in conjunction with the following paragraph.
66. Officers consider that the use of CCTV equipment and the data protection may be one of the concerns in human rights. However, given the development is small in scale and temporary, it is the Officers view that the scale and duration of any potential impacts are not considered sufficient to engage Article 8 or Article 1 and that potential impact can be mitigated by the imposition of planning conditions. As such, this proposal is not considered to interfere with any Convention right.

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### **CONCLUSION**

67. This retrospective application seeks planning permission for the installation of the on-site facilities until 31 December 2036 with restoration to agriculture. These facilities are located within an active and lawful wellsite. An approximately three metre high grassed bund forms the north and east boundary, with hedgerows forming the southern and western boundaries. The closest residential properties are the cottages adjacent to Felton's Farm buildings just off Old School Lane approximately 585m to the east.
68. The installation of on-site facilities would normally constitute permitted development under the terms of Class A and B Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO). However, Condition 4 of existing planning permission ref: MO06/1294 has withdrawn these rights requiring the prior agreement in writing of the County Planning Authority before the commencement of the development. The procedure of prior agreement in writing of the County Planning Authority is not applicable and therefore planning permission must be sought to retain the development.
69. Officers consider following advice from technical consultees and subject to the imposition of planning conditions, the facilities would not result in an unacceptable impact on the amenity including lighting, visual and noise. Officers also consider that relevant condition is imposed to the data protection issue for the use of CCTV equipment. The development is a temporary use of the land concerned, commensurate with the existing operational wellsite, and once restored would preserve the openness of the Green Belt in the long term. Officers therefore consider that planning permission is in accord with National and Development Policy and should be granted subject to conditions/.

## RECOMMENDATION

The recommendation is to **PERMIT** the application subject to the following conditions.

Conditions:

### Approved Documents

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

Drawing No	Title	Dated
1215/2237/2D	Brockham Site Location Plan	1/2/17
1215/2237/11B	Brockham Site Layout	1/2/17
1215/2237/12	Brockham CCTV Camera Location	May 2017

2. From the commencement of the development to the cessation of operations hereby permitted, a copy of this planning permission including all documents and plans shall be displayed on the site during working hours in a location which is readily accessible to any person undertaking the development and officers of the County Planning Authority.

### Duration

3. The development hereby permitted shall cease on or before 31 December 2036, by which date all fixed plant or machinery, access and hardstandings subject to this permission together with their foundations and bases shall be removed from the site and the land restored in accordance with an approved restoration scheme, as required under Condition 16 of the planning permission (ref. MO06/1294) dated 10 May 2007 .

### Removal of Permitted Development Rights

4. Notwithstanding any provision to the contrary under Part 17 (Class A & B) of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent Order,
  - No plant, building or machinery whether fixed or moveable shall be erected on the application site without the prior written approval of the County Planning Authority in respect of the location, design, specification and appearance of the installation, such details to include predicted levels of noise emission and their tonal characteristics;
  - no external lighting or fencing other than those permitted by this application shall be installed or erected at the application site

#### **Restriction of Activities**

5. Except in emergencies to maintain safe site operations which shall be notified to the County Planning Authority as soon as practicable, no operations or activities authorised or required by this permission shall be carried out, and no light except intermittent security or safety lighting within the site shall be illuminated, except the following times:

0730 – 1800 hours Mondays to Fridays  
 0800 – 1300 hours Saturdays

There shall be no operations or activities carried out on Sundays, National Holidays or Bank Holidays.

#### **Data Protection**

6. The 5No. CCTV cameras installed as part of the development hereby permitted shall only be operated in accordance with the Data Protection Act 1998, the Freedom of Information Act 2000, the Protection of Freedom Act 2012, the Human Rights Act 1998 and the Surveillance Camera code of Practice issued under the Protection of Freedom Act 2012 code or any orders or procedures revoking or re-enacting these orders.

#### **Reasons:**

1. For the avoidance of doubt and in the interests of proper planning.
2. To enable the County Planning Authority to control the development and to ensure that the development is undertaken in accordance with Policy MC14 of the Surrey Mineral Plan 2011.
3. To enable the County Planning Authority to control the development and to ensure that the development is undertaken in accordance with Policy MC14 of the Surrey Mineral Plan 2011.
4. To enable the County Planning Authority to control the development and to ensure that the development is undertaken in accordance with Policy MC14 of the Surrey Mineral Plan 2011.
5. To enable the County Planning Authority to control the development and to ensure that the development is undertaken in accordance with Policy MC14 of the Surrey Mineral Plan 2011.
6. To enable the County Planning Authority to control the development and to ensure that the development is undertaken in accordance with Policy MC14 of the Surrey Mineral Plan 2011.

#### **Informative:**

1. The applicant is reminded that the noise control on the facilities under this application should be in accordance with the requirements under Condition 12, 13 and 14 in respect of noise control of the existing planning permission (ref. MO06/1294).
2. The applicant is reminded that this retrospective application is for the installation of on-site facilities only. Planning permission is required for each phase of hydrocarbon extraction. Applications can be made to cover more than one phase of extraction. However the applicant has to provide all relevant information, including environmental information, to support the full extent of the application.
3. In determining this application the County Planning Authority has worked positively and proactively with the applicant by: entering into pre-application discussions; scoping of the application; assessing the proposals against relevant Development Plan policies and the National Planning Policy Framework including its accompanying technical guidance and European Regulations providing feedback to the applicant where appropriate. Further, the County Planning Authority has: identified all material considerations; forwarded consultation responses to the applicant; considered representations from interested parties; liaised with consultees and the applicant to resolve identified issues; and determined the application within the timeframe agreed with the applicant. Issues of concern have been raised with the applicant including impacts of and on data protection, noise, visual impact and Green Belt and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirements of paragraphs 186-187 of the National Planning Policy Framework 2012.

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#### **CONTACT**

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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 Mineral Plan 2011 Core Strategy Development Plan Document  
 Mole Valley District Core Strategy Development Plan Document 2009  
 Mole Valley Local Plan 2000

##### **Other Document**

Committee Report dated 14 November 2001 (ref. MO/2001/1288)  
 Committee Report dated 11 October 2006 (ref. MO06/1294)  
 Code of Practice for Surveillance Cameras and Personal Information  
 Data Protection Act 1998  
 Freedom of Information Act 2000  
 Protection of Freedom Act 2012  
 Human Rights Act 1998  
 Surveillance Camera code of Practice issued under the Protection of Freedom Act 2012