

TO: PLANNING & REGULATORY COMMITTEE **DATE:** 23 May 2018
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:** 515469 144808

TITLE: MINERALS/WASTE MO/2016/1563

SUMMARY REPORT

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

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.

Planning permission exists at land at Bury Hill Wood for an exploratory hydrocarbon wellsite granted on appeal under appeal decision ref: APP/B3600/A/11/2166561¹ granted on 7 August 2015. The applicant has an 18 week period to complete all works on the site (commissioning, drilling, decommissioning and restoration) within a three year window expiring on 7 August 2018.

Since the appeal decision in August 2015 circumstances have changed on and around the application site. In November 2016 a protest camp established themselves at the entrance to the exploratory hydrocarbon wellsite just off Coldharbour Lane and also at the wellsite compound area. In June 2017 the protest camp was evicted and has moved to the other side of Coldharbour Lane. This protest camp is still present.

The applicant has submitted a planning application to erect two fences on land at Bury Hill Wood to surround the exploratory hydrocarbon wellsite and the access track to the exploratory hydrocarbon wellsite from Coldharbour Lane. The applicant states the two fences, which would have a patrol zone of 2m between the fence lines, are necessary to ensure the health and safety of the protestors. The 3m high deer-proof fencing would run along the same line (except for the western boundary) as the post and wire fence that was proposed as part of the original planning application MO09/0110 which was permitted on appeal. The 2m high Heras fencing would be positioned at least 2m away from the deer proof fencing and run along the same line. The deer proof fencing alone would form the western boundary. The fence lines would go up to Coldharbour Lane whereby a gate would be positioned facing towards Coldharbour Lane, set back 1m from the highway.

The proposal also includes the provision of welfare facilities for the security staff that would patrol the 2m wide patrol zone in between the two fence lines. This is to provide 24 hour/ 7 day a week security. The majority of the welfare facilities would be placed along the western boundary on an existing Forestry Commission trackway. A security office and WC would be positioned in a compound area adjacent to the access track set back from Coldharbour Lane

¹ The appeal was against the County Council's refusal of planning application MO09/0110.

approximately 20m. An Environmental Statement was submitted in May 2017 and an Environmental Statement Addendum was submitted in August 2017.

The installation of the fencing, welfare facilities and small compound area will not involve the removal of any trees. The welfare facilities would be placed on an existing Forestry Commission track. 47 trees were identified to be removed, as part of the development permitted by the appeal decision APP/B3600/A/11/2166561. A tree removal plan is appended to this report.

The application site is located within the Metropolitan Green Belt where policies of restraint apply; and the Surrey Hills Area of Outstanding Natural Beauty (AONB) and an Area of Great Landscape Value (AGLV). A strip of land immediately west of the application site is currently identified on the Ancient Woodland Inventory as Plantations on Ancient Woodland Sites (PAWS). In terms of bringing the fencing and welfare facilities onto the application site, the application site would be accessed via Coldharbour Lane which is a D class road with ancient sunken lanes in parts alongside width constraints.

It is necessary to consider the proposal against European, National, and Development Plan policies and assess the potential environmental and amenity impacts against those policies, the advice provided by statutory and non-statutory consultees and the views expressed by other bodies, groups, and individuals. Key issues in determining this application are the need for the development, the impact on the Green Belt and the impact on the AONB. The Authority must also consider whether the potential impacts arising from the development are acceptable in terms of the nearest residential properties and the local environment and amenities. The report covers such environmental and amenity issues as noise, ecology, noise, highways and traffic, rights of way, lighting and hydrology.

This application was first determined by the Planning and Regulatory Committee in October 2017 when planning permission was granted. The permission was quashed by the Planning Court in April 2018 as a result of a challenge by the Leith Hill Action Group. Surrey County Council conceded that Green Belt Policy, in respect of the assessment required by paragraph 90 of the National Planning Policy Framework (NPPF) with regards to whether certain forms of development are not inappropriate in the Green Belt, had been misapplied in the first Committee report. Surrey County Council did not contest the challenge, on the advice of Queen's Counsel. As the original determination was quashed the application falls to be considered afresh by the Planning and Regulatory Committee acknowledging the issues raised by the judicial review.

In this case the legal challenge centred on whether the development is for mineral extraction and if it is that the proposal does not preserve the openness of the Green Belt to meet the test set out in paragraph 90. Officers have set out in this report that this proposal (which has its own red line boundary as the proposal area goes beyond the Appeal red line boundary) is inextricably linked to and forms part of the mineral extraction proposal for an exploratory hydrocarbon wellsite. As the proposal is inextricably linked to the exploratory hydrocarbon wellsite it is a proposal for mineral extraction as referred to in paragraph 90 of the NPPF. Officers set out in this report that whilst the fence, welfare facilities and compound area would have an impact for the duration they are in place, given the limited duration these items would be on site and that the proposal is reversible and the site is to be returned to forestry use returning the site to a woodland setting, the openness of the Green Belt would be preserved and the proposal would not conflict with the purposes of including land in the Green Belt. Officers recognise that there would be some impact on the visual amenities of the Green Belt for the duration of the proposal but these would be limited in duration given the short timescale of the proposal and reversible. The openness of the Green Belt would be preserved and there would be no conflict with the purposes of including land in Green Belt. Therefore the development proposal is not inappropriate development.

Officers recognise there would be some minor impact locally on the landscape character of the area and visual impact for those in the immediate vicinity of the application site. However this should be weighed against the context to which the fencing would be viewed i.e. the exploratory

hydrocarbon wellsite and the elements permitted on appeal; and the limited duration and reversibility of the impact .

To date 374 letters of representation have been received on this proposal, 23 supporting. No technical objection has been raised by consultees. Capel Parish Council, Leith Hill Action Group and Westcott Village Association object to the proposal on a number of grounds.

This planning application was first submitted in September 2016 without an Environmental Impact Assessment (EIA). A Screening Opinion had been adopted with regards to the 18 week security fencing and welfare facilities proposal by the County Planning Authority in May 2016 concluding that the development did not require an EIA. Following the submission of the planning application the applicant requested a Screening Direction from the Secretary of State (SoS) to confirm that the proposed development would not constitute EIA development, and received confirmation that the SoS agreed with the County Planning Authority's opinion (not EIA).

Following this the applicant submitted a new, separate planning application (MO/2017/0222) in December 2016 seeking planning permission to erect two lines of fencing and welfare facilities in the same positions as those shown for this planning application (MO/2016/1563), however the timescale for their retention would be **longer** (for a period of up to 52 weeks). The County Planning Authority issued a Screening Opinion for planning application MO/2017/0222 in January 2017 stating that an EIA would be required on the basis that the proposal would be in place for a period of 52 weeks and that the presence of fencing and security facilities at the permitted wellsite for that length of time had not been previously assessed in the earlier Environmental Statements (ES) submitted for the hydrocarbon development permitted on Appeal. The applicant requested a Screening Direction from the SoS on this matter in response to which the SoS confirmed in writing in February 2017 that an EIA would be required for that application (MO/2017/0222). Following this, a second SoS Screening Direction was issued on 20 March 2017 for **this** application, in which the SoS determined that EIA was required in respect of the proposed installation of security fencing and welfare facilities for a period of 18 weeks.

In May 2017 the applicant submitted an overarching ES in accordance with Regulation 17 of the EIA Regulations 2011 to cover three planning applications: MO/2016/1563 (this application), MO/2017/0222 and MO/2017/0255. This ES contains one technical chapter this being on Landscape and Visual Impact (LVIA) which the various fencing schemes (18 week, 52 week, and reptile fencing), in combination with the permitted exploratory wellsite, were considered to have potential significant environmental impacts upon. The ES also includes information on traffic and transport, hydrology and hydrogeology, ecology; and waste. The County Planning Authority wrote to the applicant in June 2017 requesting further information under Regulation 22 of the EIA Regulations 2011 in respect of the LVIA and requesting further clarification on matters of hydrology and hydrogeology, traffic and ecology. The applicant submitted an ES Addendum in August 2017. The Environmental Assessment team have reviewed the ES Addendum and comment that for this planning application it satisfies the requirements of the EIA Regulations 2011. In January 2018 applications MO/2017/0222 and MO/2017/0255 were withdrawn by the applicant.

The application site is located in a particularly attractive landscape but is relatively well screened. All of the items proposed would be below the height of the tree line. The application site is located within the Surrey Hills AONB where development proposals are required to be considered against paragraph 116 of the NPPF in terms of whether a development proposal is 'major' development. There is no definition in the NPPF of what constitutes 'major' with regards to assessments for the AONB and the Courts take the approach it is for the decision maker to make this judgement based on factors and context. In considering this proposal, Officers conclude that taking into account the limited duration of the proposal and the limited size of the application site individually and in combination with the exploratory hydrocarbon wellsite, that the proposal does not constitute 'major' development for the purposes of Paragraph 116. Officers recognise there would be impact to the AONB, landscape character and visual

amenities, however given the limited duration in scale and duration, and the reversibility of the proposal, consider these do not amount to grounds for refusal of planning permission.

The items which form part of this planning application would have to be delivered to site by Heavy Goods Vehicles via Coldharbour Lane. This has caused concern within representations received due to the narrow nature of Coldharbour Lane which has overhanging trees and is bounded in parts by high banks that form a hollow way and ensuring damage does not occur to these elements. Nevertheless the County Highway Authority have raised no objection to the proposal on transportation grounds providing the Construction Traffic Management Plan (CTMP) which has to be submitted under Condition 19 of the Appeal Decision ref: APP/B3600/A/11/2166561 includes the vehicle numbers associated with this proposal; and that measures are in place such that vehicles are not waiting in Coldharbour Lane waiting to gain access on to the access track.

Officers are satisfied that there is a need for the proposal to assist in minimising disruption from protestors so that the development can be carried out within the planned 18 week period as keeping to the 18 week period is important to the protection of the AONB. Officers are satisfied that the proposal should enable high environmental standards to be maintained and the site to be well restored.

The recommendation is PERMIT subject to conditions

APPLICATION DETAILS

Applicant

Europa Oil & Gas (UK) Ltd

Date application valid

27 September 2016

Period for Determination

27 December 2016

Amending Documents

Planning Statement version 3 (December 2016), Planning Form dated 19 December 2016, email dated 24 January 2017, email dated 24 January 2017 entitled 'traffic', Plan 4100 RF 03 Rev A, Plan 4100 F 04 Rev C, Plan 4100 F 02 Rev D, Plan 4100 F 03 Rev C, Document entitled "Queries Raised"; Environmental Statement dated May 2017 and its Non-Technical Summary; letters dated 18 July and 15 August 2017, Environmental Statement Addendum dated August 2017 and its Non-Technical Summary and Figure 5.4A, Planning Statement version 4 (August 2017),

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
Need	Yes	74-80
Transport, Traffic and Access	Yes	81-107
Hydrology and Water	Yes	110-118
Ancient Woodland and Trees	Yes	119-121

Lighting	Yes	123-124
Noise	Yes	127-132
Ecology	Yes	133-147
Area of Outstanding Natural Beauty, Landscape Character and Visual Impact	Yes	148-196
Green Belt	Yes	197-220

ILLUSTRATIVE MATERIAL

Site Plan

Site Location Plan

Aerial Photographs

Aerial 1: Bury Hill Wood
 Aerial 2: Bury Hill Wood
 Aerial 3: Bury Hill Wood
 Aerial 4: Bury Hill Wood

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
 Photo 6 – View towards proposed site from the roadside opposite Ivy, White and Ranmore View Cottages
 Photo 7 – View of Coldharbour Lane within the sunken lane
 Photo 8 – protestor constructed structure

BACKGROUND

Site Description

1. The permitted drill site (hereon referred to as “the appeal 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. 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.
4. 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. The application site for the perimeter security fence itself is around the perimeter of the appeal site including the site access from Coldharbour Lane and a Forestry Commission track to the west. The application site also includes an area close to the entrance from Coldharbour Lane for security facilities.

Planning History

5. 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).''

6. 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).'*'
7. 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 Court of Appeal 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'*.
8. 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 submitted nine other planning applications seeking approval of details pursuant to conditions on appeal decision ref: APP/B3600/A/11/2166561. These are:
 - 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. This application was approved in December 2016.

- Application ref: MO/2016/0981 - details of Light Management Plan pursuant to Condition 11. This application was approved in December 2016.
 - Application ref: MO/2016/1194 – details of Ecological Monitoring and Management Plan pursuant to Condition 9. This application was approved in September 2017.
 - Application ref: MO/2016/1752 – details of a landscape and restoration plan pursuant to Condition 14. This application was approved in March 2017.
 - Application ref: MO/2016/1292 – details of Groundwater Monitoring pursuant to Condition 15. This application was approved in October 2016.
 - Application ref: MO/2016/1848 – details of a pre and post development condition survey method statement pursuant to Condition 20(ii). This application was approved in February 2017.
 - Application ref: MO/2017/0344 – details of a Noise Monitoring Plan pursuant to condition 8. This application was approved in June 2017.
 - Application ref: MO/2017/0740 – details of a traffic survey and a Safety Audit pursuant to Condition 18. This application was approved in August 2017.
 - Application ref: MO/2017/0911 – details of a Construction Traffic Management Plan pursuant to Condition 19. This application was reported to the 2 August 2017 Planning and Regulatory Committee where it was resolved to refer the application back to the applicant for further information. It was subsequently reported to the 18 October 2017 Planning and Regulatory Committee where it was again resolved to refer the application back to the applicant for additional information. As a result, the applicant appealed to the Planning Inspectorate on the grounds of non-determination (appeal, reference APP/B3600/W/17/3189817). This
 - Application ref: MO/2017/1291 – details of a road condition survey (in pictures and video) pursuant to Condition 20(i). This application was approved in September 2017.
 - Application ref: MO/2018/0072 – details of a Construction Traffic Management Plan pursuant to Condition 19. This was a revised application, submitted whilst the initial application was subject to appeal but it has now been withdrawn.
11. The applicant also submitted two further planning applications. These were for:
- 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)
 - 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 now been withdrawn.
12. Planning permission MO/2016/1563 (the planning application currently under consideration) for the installation of perimeter security fencing was granted by the Planning and Regulatory Committee on 18 October 2017. A claim for judicial review was made by the Leith Hill Action Group against the County Council's grant of this planning permission. The claim related to a number of matters, most of which the County Council was advised were without merit. The Queen's Counsel advising the County Council did however consider that the Council had erred in law in respect of its interpretation of NPPF policy relating to Green Belt and therefore advised that the claim was likely to be successful in this respect. On the basis of this advice, the County Council accepted the claim on the Green Belt openness point only and the planning permission was quashed by the Planning Court in April 2018. This planning application has therefore returned to the Planning and Regulatory Committee for redetermination, correcting the interpretation of NPPF policy and in particular the reference to preserving the openness of the Green Belt in paragraph 90.

THE PROPOSAL

Fencing

- 13. The applicant has submitted a planning application seeking planning permission for the installation of temporary perimeter security fencing around the perimeter of the appeal site. The proposed perimeter security fencing would comprise of two types of fences which together the applicant states would provide security for the appeal site during the 18 week development. Please see the attached drawing. The fences proposed are:
 - An outer fence consisting of 2m high Heras fencing. Heras fencing is made from steel mesh. The Heras fencing would be along the northern boundary of the drill site, the eastern boundary of the drill site, along the northern and southern boundary of the access track, and along the southern boundary of the drill site.
 - An inner fence consisting of 3m high deer proof fencing. The deer proof fencing would follow the same lines as the Heras fencing but it would also run along the western boundary to the west of an existing Forestry Commission track. The western boundary of the appeal site would be formed of a single 3m high deer fence so there would be no Heras fencing. Deer proof fencing is made from wooden posts and wire mesh. Deer proof fencing is commonly used on land in forestry use.
- 14. There would be a 2m wide patrol zone between the Heras fencing and the deer proof fencing where the two fences are running parallel to each other (i.e. not along the western boundary) to allow security personnel to walk along/ patrol. The extent of the patrol area would be some 430m in length. There would be access gates into the patrol zone from the site access. There would be no materials brought onto the site to surface the patrol walkway. The walkway surface would be the existing ground surface. No lighting would be mounted/ installed or used in the walkway.
- 15. The fencing would be installed as part of the construction phase and removed during the decommissioning phase.

Welfare Facilities

- 16. The applicant is also seeking temporary planning permission to install welfare facilities along the western boundary of the appeal site. These would include:

Two accommodation cabins	6.5m x 2.5m x 2.5m (H)
A canteen/office for security personnel	6.5m x 2.5m x 2.5m (H)
Two water tanks	2m x 1m x 1.5m (H)
A fuel tank	1.5m x 1.5m
A generator (to support the accommodation cabins and canteen/office)	2m x 1.5m x 2m (H)

Security Facilities

- 17. The applicant is seeking permission to install a compound area close to the entrance of the access road where it meets Coldharbour Lane. This compound would measure some 4.5m (width) by 6m (length) and the applicant proposes to install an office (2.5m x 3m) and WC within this compound for security personnel use.

Internal Ramp

- 18. The applicant also proposes that a ramp be provided which would spur off from the access road into the well site area. This can be seen from the attached drawing. The ramp is proposed to facilitate safe vehicle movements in and around the exploratory well site by allowing for a one way system whereby vehicles enter the site via the ramp and leave from the west access point.

19. The applicant has stated the security fencing is required at the appeal site as “*the prevailing security environment surrounding conventional onshore oil exploration wells has changed in recent years*”. The applicant sets out that without the security fencing there is a risk that the 18 week timescale to undertake the required exploratory works at the appeal site could be jeopardised and there could be safety issues.

CONSULTATIONS AND PUBLICITY

20. This application was originally submitted in September 2016 and underwent consultation with statutory and non-statutory consultees. Following the submission of an Environmental Statement (this is discussed below), the planning application and Environmental Statement underwent consultation again in May and August 2017 in accordance with Regulations 17 and 22 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Following the quashing order being received from the High Court for this application, further consultation took place in April 2018. Comments from consultees for both consultations are set out below:

District Council

Mole Valley District Council

21. Planning : 2016: No Objection
May 2018: Objection on the following grounds:
- i. The proposal amounts to inappropriate development in the Green Belt which is harmful by definition
 - ii. The proposal would not preserve the openness to the Green Belt
 - iii. The proposal would be harmful to the visual amenities of the Green Belt
 - iv. This Council is concerned about highway safety – fencing would obscure sight lines and visibility at the site entrance
 - v. This Council considers that the need for the proposed fencing should have been anticipated and planned for as part of the original proposal and does not accept the applicant’s case now which would conflict with Conditions 5, 6 and 8 of the Inspectors Decision Letter.
 - vi. This Council is concerned that the ground clearance necessary to implement any approval for an 18 week period should take account of the bird nesting season.
 - vii. The County Council should consider the cumulative impact of the proposed fencing and the approved drilling on the Green Belt and the AONB.
22. Environmental Health : No comments received

Consultees (Statutory and Non-Statutory)

23. Countryside Management and Biodiversity Manager : In 2016 requested a check for badgers on site prior to the commencement of development and completion of the fencing and if any badgers are found that a one way badger gate is installed in the fence to allow them to leave. Following the receipt of the ecological information in the Environmental Statement, consider the ecological information is sufficient and has no further comments to make.
24. County Landscape Architect : In 2016 raised no landscape objection to the proposal providing the installations are removed at the end of the temporary period. Following the submission of the Environmental Statement, is satisfied with the assessment and findings of the LVIA.
25. Natural England : the proposed development is for a site within or close to a nationally designated landscape the Surrey Hills AONB. Advise that you consult with the Surrey Hills AONB Partnership. Lighting should be kept to the minimum level to both respect dark skies and wildlife. Fencing should include routes through for badgers and other mammals to prevent trapping between the two barriers.

- 26. Surrey Wildlife Trust : No comment to make
- 27. The Environment Agency South East : The groundwater assessment in the Environmental Statement May 2017 was incorrect and requires revising. The Environmental Statement addendum August 2017 corrects this and now adequately reflects the vulnerability of the groundwater and links to the Hydrogeological Risk Assessment. No further comments to make.
- 28. Transportation Development Planning : No objection in principle. The main impact will be during the set up and removal of the fencing. It is not clear from the submission whether the importation and collection of the fencing and the security/welfare facilities are included in the Construction Transport Management Plan (CTMP) required under Condition 19 of the appeal decision. Given the constraints of the highway network and the size of the vehicles likely to be involved, it is considered that these should be subject to the traffic management measures outlined in the CTMP. No objection subject to the inclusion of the delivery and collection vehicles in the CTMP.
- 29. The AONB Office : Previously had said that the positioning of the fence and entrance office and WC in greater public view for those passing along Coldharbour Lane is regretted. However it is difficult to substantiate an AONB objection for two reasons. The Appeal Inspector made clear that because of the temporary nature of the well site, the impacts on the AONB would not be significant. The second reason is that the works are intended to minimise disruption from protestors so that the development can be carried out within the planned 18 weeks and not have to extend because of disruption. Keeping to the 18 week period is important to the AONB. The County Planning Authority is asked to satisfy itself that the location of an ugly office building and WC in public view close to Coldharbour Lane is necessary. Recently, the AONB office have said the fencing would be visually intrusive and an alien feature and would be there longer than 18 weeks of the proposed setting up, drilling, dismantling and restoration. It is conjecture whether the Inspector would have come to a different decision had he known. In allowing the appeal he did place great weight upon the 18 week temporary nature of the proposal. Public opposition to the proposed exploratory drilling has, if anything, increased over the years and since the two public inquiries and second Inspector's decision. The Surrey Hills AONB Board continues to be concerned about the proposal.
- 30. Forestry Commission : No comments received
- 31. National Trust : No comments to make.
- 32. Rights of Way : The proposal does not impact on any public right of way but does affect land designated as Open Access. Suggest the applicant ensures all necessary permissions to fence such land is in place before proceeding.
- 33. County Noise Consultant : No objection subject to condition
- 34. County Air Quality Consultant : No comments to make
- 35. County Archaeological Officer : No archaeological concerns
- 36. East Surrey Badger Group : Note that the badger setts in the site area are no longer active and the nature of the fencing could allow badgers to dig underneath the fence and that as a result badger gates are 'no longer required' and concurs with this statement. No further ecological observations to make.
- 37. Gatwick Airport : No objection
- 38. Historic Buildings Officer : No objection
- 39. Historic England : No comments to make
- 40. County Geological Consultant : the groundwater assessment in the Environmental Statement May 2017 was incorrect and requires revising. The Environmental Statement addendum August 2017 corrects this and now adequately reflects the vulnerability of the groundwater and links to the Hydrogeological Risk Assessment. No further comments to make and previous comments still stand.

41. Environmental Assessment Officer : The Environmental Statement for this application is acceptable.
42. Surrey and East Surrey Water : No comments received
43. Surrey Fire and Rescue : No comments received
44. Thames Water : No comments received
45. Planning Casework Unit (Ministry of Housing, Communities and Local Government : no comments to make.

Parish/Town Council and Amenity Groups

46. Capel Parish Council :
- i) the starting point is to understand why the additional perimeter space which creates the new red line as the environmental implications will cause adverse impact. With the original red line (approved) boundary the environmental consideration would have taken into account the areas beyond the application. In such circumstances an identical criteria must now be applied as the ground conditions (flora/fauna) and the proximity of structures the adjacent vegetation has the potential of causing wide area of harm. The cabins must be contained within the approved site area.
 - ii) Why can't the buildings be contained within the approved red line boundary. As such they would be ancillary. The new proposal would not enjoy such planning benefit. In our view the whole area must be considered as the structure would not be provided in isolation. To satisfy the Parish Council all of the building structures must be contained within the approved red line.
 - iii) The third point has regard to visual impact and the potential harm to wildlife. From Coldharbour Lane a security building would be imposing and detrimental to the users of the AONB.
 - iv) Regarding the double fence if animals were to breach the type of fencing they are likely to become stressed with the potential for injury. The only fencing required is the deer protection fence which should follow the approved red line. Only a single fence link should be erected.
 - v) If security measures (a security office) is required it should be set back as described at the apex of the main site entrance adjacent to the ramp.
 - vi) The footpath – it is a well used established footpath and can only be diverted if the required legislative process is followed. It is not lawful to divert and block the footpath as proposed by Europa. A footpath diversion order must be obtained.
 - vii) In terms of the added area and proposed additional traffic movements would be generated to deliver materials. Whatever strategy is pursued all works and movement must be contained within the 18 week window.
 - viii) The applicants have no justification for seeking security risk as a reason for the application. The patrol zone must not be permitted absent any proof of need.
 - ix) The Screening Opinion is not accepted.
47. Holmwood Parish Council : No comments received
48. Wotton Parish Council : No comments received
49. Leith Hill Action Group (LHAG) :

2016 - Object to the proposal on the following grounds

- i) Unacceptable visual/ landscape impact on the AONB
- ii) Insufficient information to assess ecological impact
- iii) Insufficient information to assess traffic impacts
- iv) Unlawful closure of a public right of way
- v) The need for the development has not been demonstrated
- vi) The proposed development is inextricably linked to development permitted by Appeal Decision APP/B3600/A/11/2166561 and MO/2014/1006² both of which were subject to EIA because, inter alia, of the location of the development in a designated Area of Outstanding Natural Beauty ("AONB"). The proposed development would increase the

² Planning application for underground drilling corridor of an exploratory hydrocarbon borehole

- area of the AONB directly occupied by the project by more than 25%, with as yet un-assessed increased effects on landscape, ecology and lighting.
- vii) The proposed development would also significantly alter the nature of the visual/landscape impact of the overall project. The Appeal Decision states (at Para 41) “I am in no doubt that the effects of the development for the duration of the exploration on both the landscape character and visual presentation would be significant in the immediate vicinity of the proposed compound”, but (at Para 42) “the direct effect on landscape character and visual impact would diminish very rapidly with distance. The compound could not be seen from Coldharbour Lane”. With the proposed additions, the compound could all too easily be seen from Coldharbour Lane: there would be some 35 metres of steel fencing and gates along the side of the road. This impact has not been subject to Environmental Impact Assessment.
 - viii) Common sense dictates that if a development is so potentially damaging as to require full Environmental Impact Assessment, an addition to that development which materially increases the site area and creates new and un-assessed impacts cannot be considered in isolation. It is not the incremental impact which must be assessed, it is the impact of the project as a whole.
 - ix) At the request of the applicant, the Secretary of State (“the SoS”) has issued a Screening Direction to the effect that the proposed development does not require formal Environmental Impact Assessment. Referring to visual amenity, the Screening Statement says: “The Secretary of State is satisfied that the likely impacts were all addressed as part of the Environmental Impact Assessment carried out as part of the operation for the temporary oil and gas appraisal well-site”. In reaching this decision, the SoS was informed only by the submissions of the applicant and the Screening Opinion (to the same effect) of SCC.
 - x) A further application (SCC/2016/0232, “0232”) for security fencing on the site has been received by the Council. This is physically identical to this application, SCC/2016/0170; the only difference is that it is for a longer period. The Council has issued a Screening Opinion to the effect that this new application, 0232, is EIA development. With the exception of the change in “temporal extent”, every word of this applies equally to the application under consideration here, 0170. The last sentence directly contradicts para 34 of the Screening Opinion on 0170 and the statement in the consequent Screening Direction that “the likely impacts were all addressed”.
 - xi) We say that the County Council in its Screening Opinion on 0170, and consequently the Secretary of State in his Screening Direction, have failed to consider the impacts of the project as a whole. Those impacts could not have been assessed before this application was made because their nature and extent were not known. The SoS’s Screening Direction is unlawful. The Council has been advised of an intention to challenge the Screening Direction in the courts if this application is approved by SCC without Environmental Impact Assessment.
 - xii) It is difficult to see any practical reason why planning application 2016/0170 (this application) should be determined before application 2016/0232 (the application for a fence for 52 weeks). The additional period sought in 2016/0232 occurs explicitly before the main drilling project. Environmental Impact Assessment is required for 2016/0232, and, since 0232 is physically identical to 2016/0170, the only difference in terms of environmental impact is the duration and timing of those impacts. So the EIA on 2016/0232 will necessarily include all the impacts of 2016/0170. If the Committee were to refrain from deciding 0170 until the Environmental Statement on 2016/0232 is available, and were to take account of that information in deciding 2016/0170, then (i) all the information needed for the Committee to make a valid decision on 2016/0170 would be available, (ii) whatever decision might be reached by the Committee, there would be no impact on the start date of the development, and (iii) recourse to the courts, with all the associated expense, would be unnecessary.

2017 - The ES fails to identify if it is an addition/ modification to the original application or a standalone application. If it is a modification then there is a contradiction with Conditions 1, 4 & 6 of the appeal decision. There is no information on the need for the 52 week application. The baseline for the ES is wrong in terms of reducing tranquillity.

2018 – In light of the County’s quashing of the previous decision, we would fully expect that officers will recommend refusal when this application is re-determined. The main points of our position are:

- Inappropriate development in the Green Belt – it is common ground that the proposed development is inappropriate development in Green Belt. The County Council has accepted that its findings of ‘limited harm’ to openness could not have led to the conclusion that openness was preserved, and that therefore it could not reasonably be satisfied that the development was not inappropriate development in the Green Belt. The proposed development is, therefore, inappropriate development in Green Belt which should not be approved except in very special circumstances. LHAG contends that the proposed development is not ‘inevitable’ or ‘necessary’: no such fencing, buildings or additional site area were proposed as part of the exploration development approved in 2015. Conditions 1 and 6 of that permission contains very specific limitations on fencing, buildings and site area. LHAG maintains its position that the proposed development is not mineral extraction and is not therefore excepted by NPPF para 90 from being inappropriate development in Green Belt which should not be approved except in very special circumstances.
- Very Special Circumstances – very special circumstances will not exist unless the potential harm to the Green Belt “is clearly outweighed by other considerations”. According to the applicant the development for which permission is sought is “standard practice”. Not a special circumstance. If it is “standard practice” why was it not included in the main application. The applicant’s claim that “prevailing security environment has changed substantially...since August 2015 consent was granted” is not supported by any facts. The applicant had full knowledge of the security measures needed before creating the substantially revised application.
- The reality – it was a substantial part of the applicant’s case in 2015 that the development could be completed as then described. The Inspector relied on mitigation amongst other things the site area and the lack of visibility from Coldharbour Lane. He set out explicit conditions that no fences or buildings other than those specified in the application should be erected. These conditions would be breached if this application were to be approved. This application is a device to allow the characteristic of the main development to be changed after approval. Not to treat this application as an application to vary conditions is irrational.

50. Westcott Village Association :

Object on the following grounds

- Although the proposed drilling site lies just outside of Westcott’s boundaries, the effects of the drilling would be felt throughout the village and would materially prejudice the amenities of Westcott’s residents
- The development is inappropriate within the Surrey Hills AONB and conflicts with the character and stated policies of the AONB. This is even more compelling given the much larger size of the subject site
- The harmful effect on the Green Belt causes great concern and is at odds with the firm commitments given by government. There are no special circumstances to justify this greatly increased scheme and no sustainable public interest grounds
- The increased size of the site is of great significance. It is nearly one third larger than the site of the original application. The Inspector may well not have granted permission for so greatly increased area. At the least WVA consider a fresh Environmental Impact Assessment should be undertaken.
- It was argued by the developers that the earlier application would not be visible from Coldharbour Lane. This is clearly no longer the case.
- The new scheme entails greatly extended lighting requirements.
- WVA has previously raised concerns about the impact of greatly increased traffic on a road structure that is wholly inadequate. These concerns are felt all the more now that the applicants are proposing such a significantly extended scheme. The

impact will be felt by local residents, motorist, cyclists, pedestrian and riders as well as the visitors who come to enjoy the benefits of this outstanding area of natural beauty. There are no exceptional circumstances to warrant this extended scheme. WVA believe this scheme is most definitely not in the public interest.

- WVA is alarmed by the likelihood of yet more trees being felled
- WVA does not access that changes are needed because of a worsened security environment for onshore oil development since the original application was lodged in 2008. The EIA was written only last year. What has changed since then? If it is truly thought that the “worsening” has been ongoing since 2008 why was this not argued last year? [at the Public Inquiry of 2015].

- 51. CPRE : No comments received
- 52. Frack Free Surrey : No comments received
- 53. Dorking and District Preservation Society : No comments received
- 54. Ramblers Association : No comments received

Summary of publicity undertaken and key issues raised by public

- 55. The application was originally publicised by the posting of five site notices. A total of 216 owner/occupiers of neighbouring properties were directly notified by letter. 123 letters of representation were received including 1 letter of support. Following this a further round of notification was carried out in January 2017 whereby all those who had been originally notified and those that had subsequently made representations, were notified. A further 88 letters of representation were received including new representation addresses and those who had previously made comments bringing the total number of representations to 371.
- 56. In accordance with the requirements of Regulation 17³(3) of the Environmental Impact Assessment Regulations 2011, the applicant placed site notices on and around the site informing the public that an Environmental Statement had been submitted to the County Planning Authority. The applicant also wrote to all neighbours and those that had made representations previously informing them of this. Then following this on submission of the Environmental Statement Addendum in August 2017, in accordance with the requirements of Regulation 22⁴ of the Environmental Impact Assessment Regulations 2011 further publicity and notification of representations and neighbours took place. A total of 530 neighbours/ representations were notified and 147 further letters of representation were received.
- 57. Following the quashing of the planning permission issued in October 2017, residents and those who made representations on the planning application were notified of this position and that the decision has to be taken again. A further 19 letters of representation were received. The following issues and concerns have been raised within these letters:

Object

- Object to the proposal
- Object – the planet cannot survive the use of fossil fuels
- Agree with LHAG’s comments
- Central government is making decisions that impact us at the local level

Judicial Review

- I am not aware of what has changed when the application was previously quashed by the County Council
- This application was quashed by the High Court of Justice so I would surmise that the officers will be recommending refusal.
- As part of the quashing the previous decision SCC already accepted that their own statements about interruption to openness makes this inappropriate development

³ Publicity where an environmental statement is submitted after the planning application

⁴ Further information and evidence respecting environmental statements

Site Area

- Is the proposal in the appeal site area
- The proposal is looking to increase the site area by 28% from the original application
- How will the additional area require surfacing?
- The walkway will require surfacing
- The containers will need a surface to sit on
- The tanks will require bunding
- Having a cafeteria is not necessary for the 18 weeks
- A larger site means more workers and more rubbish
- The application extends the development to 21 or 55 weeks

Officer comment: the walkway will not require surfacing. That the cabins and canteen along the western boundary would be located on an existing access track and would not require surfacing. The office and WC would require some stone to create a surface. The exploratory well site is 0.79ha. This proposal is 0.2ha.

Principle and Procedure

- This proposal is different to the one the Inspector determined
- The additional information should have formed part of the original application
- The County Council should stand up to the energy company and leave it in the ground
- Question why it has been left so late to make this change and why it was not done at the Public Inquiry
- Any fencing is premature and will cause unnecessary damage
- The site is inappropriate for this sort of development
- The proposal is increased creep from the original application
- Sadness your going ahead with the drilling
- The proposal is for fracking
- Given the era of climate change, the application should not go ahead
- Represents the total negation of our countryside for the pursuit of oil & gas
- The County Planning Authority are making decisions on the conditions without taking this application into account
- The application is based on worsened security - this should have been obvious in 2015
- The application is a material amendment to a previously granted permission so I cannot understand why this is being considered as a new standalone application when it is a material amendment
- The proposal is an unacceptable impact on local businesses and life
- I believe there are to be no adjustments to the application which was originally discussed in the 2015 Public Inquiry.
- The Inspector may have reached a different conclusion if faced with a 28% increase in site area and additional fencing

Environmental Impact Assessment

- The proposal should be EIA development
- The proposal is salami slicing of the development
- If this goes ahead without an EIA I expect a Judicial Review

Appeal Conditions

- The appeal conditions should take into account this new application

Traffic

- Bringing in surfacing materials will result in more traffic [to the development overall]
- The traffic assessment is inadequate
- No traffic management plan will ever be suitable.
- Where will construction vans park?

- Site is unsuitable for access by HGV, the ancient sunken lanes are narrow and high banked
 - There will be an impact on local roads and safety
58. Officer comment: the security office and WC would require the ground to be levelled locally and a thin layer of stone laid on a geotextile membrane. This would result in two loads in addition to the 28 loads for this proposal. The cabins and canteen, fuel cell and generator would all be placed on existing hardstanding (the existing Forestry Commission track along the western boundary of the appeal site). No extra loads of stone would be needed for this area.

Highway Implications

- Placing a 2m Heras fence 1m from the edge of the carriageway is likely to affect the behaviour of road users, pedestrians, cyclists, horse riders and vehicle drivers forcing them further into the road than they need be creating avoidable risks.
- The nature of Heras fencing is that it obscures views along it. Thus the driver of a vehicle leaving the planned site would have limited vision along Coldharbour Lane from within the planned site exit as they would be located in the fenced area. This would create a safety hazard.
- The fence must be set sufficiently far back from the edge of the carriageway so the sightlines in both directions along Coldharbour Lane for drivers leaving the site are not impeded by fencing.
- The fence must be set sufficiently far back from the edge of the carriageway to provide users of the Lane with a view of vehicles preparing to leave the planning site.
- A plan showing the best sightlines that can be achieved with the adjoining topography of the Lane together with a document explaining how they conform to highway standards must be submitted.
- To minimise risks to all users of Coldharbour Lane, the gateway and associated fencing must be situated so that any vehicle access the site from the south or leaving the site to travel north can do so without any need to cross into the path of vehicles travelling south past the planned site. Standards swept circle software must be used.
- If the site entrance gate is close to the edge of Coldharbour Lane, vehicles wishing to enter the site will have to be held on the public highway while they are identified and checked. To prevent avoidable safety risk and inconvenience of such an arrangement to other traffic the site entrance should be sufficiently far off Coldharbour Lane to fully accommodate any vehicle waiting to enter the planned site without causing obstruction.
- The proposal will involve more vehicle movements at the lower end of Coldharbour Lane especially in the absence of any credible TMP
- It is the County Council's responsibility to ensure the safety and convenience of other users of Coldharbour Lane over protecting the interests of Europa.
- The proposal will cause a worsening problem for parking on Knoll Road
- The proposal is likely to cause irreparable damage to historic sunken lanes

Ecology and Wildlife

- The application should be refused on wildlife grounds
- The application will destroy ancient woodland
- The area is a SSSI
- Trees will need to be felled
- Habitat will be destroyed

Officer comment: no trees will need to be removed to install the fencing or the welfare facilities. The deer fence would comprise posts that can be driven into position to avoid tree roots and root protection zones. The welfare facilities within the western part of the application site would be placed on an existing Forestry Commission track. The security office and WC are to be placed where there are no trees. The application site does not lie within a SSSI.

Alternative Sites

- There must be lower impact sites for this entire scheme

Green Belt

- The site is in the Green Belt
- The proposal extends the original permission in a way that is inappropriate development in the Green Belt due to its impact on openness as established when challenged with judicial review
- The company cannot change the application to include the ploy of very special circumstances because it's failed to plan adequately.
- No change to the method of extraction or likely security requirements or any special circumstances have occurred to justify the revised site plans.
- The proposal is an interruption to openness, both visually and physically, given the fact that deer and other animals cross this area daily as well as those of use who live in Coldharbour
- The proposal is inappropriate development in the GB due to impact on visual amenity and openness
- Coldharbour Lane has no fencing at this point other than one rustic wooden fence
- The visual impact of the proposed industrial buildings and huge security fencing interferes with the requirement of openness
- The proposal is an industrialisation of the Green Belt
- There are no very special circumstances/ Europa should demonstrate very special circumstances
- In the first Public Inquiry the Inspector actually rejected that very special circumstances applied even for the entire drilling project let alone an application for fencing and buildings
- The special circumstances of energy security is redundant as there is no proof that the untapped energy reserves are big enough to be worth extracting and maintaining the UK dependency on fossil fuels

Area of Outstanding Natural Beauty

- The site is in the AONB
- The proposal is unacceptable industrialisation of an AONB
- The application should be refused on grounds of it being within an AONB
- The site is greater than 1ha so the proposal is major development in the AONB
- The steel and wire structures are harsh to the 'eye' and would not enhance the landscapes of the Surrey Hills
- The proposal would be a permanent eyesore in the AONB.
- The site will be highly visible industrial activity
- Expansion into unspoilt AONB/ Absolutely ridiculous in an AONB
- The proposal would have a major visual impact entirely contradicts the purposes/ undermining the statutory purposes of the AONB
- The proposal will bring no benefit to the community/ no public interest

Visual Amenity

- The original application points out nothing would be visible from Coldharbour Lane whereas this application does and would question if the Inspector would have granted the original application if that had been the case
- The fence should be set sufficiently far back from the edge of the carriageway so that sightlines in both directions are given
- If the site is made larger it would be an eyesore
- At the Public Inquiry the Inspector considered viewing 1 and this application would change this position
- The proposal includes a downslope facing across the valley towards Coldharbour
- The fencing should meet the Forestry Commission Fencing Technical Guide and use a less intrusive style of fence

- To stop the fencing being distracting to visitors and wildlife, it should be painted dark green
- The fencing is industrial and will be out of keeping with the environment and will be unsightly

Need

- There is no need [for the application]
- Were there not security issues in 2014/2015 [the time when the Public Inquiry was held and considered]
- The elements of the proposal are not just for security
- The security environment has not changed since 2015
- Protection camps have been established near Balcombe since 2013 and Europa should have envisaged that similar disruption by climate change activities was likely to happen at Leith Hill
- Europa should stick to their original plans
- Europa's failure to plan for better security in 2015 does not constitute very special circumstances

Right of Way

- The application cuts off a customary right of way
- The area is used by local walkers, cyclists, runners and game shooters - negatively impact on my experience

Amenity – Noise and Lighting

- The generators will cause lots of noise pollution
- The proposal will have additional lighting [to that specified in the Light Management Plan]

Policing

- The development will cost a lot in tax payers money to police

Slippage

- The bigger area that is disturbed the more likely slippage will occur

Climate Change

- We should all be morally obliged to do whatever we can to stop global warming. Permitting this would do the reverse.
- This is a breach of the Paris Agreement

Water

- East Surrey Water were concerned about the supply of water
- There is the potential for impact on Pipp Brook
- There will be contamination to the aquifers (acid and oil leakage)/ the proposal extends towards waterways
- The drilling could release Natural Occurring Radioactive Material into the water as well as acid.
- If the drilling goes ahead and there is an accident [in relation to the aquifer] there are concerns as to whether it [the aquifer] can be remedied

Misc

- Concerns about the financial viability of the company
- The protest has been peaceful and this extra precaution is unnecessary
- Proposal will affect house prices
- The company does not have the assets to carry out suitable remedial works
- The company cannot demonstrate a safe impact free exploration record
- How this has got so far is despicable
- Having the site close to two schools close to active flaming and air pollution is risky

Support

- Support the application as security fencing is needed to enable the company to carry out its lawful activities.
- No objection
- Support is vital to continue suitability of Britain's energy future
- Would normally support objections to real threats to the local environment and water supplies and welcome renewable sources. In this instance believe the specialists have demonstrated an exceptional level of technical expertise and commitment to completing the works to the highest standards.
- No fracking is required as the limestones are naturally fractured.
- Draw attention to Wytch Farm where many concerns can be overcome by working closely with all stakeholders

PLANNING CONSIDERATIONS

MAIN STATUTORY DUTIES

59. The Council, in determining the planning application has the following main statutory duties to perform:-

to have regard to the provisions of the development plan, so far as material to the application, to local finance considerations so far as material to the application, and to any other material considerations. (Section 70 Town & Country Planning Act 1990);

to determine the application in accordance with the development plan unless other material considerations indicate otherwise. (Section 38(6) of the Planning and Compulsory Purchase Act 2004).

60. As the application site lies within an area of outstanding natural beauty the duty imposed on the Council by section 85(1) of the Countryside and Rights of Way Act 2000 applies:

(1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

61. The Council must also, when determining the application have regard, so far as is consistent with the proper exercise of that function, to the purpose of conserving biodiversity (section 40(1) Natural Environment and Rural Communities Act 2006).

Introduction

62. The guidance on the determination of planning applications contained in the Preamble/Agenda front sheet 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), the Mole Valley District Core Strategy 2009 (MVCS2009) and the Capel Parish Council Neighbourhood Plan (November 2017) (CPNP2017).

63. The CPNP2017 covers the area of Capel Parish Council which includes the village of Coldharbour and includes the application site. Within this document there are specific policies for Coldharbour village. Policy CA-COP01 states that the natural and historic environment of Coldharbour and its surrounding areas should be afforded the highest levels of protection against any form of development, works or other activities that would detrimentally affect its character. The policy supporting text provides context for this policy that the policy refers to the settlement pattern and character of the hamlet.

Paragraph 4.3⁵ within the section titled “Coldharbour – Introduction and Historical Context” of the CPNP2017 states “The local environment, including the deeply recessed Coldharbour Lane, risks serious damage as a direct result of the decision to permit oil and gas exploration in Bury Hill Wood. This is of great concern to residents who do not want to see any further explorations for or any extraction of hydrocarbons in the Surrey Hills AONB and Metropolitan Green Belt of London”. Paragraph 4.9⁶ states “The NDP should prevent further oil or gas exploration and also prevent any oil or gas extraction from being permitted within the Surrey Hills AONB or Metropolitan Green Belt of London”.

64. Additionally regard should be had to other material considerations which include the National Planning Policy Framework (“NPPF”) and the Planning Practice Guidance (“PPG”), the Surrey Hills AONB Management Plan 2014 – 2019. The draft revised NPPF and associated draft revised PPG is also material.
65. In this case the main planning considerations are: need for the fencing and welfare facilities, highway movements, trees and ancient woodland, hydrology, lighting, noise, visual impact, landscape character impact, Green Belt and impact on the AONB.
66. This application has been made with its own red line boundary and is not a Section 73 application relating to the planning permission granted by the Appeal Decision APP/B3600/A/11/2166561. However in determining this application it should be recognised that, the development proposed in this application is required to provide a fence around the development permitted by Appeal Decision APP/B3600/A/11/2166561. If the hydrocarbon development permitted to by Appeal Decision APP/B3600/A/11/2166561 were not to proceed, the fencing and welfare facilities proposed in the current application would not be built. In assessing this application, Officers have assessed the impacts of this proposal, MO/2016/1563, and its cumulative impact when considered together with the development permitted by Appeal Decision APP/B3600/A/11/2166561. Therefore this report focuses on those matters relevant to this current planning application for the erection of fencing and welfare facilities. In assessing this application officers have had regard to the inspector’s decision on appeal ref APP/B3600/A/11/2166561, The inspector concluded that the development for which he granted planning permission would not be inappropriate development in the Green Belt and that the benefits clearly and convincingly outweigh the very short term harm to the Green Belt, the AONB and other interests (paragraph 98 of the decision letter). The purpose of the current application is to allow security measures to be put in place so as to allow the development permitted by Appeal Decision APP/B3600/A/11/2166561 to proceed and keep to the 18 week programme. Appeal Decision APP/B3600/A/11/2166561 is a weighty material consideration to be taken into account in determining this application. The Council must exercise its own judgment on the current application and would be free to disagree with judgements made by the inspector in in Appeal Decision APP/B3600/A/11/2166561 but were it to do so it must have regard to the importance of consistency in decision making and give reasons for any departure from the appeal decision.

ENVIRONMENTAL IMPACT ASSESSMENT

67. This planning application (MO/2016/1563) was originally submitted in September 2016 without an Environmental Impact Assessment (EIA). A Screening Opinion had been adopted with regards to the 18 week security fencing and welfare facilities proposal by the County Planning Authority (CPA) in May 2016 concluding that the development did not require an EIA. Following the submission of the planning application, the applicant requested a Screening Direction from the Secretary of State (SoS) to confirm that the

⁵ Page 114 of the document.

⁶ Page 115 of the document.

proposed development would not constitute EIA development, and received confirmation that the SoS agreed with the CPA's opinion.

68. LHAG disagreed with the outcome of the Screening Opinion and the subsequent Secretary of State Screening Direction.
69. Following this the applicant submitted a new, separate planning application (MO/2017/0222) seeking planning permission to erect two lines of fencing and welfare facilities in the same positions as those shown for this planning application (MO/2016/1563), however the timescale for their retention would be **longer** (for a period of up to 52 weeks). The CPA issued a Screening Opinion for planning application MO/2017/0222 in January 2017 stating that an EIA would be required on the basis that the proposal would be in place for a period of 52 weeks and that the presence of fencing and security facilities at the permitted wellsite for that length of time had not been previously assessed in the earlier Environmental Statements (ES) submitted for the hydrocarbon development permitted on Appeal. The applicant requested a Screening Direction from the SoS on this matter in response to which the SoS confirmed in writing in February 2017 that an EIA would be required for that application (MO/2017/0222). Following this, a second SoS Screening Direction was issued on 20 March 2017 for this application, in which the SoS determined that EIA was required in respect of the proposed installation of security fencing and welfare facilities for a period of 18 weeks.
70. The applicant submitted in May 2017 an overarching ES in accordance with Regulation 17 of the EIA Regulations 2011 to cover three planning applications: MO/2016/1563 (this application), MO/2017/0222 and MO/2017/0255. This ES contains one detailed assessment chapter this being on Landscape and Visual Impact (LVIA) which the various fencing schemes (18 week, 52 week, and reptile), in combination with the permitted exploratory wellsite, were considered to have potential significant environmental impacts upon. The ES also includes information on traffic and transport, hydrology and hydrogeology, ecology; and waste. Following the ES submission, the CPA wrote to the applicant in June 2017 requesting further information under Regulation 22 of the EIA Regulations 2011 with regards to matters of the LVIA, in respect of planning application MO/2017/0222 (52 week fencing); and requesting further clarification on matters of hydrology and hydrogeology, traffic and ecology in respect of Planning Applications MO/2017/0222 (52 week fencing) and MO/2017/0255 (reptile fencing).
71. The applicant submitted an ES Addendum in August 2017 seeking to address the CPA's earlier concerns. This underwent consultation and public notification in accordance with the requirements of Regulation 22.
72. Regulation 3 of the EIA Regulations prohibits a relevant authority from granting planning permission for EIA development unless it has taken into account the environmental information. "Environmental information" means the environmental statement, including any further information and any other information, any representations made by anybody required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development. As outlined above, the applicant has submitted a document entitled "Environmental Statement" which determines this application is EIA development. This application for MO/2016/1563 is not a "subsequent application" within the meaning of Regulation 2 of the 2011 Regulations as it is not an application of a matter where approval is required by or under a condition to which a planning permission is subject.
73. Officers have reviewed the ES Addendum August 2017 with regards to all three planning applications. With regards to **this planning application** Officers conclude that the information provided in the submitted ES, as composed of the original statement (2009), the subsequent addendum (May 2017) and the revised addendum (August 2017), is sufficient to inform the determination of the planning application MO/2016/1563. Consequently Officers are satisfied with the ES Addendum as submitted for this planning

application and the assessment contained within it. It should be noted that Officers had written to the applicant with regards to the ES Addendum with regards to applications MO/2017/0222 and MO/2017/0255 however these applications have now been withdrawn and the information sought from the applicant on those applications has no bearing on this application.

NEED

74. The proposal is to install a double row of fencing around the exploratory well site to provide increased security to the exploratory well whilst activities associated with that activity take place. The applicant has stated the fencing would be erected during the construction phase and remain in place during the drilling phase. The applicant has stated that depending on the level of protest activity at Bury Hill Wood the fence may remain in place during the decommissioning and restoration phases i.e. for the duration of the 18 week development. For security personnel to remain on site for 24 hours a day/ 7 days a week to patrol the site, it is proposed that the security personnel will have their own cabins and canteen which in turn would require a generator to power them. As the proposed fencing goes up towards the public highway the applicant proposes to have a security office set back some 20m from Coldharbour Lane so as to monitor who gains access into the exploratory well site. Representations received for this application have questioned the need for the proposal (32 reps) and why was the issue of fencing was not addressed or discussed at the Public Inquiry (42 reps).
75. The applicant has stated that there has been an increased risk of protestor activity at conventional onshore oil exploration wellsite's nationally since the application was made in 2008 and then since the Appeal Decision in 2015. This is a developing issue and has been evidenced by the recent activity at Brockham Oilfield, Horse Hill and also at Preston New Road in Lancashire. The applicant states that it is now standard practice to have enhanced security for onshore conventional oil and gas sites as protestors are making no distinction between conventional and unconventional (fracking) sites. The applicant's proposed security measures have been informed by professional security advice.
76. The applicant points to the recent protest camp that established itself at Bury Hill Wood at the end of October 2016 (the 'cathedral' which was constructed at the application site can be seen in the attached photograph in the presentation as supplied by the applicant) which set up a camp at the site entrance and within the exploratory well site itself. The protestors cleared large areas of bracken and other vegetation at the site for their camp, built platforms in the existing trees, erected other structures on the ground and dug deep trenches in the ground. The protestors and their camp were subsequently removed in June 2017. The camp has been re-established on the opposite side of Coldharbour Lane, close to the access to the application site. There is still therefore a constant protestor presence in the immediate vicinity of the site. The applicant has chosen to use their Permitted Development Rights under Part 17 of Schedule 2 (mining and mineral exploration) Class KA to drill boreholes for the purposes of carrying out groundwater monitoring⁷ and this to include the erection of other structures, i.e. fencing.
77. The applicant also states that should the protestors stay in the immediate vicinity while operations take place, that should there be no security fencing in place this would be a health and safety concern to both the protestors and contractors working at the hydrocarbon wellsite. The security fencing would enable appropriate health and safety standards to be maintained at the exploratory wellsite.

⁷ As required by the Environmental Permitting process and as approved by Condition 14 of the Appeal Decision or monitor wildlife.

78. A fence around the exploratory wellsite was part of the original proposal and part of the proposal discussed at the Public Inquiry. This was to include the erection of 1.2m to 2m high post and wire fencing around the perimeter of the 118 m by 55 m wellsite compound and steel double gates. It was therefore acknowledged as part of the original application that security fencing would be required at the site. However Officers recognise there has been a change in circumstances in terms of the need for higher fencing around the exploratory wellsite and the need for a patrol zone so to maintain health and safety requirements for the wellsite.
79. No objection has been raised by the Surrey Hills AONB Officer to this application commenting that the works proposed are to assist in minimising disruption from protestors so that the development can be carried out within the planned 18 week period and not have to be extended because of disruption. The AONB Officer has said that keeping to the 18 week period is important to the AONB.

Conclusion

80. Officers are aware of other protest activity that has taken place at other onshore hydrocarbon sites around the UK and that this can lead to delay in the carrying out of operations. Officers are satisfied that the applicant has demonstrated a need for the installation of the security fencing and the accompanying welfare facilities given the need to maintain health and safety of both protestors and of contractors working on the exploratory wellsite; and that in doing so this should facilitate in minimising disruption to the site to assist in keeping to the 18 week period.

TRANSPORT, TRAFFIC AND ACCESS

Surrey Minerals Plan 2011

Policy MC14 – Reducing the adverse impacts of mineral development

Policy MC15 – Transport for minerals

Mole Valley Local Plan 2000

Policy MOV2 – The Movement Implications of Development

Policy ENV22 – General Development Control Criteria

Mole Valley Core Strategy 2009

Policy CS18 – Transport Options and Accessibility

81. The application site is to be accessed by Coldharbour Lane. Coldharbour Lane (D289) is an unclassified rural road that links the village of Coldharbour to the south, with Dorking to the north. The lane undulates and has a number of bends along its length. There are sections along the lane north of Logmore Lane where there is a verge, however in other places the road is a sunken lane with high, steeply sloping vegetated banks. There are trees and hedgerows alongside the lane and areas where the tree canopy has grown across to cover the highway. In some instances, tree trunks have grown out over the carriageway. The most constrained section of the lane can be found in the 1.74 km section south of the Logmore Lane junction. Lanes of this type are characteristic features of the AONB. In September 2017 Mole Valley District Council agreed at their Planning Committee to have a Tree Preservation Order made to protect 20 trees that are positioned along Coldharbour Lane at Robbing Gate.
82. Much concern was raised as part of the Public Inquiry with regards to the potential impact and permanent damage from HGVs using Coldharbour Lane to access the application site, on the sunken lanes; and that the sunken lanes had inadequate capacity to accommodate the traffic being proposed.
83. Coldharbour Lane varies in width along its length, ranging from 5.93m to 3.8m. It is generally accepted that two Heavy Goods Vehicles (HGVs) can pass one another with care within a carriageway width of 5.5m. Similarly, a car and an HGV can pass one another within a carriageway width of 4.8m. Quite clearly, with a carriageway width that

varies between 5.93m and 3.8m, there are sections of Coldharbour Lane that cannot accommodate even a car and an HGV passing and most certainly not two HGVs. As part of the original planning application, the applicant measured the road at intervals of approximately 150 m and from this identified the areas with adequate width to allow two HGVs to pass, areas where an HGV and car can pass and the sections of the road where only cars can pass. A tree foliage survey was also undertaken to identify constraints posed by overhanging trees and branches. This was all taken into consideration as part of the Public Inquiry where the Inspector did not refuse the Appeal on highway grounds.

84. Concern has been raised on this application in terms of highway implications including the potential need for additional surfacing being brought to the application site and the highway implications of this (54 reps), that Coldharbour Lane is unsuitable for access by HGV as the ancient sunken lanes are narrow and high banked (36 reps), impact on local roads and safety (38 reps) and that the CTMP will never be suitable for the network (26 reps). Consideration has to be given to the potential impact of bringing to the application site the fencing and welfare facilities which in turn will increase lorry movements to/ from the site.

Lorries

85. Policy MC15 of the Surrey Minerals Plan 2011 states that applications for mineral development should include a transport assessment of potential impacts on highway safety, congestion and demand management. The policy goes on to state that mineral development involving transportation by road will be permitted only s where:
- i) There is no practicable alternative to the use of road based transport that would have a lower impact on communities and the environment
 - ii) The highway network is of an appropriate standard for use by the traffic generated by the development or can be suitably improved; and
 - iii) Arrangements for site access and the traffic generated by the development would not have any significant adverse impacts on highway safety, air quality, residential amenity, the environment or the effective operation of the highway network.
86. The policy supporting text recognises that the most significant impacts of mineral working and the one that usually causes the most public concern is lorry traffic generated from transport minerals. Para 7.7 of the SMLP2011 states that the needs of pedestrians, cyclists and horse riders should be considered especially where the highway forms a link in the rights of way network and potential impacts on vulnerable road users might occur. Para 7.9 states that it is important to ensure the effects of traffic generated by mineral developments on local communities, the environment and the local road network are carefully considered.
87. Policy MOV2 of the MVLP2000 states that development will normally only be permitted where it can be demonstrated that it is or can be made compatible with the transport infrastructure and the environmental character of the area, having regard to all forms of traffic generated by that development. The policy goes on to say that proposals for major developments will only be permitted where it can be demonstrated that in order to accommodate the traffic generated by that development appropriate measures are made to obviate the environmental impact and there is provision for capacity on the transport network and in the vicinity of the development, access and egress to be obtained, or improve, to and from the primary route and distributor road networks.
88. The second criterion in Policy ENV22 (General Development Control Criteria) in the MVLP 2000 seeks to ensure that the amenities of the occupiers of neighbouring properties are not significantly harmed by adverse environmental impacts such as traffic. Paragraph 4.107 gives more detail, stating that *'the environmental effects of traffic, especially lorries, generated by some development can have an environmentally damaging impact on the surroundings. Even though in highway operational terms the*

access may be acceptable, the environmental effects of the traffic will also be taken into account.'

89. The MVCS2009 contains Policy CS18 (Transport Options and Accessibility). Criteria 1 states that the availability of travel options and access will be given significant weight when considering development proposals. The third criterion requires development proposals to be consistent with, and contribute to the implementation of the Surrey Local Transport Plan. The Transport Plan has tackling congestion to limit delays, improving road safety and security, enhancing the environment and quality of life and improving management and maintenance of our transport network as some of its objectives.

Number of HGVs

90. The application will involve the bringing on to site the fencing and welfare facilities on HGVs. This would involve 14 HGV movements to drop off the fencing; and the welfare facilities including the office and WC near the site entrance; and 14 HGV movements to collect the fencing and welfare facilities including the office and WC. Each of these 14 movements would be spread over a period of 8 days equating to just under 2 movements (1 load) per day. This would equate to 28 HGVs in total⁸. There would be no HGV movements associated with this proposal once it is installed until it is removed.
91. The working day for the exploratory well is conditioned in Condition 17 of the Appeal Decision to 0930 – 1500 hours Monday to Friday and 0930 to 1300 hours on Saturdays. In the submitted and withdrawn Construction Traffic Management Plan (CTMP) for Condition 19 (planning application ref: MO/2017/0911) the applicant stated there would be no HGV deliveries/ movements on Saturdays. Officers consider the hours of operation as stipulated in Condition 17 of Appeal Decision APP/B3600/A/11/2166561 but excluding Saturdays should be imposed as a Condition on this application.
92. The County Highway Authority (CHA) originally responded saying that it was unclear from the submission whether the importation and collection of the fencing and security/welfare facilities would be included within the CTMP required under Condition 19 of the Appeal Decision. The CHA stated that given the constraints of the highway network and the size of the vehicles likely to be involved that the 28 HGV movements proposal should form part of the CTMP.
93. The applicant has subsequently responded confirming that the 28 HGVs will be considered as part of the CTMP and the information was provided as part of the submissions for both MO/2017/0911 and MO/2018/0072 (both withdrawn). The submission makes it clear that the importation and collection of the fencing and the security/welfare facilities are to be included in the CTMP required under Condition 19 of APP/B3600/A/11/2166561 for the site. The CHA have reviewed this information and have confirmed that there is no objection in principle to the proposed development from a transportation perspective provided the proposed 28 HGV movements are included within the CTMP.

Accessing the site

94. The application currently proposes that the fence stops 1m back from the highway edge. The 1m verge is considered to be public highway, which cannot be fenced. This would encompass an area between the existing Forestry Commission track and the public highway and the bellmouth. The applicant states that this is to prevent protestors creating an encampment in front of the gate. Whilst the visual impact and landscape character impact of this will be discussed below, there are logistical matters that require consideration in terms of the gate in the fencing being closed to prohibit access being gained into the site but also getting HGVs arriving at the site off the public highway in a

⁸ 28 movements = 14 loads (7 loads inbound/ 7 loads outbound)

safe manner. This has been raised within a letter of representation also. The applicant states that the gates will be moved temporarily when HGVs arrive and depart the site. The CHA have commented that this could raise some issues as there is no area for non-HGV vehicles to pull off the public highway prior to the gates being opened. This could result in delays to traffic utilising Coldharbour Lane unless the gate is constantly staffed and all vehicles are let in through the gate prior to security checks. The CHA have commented that they consider it undesirable for vehicles to wait on the public highway.

95. The applicant has responded stating that when HGVs are scheduled for deliveries to the site, communication would take place between the banksmen, the escort vehicle and the security staff present on the application site. The control of the traffic would be from the security staff office and they would know to move the gates in advance of a HGV arriving at the site so that the gates can be opened in a timely manner so that HGVs do not remain on the public highway. With regards to cars and LGVs on site staff would be contacted in advance for when a scheduled LGV or car is visiting the site so again to be ready to open the gates so that the vehicle can leave the public highway.
96. The CHA have reviewed these comments and advise further that whilst it is understood why the gates are to be placed within the bellmouth and close to the public highway, it results in nowhere for vehicles to pull off Coldharbour Lane, clear of the highway in order for gates to be opened. It is therefore essential that the gates are opened prior to any vehicles arriving at the site so that they can pull off of the highway without delay. A vehicle waiting at this point is likely to cause an obstruction, which is unacceptable given that the traffic management is already likely to result in delays and it would be unreasonable for drivers to be further delayed waiting for vehicles to enter the site. The applicant should therefore take measures to prevent this happening. The CHA raise no objection to the proposal but request that conditions that are considered necessary and reasonable, are imposed to control this matter. Condition 14 covers this matter.
97. Concern has been raised within representations about the visibility of driver of the vehicle leaving the application site would have limited vision along Coldharbour Lane from within the planning site exit creating a safety hazard for themselves and other users of Coldharbour Lane. The CHA have responded saying that the positioning of the fence close to the carriageway means that the visibility of any vehicles entering or exiting the site will be affected by the fence itself. However Heras fencing is through visible meaning that drivers will still have visibility of one another whilst the access is in use. The CHA recommends that no signage or other obstructions are placed on the fencing between a height of 0.6m-2.0m high. A condition can be imposed to that effect.
98. A representation received has raised concerns about the proximity of the fence to the carriageway and has said it should be further back from the carriageway. The CHA have commented that normally the CHA would require the fencing to be set back 2m. However in this particular circumstance the CHA have commented that given the concerns that if the fencing is set further back from the carriageway this could lead to potential protest activity in front of the fencing causing obstructions to Coldharbour Lane, this is a valid concern and in balancing these issues and that the Heras fencing is through visible and as such drivers should be able to see through it, the CHA raise no concerns with the positioning of the fencing 1m back from the carriageway provided it remains clear of banners and obstructions allowing it to remain through visible.
99. A representation received has also raised queries about the swept path of vehicles being able to get into the site. The CHA have commented that if the gates are wide enough, the CHA are satisfied that cars and light goods vans would be able to enter and exit the site. These do not need to be simultaneous movements. The application states that the Heras fencing at the access will be removed when HGV's need to access the site, thus it notes that the gates will only be used by cars and LGV's.

Rights of Way

100. Policy MC14 of the Surrey Minerals Plan 2011 requires consideration to be given in terms of any potential impacts relating from the development proposal on the rights of way network. There are no policies on rights of way within the MVLP2000 or MVCS2009.
101. There are no definitive rights of way that run through the application site. The closest right of way to the application site is footpath 247 which runs approximately 55m to the North West before heading further north and then turning southwards to then meet Coldharbour Lane. There are, however, a number of tracks in the woodland that includes the application site and the surrounding land and this has raised concern within representations (61 comments raised) that the proposed installation of the fencing would cut off what the objectors describe as a “customary right of way” that runs through the site.
102. The access land in question is Countryside and Rights of Way (CROW) Act Section 16 dedicated land and is woodland owned and managed by the Forestry Commission. In this area, the Forestry Commission are the responsible authority concerned with all CROW access restrictions where the land is predominantly woodland as in most cases it has been dedicated by them. The CROW Act 2000 can give a public right of access to land mapped as ‘open country’ and these areas are known as access land’.
103. Section 16(7) states that a dedication cannot be revoked and binds successive owners and those interested in the land. However, S16 (6) states that the regulations may enable a dedication under this section to include the provision for removing or relaxing any of the general restriction in Schedule 2 (i.e. the dedication) and also enable a dedication previously made under this section to be amended by the persons by whom a dedication could be made so as to remove or relax any of those restrictions. This would be to the relevant authority, in this case the Forestry Commission, and information would need to be provided to satisfy that authority. The County Rights of Way team have commented that whilst the proposal does not affect any public rights of way, they recommend the applicant ensures all necessary permissions to fence such land is in place before proceeding.
104. Officers note there are no public rights of way that cross the application site as confirmed by the County Rights of Way Officer and therefore no closure orders or diversion orders would be required. With regards to the tracks and open access land, the restricting or exclusion of access would be carried out by the Forestry Commission and is a separate regime to the planning regime and such measures would be required to be in place prior to the commencement of development. Officers consider an Informative should be imposed reminding the applicant to contact the Forestry Commission to carry out that notification.

Conclusion

105. The proposal would involve 14 HGV movements to bring on to the application site the fencing and welfare facilities (including the office and WC) and then for 14 HGV movements to remove them. These would use Coldharbour Lane and the applicant has stated they would form part of the HGV numbers within the CTMP which has to be submitted for Condition 19. The Environmental Statement includes an assessment of transport related to this proposal. The application site is not located near to or next to any alternative forms of transportation other than the public highway so the use of alternatives to road based options is not possible. Coldharbour Lane is narrow with sections which are ancient sunken lanes. There is a prohibition to HGVs using Coldharbour Lane except for access. The Inspector accepted the use of Coldharbour Lane by HGVs for the hydrocarbon development in the appeal decision. In the appeal decision it referred to some 1,100 movements during the construction and dismantling phases spread over 12 weeks each and some 30 movements in any single day. The

Inspectors finding was that this would be a negative impact but that “*it has to be remembered that this would be for the short duration of the exploratory scheme*”. The applicant now proposes 88 HGV movements during both the construction and decommissioning phases which would include the 28 HGV movements with this proposal. The 88 HGV movements would equate to 3 movements per day which is much less than the 30 HGV movements the Inspector considered at the appeal.

106. Matters with regards to site vehicles gaining access from Coldharbour Lane to the access track are covered above and the CHA are satisfied through the imposition of conditions vehicles can gain access in a safe manner. Officers consider the Inspector’s findings carry weight and given the Inspector’s view was that the proposal be granted planning permission subject to the approval of a CTMP, Officers consider the same approach should be adopted here given the much lower levels of HGV movements proposed and in doing so this would meet the requirement of Policy MC15 of the SMLP2011, Policies MOV2 and ENV22 of the MVLP2000; and Policy MVCS2009.
107. Officers recognise that the proposal would not have a direct impact on any definitive rights of way but would have some impact on permissive paths that run across the site. The proposal would have an impact on these paths and the open space of the application for the duration of the proposal, however this would be short duration of the 18 week programme after which the paths and open space would be resumed. Under these circumstances the proposal would create some small tension with Policy MC14(vi).

ENVIRONMENT AND AMENITY

Surrey Minerals Plan 2011

Policy MC14 - Reducing the adverse impacts of mineral development

Mole Valley Local Plan 2000

Policy ENV15 – Species Protection

Policy ENV57 – Lighting Proposals

Policy ENV67 – Groundwater Quality

Mole Valley Core Strategy 2009

Policy CS15 – Biodiversity and Geological Conservation

108. Policy MC14 of the Surrey Minerals Plan 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. The policy outlines that in determining planning applications for mineral development, potential impacts relating to a number of issues listed within the policy, should be considered. For this proposal the relevant issues to consider are: i) noise and illumination, ii) water quality, iv) the natural environment and biodiversity.
109. With regards to mineral development, Paragraph 144 of the NPPF states that in granting planning permission for mineral development that local planning authorities should ensure that
- there are no unacceptable adverse impacts on the natural environment, human health or aviation safety and take into account the cumulative effect of multiple impacts from individual sites and/ or from a number of sites in the locality;
 - to ensure that any unavoidable noise, dust and particle emissions are mitigated or removed at source
 - to provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards through the application of appropriate conditions

Hydrology and Water

110. A number of representations have raised concerns with regards to this application in terms of the proposal having a potential impact on Pipp Brook and the local aquifers from acids being used as part of the exploration process or oil spillages (47 letters of representation). The NPPF outlines at para 109 that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, by unacceptable levels of water pollution.
111. Paragraph 6.14 of the Surrey Minerals Plan recognises that surface and groundwater provide fresh water for drinking, washing and agriculture and to support flora and fauna. The policy sets out measures to protect them from any adverse impacts arising from development include:
- ensuring that there are no significant changes to groundwater levels.
 - undertaking detailed hydrogeological assessment to assess the risks posed by physical disturbance of aquifers and to source protection zones for the safeguarding of groundwater
 - maintaining the quality of water resources by preventing the pollution of ground and surface water, such as from the introduction of chemical or other contaminants. Drainage during operations, and any discharge into local watercourses, should be controlled in accordance with standards set by the Environment Agency through licensing.
112. Policy MC14 states that in determining applications for mineral development, consideration should be given to water quality and land drainage. Policy ENV67 of the MVLP2000 states that development will not be permitted which in the opinion of the Council, after consultation with the Environment Agency, may have an adverse impact on the quality of groundwater. CPNP2017 has an objective stating “new development to address flooding and drainage issues” and Policy CA-ESDQ2. This policy states *“Proposals for new development should identify how they will result in the efficient drainage of the site concerned. Where there are known flooding or foul drainage issues, new development will be required to demonstrate how foul and surface water drainage will be achieved, and shall be designed so as not to worsen existing drainage problems in the area”*. This policy focuses on flooding within Capel and Beare Green villages.
113. The Environment Agency are the statutory consultee with regards to protection of the groundwater. The Environmental Agency (EA) originally commented that whilst there was no objection in principle to the proposal in order to protect soils, ground and groundwater beneath the site from the risk of accidental spills from the oil tank, the associated generator or from the cess pit, the EA require appropriate temporary bunding to be in place. Additionally the EA required appropriate protocols and procedures to be in place during the filling, emptying and in the event of incidents. The EA requested a condition be imposed that any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both oil, fuel or chemical and water to be submitted to the County Planning Authority for approval.
114. Subsequent to this the applicant has amended the Planning Statement to include the information sought by the EA. The applicant states that a generator will be located adjacent to the welfare facilities along the western boundary of the site. The generator will use a fuel cell to provide fuel to the welfare facilities and will be sat on its own bunded containment mat with a capacity more than 110% of the fuel and other liquids held within the generator. The fuel cell comes as a double skinned tank providing its own bunding and is connected directly to the generator so there is no requirement to transfer fuel physically by way of pump or distributor hose and nozzle. The refuelling of the cells is undertaken by disconnecting two hoses with standard leak-proof hydraulic couplings from the cell and lift out the empty cell and replacing with a fuel cell. Spill mats will be

kept adjacent to the pipes during connection and changeover to ensure that if there are any drips, these will be captured.

115. Given the information now provided by the applicant on the generator in terms of it having its own bunding and procedures of how it would be re-fuelled and how the fuel tank would be kept on site, the EA have commented that their previous concerns regarding containment of fuel for the generator and procedures around delivery, have been covered by the revised Planning Statement.
116. Following the submission of the ES, the EA reviewed this document and commented that the conclusion made on hydrology and hydrogeology was incorrect as the information presented related to previous work carried out prior to the Public Inquiry held for the exploratory wellsite. The EA commented that there is a principal aquifer beneath the site and potentially other secondary aquifers within the first 400m beneath the site. The EA stated that the applicant should refer to the latest full Hydrogeological Risk Assessment. Officers raised this matter with the applicant and the submitted ES Addendum August 2017 deals with this matter. The EA were reconsulted on the August 2017 documentation and commented that the revised wording now adequately reflects the vulnerability of the groundwater and links to the Hydrogeological Risk Assessment. This met the EA's requirements. The EA went on to note the applicant's comment that the fencing would not have a detrimental impact on groundwater and the EA state they concur with this.
117. With regards to concerns raised by representations on the use of acids as part of the exploration process, this application does not involve the use of acids. Furthermore control of the use of any acids as part of the exploratory process is covered by the EA as part of the Environmental Permit. With regards to impact on Pipp Brook, the installation of the fence and welfare facilities would have no impact on Pipp Brook as it would not involve any surface water runoff or below ground activities. The generator would not involve any runoff and the information outlined above provides a protocol for handling fluids so not to cause spillage.

Conclusion

118. Officers are satisfied that the applicant has provided information on how any fuels to be in place on site in relation to the generator would be handled and kept such so not to cause risk to the underlying groundwater and should a spill occur how it would be handled, again so there would be no risk to the underlying groundwater. Given this, Officers are satisfied that the proposal meets the requirements of Policy MC14 and Policy ENV67 and paragraph 109 of the NPPF.

Ancient Woodland and Trees

119. 13 representations have said the proposal would destroy ancient woodland. 143 representations have said that trees would need to be felled as part of this proposal. Policy CS15 of the MVCS2009 requires that trees within development sites should be, as far as practicable, retained and only where there are no realistic alternatives available or replacement of such features elsewhere in the site would result in biodiversity enhancements will removal be permitted.
120. With regards to ancient woodland the proposal would not encroach onto ancient woodland. The closest ancient woodland to the application site is along the western boundary which is the line of the existing Forestry Commission track. This ancient woodland is plantation on ancient woodland with areas of semi natural ancient woodland some distance to the west. The application does not seek to go beyond that existing access track therefore there would be no direct harm to the ancient woodland. In terms of indirect impact, the applicant has stated that the fuel for the generator would have its own bunded to over 110% and there are protocols for fuelling the generator to ensure

that spillages should not occur and the Environment Agency are satisfied with this. With regards to fencing along the western boundary, the applicant is proposing solely deer proof fencing at this point and not Heras fencing. Deer proof fencing is typically found in managed forests such as this one⁹ to protect tree saplings from deer grazing so that they can establish. The applicant has confirmed that the positioning of the posts for the fencing would be done such to avoid tree roots and tree root protection zones. A condition can be imposed¹⁰ requesting care is taken in the placing of the fence posts into the ground. Officers are satisfied that the proposal is not located such that it would cause direct or indirect harm to ancient woodland which is positioned to the west of the application site. The other areas of ancient woodland are not in close proximity to be affected by the installation of the fence or the welfare facilities.

121. With regards to the felling of trees the applicant has stated this proposal would not involve the felling of any additional trees further to those that are to be felled and were identified and considered as part of the Public Inquiry. Some 45 trees would require felling within the exploratory hydrocarbon wellsite area however there are no tree trunks that are in the line where the fencing proposed for this application is to go or where the welfare facilities are to be placed. Officers are satisfied that there are to be no trees to be felled as part of installing the proposed fencing and facilities.

Conclusion

122. Whilst concern has been raised both with regards to trees and ancient woodland, the proposal would not encroach on an area of ancient woodland and would not involve the felling of trees for the erection of the fences, the welfare facilities or the ramp. Officers are satisfied the proposal meets the requirements of Policy CS15 of the MVCS2009.

Lighting

123. Representations received have raised concerns that the proposal would result in more lighting for the wellsite overall (64 representations). As the application site is located within the Surrey Hills AONB consideration has to be given to the need to protect the dark skies and the tranquillity of the AONB which includes impacts from lighting. The applicant has an approved Light Management Plan for the exploratory well development¹¹. The Surrey Hills AONB Management Plan 2014-2019 Policy LU2 states that development will respect the special landscape character of the locality, giving particular attention to potential impacts from light pollution. Policy MC14 of the SMP2011 requires potential impacts from illumination from mineral development to be considered. 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, Conservations Areas or the character and appearance of the countryside.
124. Paragraph 125 of the NPPF states that by encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Paragraph 001¹² of the NPPG recognises that some artificial light is not always necessary and has the potential to become light pollution or obtrusive light and not all modern lighting is suitable in all locations. The paragraph acknowledges that lighting can be “*a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky. For maximum benefit, the best use of artificial light is about getting the right light, in the right place and providing light at the right time*”. Paragraph 002 sets out what factors should be considered when assessing whether a development

⁹ [https://www.forestry.gov.uk/pdf/Eng_SFD_FDP_BuryHill-RedlandsFULLFDP.pdf/\\$FILE/Eng_SFD_FDP_BuryHill-RedlandsFULLFDP.pdf](https://www.forestry.gov.uk/pdf/Eng_SFD_FDP_BuryHill-RedlandsFULLFDP.pdf/$FILE/Eng_SFD_FDP_BuryHill-RedlandsFULLFDP.pdf)

¹⁰ Condition 11

¹¹ Planning approval ref: MO/2016/0981 approved 13 December 2016

¹² Paragraph 001, reference ID: 31-001-20140306

proposal might have implications for light pollution and sets out a number of questions to be considered including Is the development in or near a protected area of dark sky or an intrinsically dark landscape where it may be desirable to minimise new light sources; and are forms of artificial light with a potentially high impact on wildlife.

125. Whilst concerns have been raised by representations with regards to lighting, the applicant has confirmed that no additional external lighting would be required as part of this proposal. There would be no external fixed lighting on the fencing, cabins, canteen or WC. There would be no lighting required for the patrolling of the space between the deer proof fencing and the Heras fencing for security personnel. As part of the exploratory hydrocarbon drilling phase, lighting would be on the rig during the night for health and safety reasons and this has been addressed as part of the approved Light Management Plan. The rig does not form part of this application.

Conclusion

126. Given the proposal does not involve any new or additional external lighting above that considered as part of the approved Light Management Plan, Officers are satisfied that this planning application would not give rise to impacts from lighting and would not conflict with Policy LU2 of the Surrey Hills AONB Management Plan and meets the requirements of Policy MC14 (i) of the SMLP2011 and Policy ENV57 of the MVLP2000.

Noise

127. Paragraph 123 of the NPPF states that planning 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 through the use of conditions; and to identify and protect areas of tranquillity.
128. Paragraph 020¹³ of the NPPG (Minerals – noise) outlines that mineral planning and authorities should take account of the prevailing acoustic environment and in doing so consider whether or not noise from the proposed operation would give rise to a significant adverse effect, give rise to an adverse effect; and enable a good standard of amenity to be achieved. Para 021 goes on to state that mineral planning authorities should aim to establish a noise limit at the noise sensitive property that does not exceed the background noise level (LA90, 1h) by more than 10dB(A) during normal working hours (0700-1900). The paragraph goes on to state that should it be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator the limit set should be as near that level as practicable; and in any event, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field). For night time working, the same principles apply in terms of not exceeding the background noise level by more than 10dB(A) but a noise limit should not exceed 42dB(A) LAeq, 1h (free field) at a noise sensitive property. The paragraph goes on to state that if there is a tonal element to the proposal that it may be appropriate to set specific limits to control this aspect.
129. Policy MC14 of the SMP2011 requires consideration to be given to potential impacts from noise from the development proposal. There are no noise specific policies within the MVLP2000 or the MVCS2009.
130. The application involves the placing of Heras fencing on to the ground and would not involve any other works. The deer proof fencing would need holes dug to sink the fence posts into. At the end of the 18 week programme and as part of the restoration of the application site, the post holes would be filled in and the area restored to woodland.

¹³ Paragraph 020, reference ID: 27-020-20140306

131. The County Noise Consultant (CNC) has reviewed the proposal in terms of the delivery of the fencing and welfare facilities to the application site with regards to the lorry movements; and also the installation of these items including the post holes referred to above. The CNC comments that it is unlikely that there would be any significant noise generating works in connection with the construction phase. The proposal would involve the use of a generator and other welfare facilities. The CNC has commented that the nearest residential properties to the site are at a distance of around 600 m from the site and are therefore unlikely to be exposed to significant levels of noise from the generator and overall works. The CNC raises no objection to the proposal on the grounds of noise. Officers consider it would be reasonable and relevant to this planning application to impose a planning condition that ensures that all activities associated with the proposal meet noise levels that are set out in the Appeal Decision APP/B3600/A/11/2166561.

Conclusion

132. As the acceptable noise levels can be achieved and can be maintained by planning condition, it is considered that the proposal would not conflict with Policy MC14 of the SMLP2011.

Ecology

133. Paragraph 109 of the NPPF states that the planning system should contribute and enhance the natural environment by recognising the wider benefits of ecosystems services; and minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 008¹⁴ of the NPPG recognises that planning decisions have the potential to affect biodiversity outside as well as inside designated areas of importance for biodiversity.
134. Policy MC14 of the SMP2011 requires the potential for impacts on the natural environment and biodiversity to be considered and to ensure no significant adverse impacts arise in relation to these aspects. Policy CS15 of the MVCS2009 states that biodiversity will be protected and enhanced in accordance with European and National legislation. Policy ENV15 of the MVLP2000 states that where it is evident that a proposed development would be likely to harm a protected species or its habitat, an investigation will be required and that development that would materially harm a protected species or its habitat will not be permitted.
135. The application site is not located within any statutory or non-statutory designated sites for nature conservation. The applicant states that a Phase 1 Survey Report was carried out as part of the exploratory wellsite application and this not only encompassed the wellsite area but the wider land surrounding it including the land to which this application relates to. As part of that survey work it was concluded that the wellsite proposal would not give rise to any significant adverse effects to ecological assets both within the exploratory wellsite area and immediately beyond it including this application site area. The Appeal Decision Condition 9 requires further survey work to be carried out for the exploratory wellsite for birds, bats, amphibians, reptiles and badgers. As part of the mitigation works for reptiles the applicant is required to ensure all reptiles are removed from the exploratory wellsite prior to the commencement of the 18 week period to safeguard the reptiles. As such the installation of the fencing and welfare facilities would not significantly adversely affect reptiles.
136. With regards to birds and bats this application would not involve the felling of any additional trees other than those that were identified and assessed as part of the Appeal Decision. The proposal would not increase or amend the external lighting levels or types which would be in place for the exploratory wellsite. As such this application would not have a significant adverse impact on birds or bats.

¹⁴ Paragraph 008 Reference ID: 8-008-20140306

137. With regards to badgers when the application was submitted in September 2016 it was understood that there were four setts within 150m of the application site. Two of these were in the application site itself. One was less than 30m to the south of the access road. One is to the west approximately 110m from the application site boundary (130m from the drill rig position). Should any setts be within 30m of the application site, a licence from Natural England would be required seeking to close the setts. An Updated Phase 1 Habitat Survey was submitted as part of the Environmental Statement May 2017 (this has not been superseded in the ES Addendum August 2017) which provides a more recent badger survey within an updated Habitat Survey of April 2017. This updated badger survey has shown the three closest badger setts have all been abandoned¹⁵ since protestor activity commenced at the application site in November 2016. Consequently there would be no measures required to mitigate against harm for these three badger setts as they are now abandoned.
138. Previously the applicant had proposed badger gates could be installed at points along the fencing that open both ways. However given there are now no badger setts in the immediately vicinity of the application site, this is not considered necessary. The East Surrey Badger Group were consulted on the Environmental Statement and ES Addendum and have commented that they note that the badger setts in the site area are no longer active and the nature of the fencing could allow badgers to dig underneath the fence and that as a result badger gates are 'no longer required'. The East Surrey Badger Group concurs with this finding and raises no objection.
139. The County Natural Environment & Assessment Team Manager has reviewed the proposal and raises no ecological objection to the proposal. He comments that the application site has been subject to extensive ecological surveys and having considered the ecological impacts that his main concern was the possible impact of badgers being enclosed by the fenced area. Whilst it is acknowledged that the three badger setts in closest proximity are no longer in use, the County Natural Environment & Assessment Team Manager recommends that a check is made prior to the commencement of development and prior to the completion of the fencing for badgers as they are mobile and could create a sett quite quickly regardless of the remaining setts being disused. This can be the subject of a condition that a check is carried out.

Japanese Knotweed

140. An area of Japanese Knotweed is known to be adjacent to the access track, approximately 23m x 19m immediately south of the access track into the application site, approximately 97m from Coldharbour Lane. Whilst this Japanese Knotweed is known, it has not been treated to date by either the Forestry Commission or the applicant.
141. The installation of the fence and the patrol zone would go over the area of Japanese Knotweed. Japanese Knotweed is an invasive alien species 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.

¹⁵ Evidence of this has been shown as sticks being placed at the entrances to the badger setts and these sticks not having been moved when returning to the site for monitoring.

142. 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.
143. The most effective treatment of Japanese Knotweed is spraying with chemicals using only approved herbicides. This can often take re-spraying and can usually take three years to treat Japanese knotweed until the underground rhizomes become dormant. In order to spray Japanese Knotweed permission may be required from Natural England or the Environment Agency. In addition to spraying Japanese Knotweed, the plant can be burned, buried or disposed of offsite however these practices all require the relevant permissions to carry that work out.
144. The applicant acknowledges that Japanese Knotweed is present on the application site. The applicant has stated that in an instance where Japanese Knotweed is inadvertently chopped down, the Japanese Knotweed would be removed from the application site and disposed of at an approved waste disposal site. The applicant has confirmed that the area where the Japanese Knotweed is present shall be clearly identified by signage including management operations, and site operators and contactors shall be given instruction on identification of Japanese Knotweed and their responsibilities. The applicant states that a clerk of works would be appointed with responsibility for overseeing the Japanese Knotweed management. The applicant has also stated that a layer of geotextile which acts as a root barrier would be applied on this particular area and when this would be removed at the end of the development, this would be done under the supervision of a suitably qualified ecologist or specialist controlled waste consultant.
145. Officers note that the best practice for management of Japanese Knotweed would be spraying of the plant. The applicant has committed to spraying the plant in the approved Ecological Management Plan and the approved Restoration and Landscape Management Plan as submitted to comply with Condition 14. Officers consider it necessary, reasonable and relevant to this planning application that the Japanese Knotweed also be sprayed in addition to the measures above; and that the spraying of the Japanese Knotweed commence within the first available season following determination of this application and not on commencement of development. This would ensure that spraying of the Japanese Knotweed is not further delayed and the appropriate window not missed. Officers consider this can be imposed by condition.

Conclusion

146. The County Natural Environment & Assessment Team Manager has reviewed the proposal and raises no ecological objections and considers the ecological information which has been submitted is still sufficient. Whilst badgers were on the application site, as discussed above these setts have been found to be abandoned. The ecological information provided in the form of a Phase 1 Habitat Survey identifies no protected species would be impacted by the development proposal. Officers are satisfied that based on the information provided that the proposal meets the requirements of Policy MC14 (iv) of the SMLP2011 and ENV15 of the MVLP2000. Officers are satisfied there are measures within the approved Ecological Management Plan and the approved Restoration and Landscape Management Plan for the control and management of Japanese Knotweed.
147. With regards to section 40(1) Natural Environment and Rural Communities Act 2006 and the Council's duty to have regard to the purpose of conserving biodiversity, as outlined above the applicant has provided a Phase 1 Habitat Survey which has identified that no

protected species or priority habitats are on the application site that would be affected and the County Planning Authority agrees with this conclusion. Whilst this proposal would not involve the felling of trees, as discussed above 45 trees were identified to be felled as part of the appeal decision. However the site is temporary and short in duration and the applicant has submitted and had approval of, a restoration plan which sees the application site and the appeal site restored to forestry use using flora species that are consistent with both the Forestry Commission's Bury Hill and Redlands forest plan¹⁶ and woodland in the locality.

AREA OF OUTSTANDING NATURAL BEAUTY, LANDSCAPE CHARACTER AND VISUAL IMPACT

Surrey Minerals Plan 2011

Policy MC2 – Spatial strategy – protection of key environmental interest in Surrey

Policy MC14 - Reducing the adverse impacts of mineral development

Mole Valley Core Strategy 2009

Policy CS13 – Landscape Character

Mole Valley Landscape Character Supplementary Planning Document 2013

148. The application site lies within the Surrey Hills AONB. Of the letters of representation received 51% stated this planning application should be refused on AONB grounds (the most cited reason for refusal). Representations also contended that the proposal contradicts with the purposes of why land is designated as an Area of Outstanding Natural Beauty and that the proposal is “*absolutely ridiculous in an AONB*”. What should be borne in mind, however, is that this application is not to establish the suitability of the site for the exploratory phase of hydrocarbon development as the principle of that matter was established when it was granted planning permission on appeal. This aspect deals with the installation of a perimeter fence which will be part of the proposed mineral extraction site and runs parallel to the original application boundary. Officers acknowledge that the proposal would involve expanding onto a new area of land beyond the original application boundary (in some places the expansion is 2.5m in width i.e. along the access track; however in other places the expansion would be some 5m in width i.e. along the western perimeter of the appeal site which would then encompass the existing forestry commission track that runs alongside the western boundary of the appeal site).
149. In considering this application there are different aspects that require consideration. The first is the impact of the proposed fence on visual amenities of the locality and the wider area particularly as the applicant now proposes that the fence line come up to Coldharbour Lane. The second is the impact on the Landscape Character of the area. And lastly, the third is the impact on the AONB and whether the proposal constitutes ‘major’ development which warrants consideration of para 116 of the NPPF. As described above, since this application was originally submitted in September 2016 the applicant has been required to submit an EIA for this application following a Screening Direction from the SoS. An Environmental Statement and ES Addendum have been submitted by the applicant with the only scoped in chapter being Landscape and Visual Impact. The findings of the Landscape and Visual Impact Assessment (LVIA) are referred to in this part of the report.
150. 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. 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. The Surrey Hills AONB Management Plan 2014 – 2019 sets out policies for protection and enhancement of the AONB and these are discussed in more detail below.

¹⁶ <https://www.forestry.gov.uk/forestry/beeH-AD7D3C>

151. The activity would involve disturbance in the landscape. This would result from the installation of Heras fencing (different to the fencing approved as part of the Appeal Decision), the installation of deer proof fencing and then a 2m patrol zone in between these two fences; the installation of a compound close to Coldharbour Lane which would include an office and WC; and then the installation of structures along the western boundary of the Appeal Decision site. The structures to be placed along the western boundary would be on an existing track. The remainders of the structures would be placed on a sparsely wooded area of rough open ground covered by bracken and silver birch trees at various stages of maturity and some mature pine trees. However more recently the protest camp has established on the application site. The proposal would also be a form of enclosure around the exploratory wellsite.

Visual Impact

152. The Landscape Institute and IEMA¹⁷ “Guidelines for Landscape and Visual Impact Assessment”, 3rd edition, states that an assessment of visual effects deals with the effects of change and development on the views available to people and their visual amenity. The concern is with assessing how the surroundings of individuals or groups of people may be specifically affected by changes in the content and character of views as a result of the change or introduction of new elements in the landscape. The Guidelines outline that in carrying out this assessment the area in which the development may be visible, the different groups of people who may experience views of the development, viewpoints and the nature of the views should be established. Following this the likely visual effects should be identified and a judgement is made as to the susceptibility of the visual receptor to change, the value of the particular view, the duration of the visual effect, the reversibility of the visual effect and the scale of the visual effect should be combined to assess the significance of the visual effect such that mitigation measures can be identified (if required) and a final statement of the likely significant visual effects can be made.
153. The proposed site is located within an extensive area of woodland that includes much of Abinger Forest, Wotton Common and Abinger Common, and is enclosed by woodland on all sides. The application site is found within an area of Forestry Commission managed plantation woodland. As outlined above, there are no definitive rights of way within or adjoining the application site but there are informal trails due to the land being Open Access Land. As such views from those paths can be gained of the application site. Views from Coldharbour Lane can be gained of the access track which leads to the wellsite area.
154. With regards to short distance views, during the construction phase the LVIA notes the installing of the fencing and welfare facilities would be at the commencement of the exploratory well activities and as such the increase in magnitude of change arising from this development on the tracks immediately surrounding the site would be negligible to minor adverse significance. With regards to the operational phase, the LVIA states that whilst the fencing and welfare facilities would increase the components associated with the exploratory wellsite visible in the immediate locality of the site, the increase in magnitude of change arising from the fencing and welfare facilities would be of negligible to minor adverse significance. With regards to the decommissioning phase, the fencing and welfare facilities would be removed upon decommissioning of the site having an impact which is similar to the construction phase in terms of visual impact.
155. In terms of visual impact of the fencing on Coldharbour Lane, the LVIA notes there would be an adverse impact on this location. However the majority of views obtained from Coldharbour Lane are transient being experienced by moving receptors.

¹⁷ Institute of Environmental Management and Auditing

156. With regards to distant views, all of the structures proposed are single storey and would be below the surrounding tree line. The Heras fencing and deer proof fencing would also be below the tree line. Furthermore whilst the deer proof fencing would be taller than the permitted post and wire fence which formed part of the development permitted by the Appeal Decision, deer proof fencing is not out of keeping with areas of forestry given it is used by the Forestry Commission for the protection of saplings to help their establishment and protection. Officers consider that given all of the structures would be below the tree line of the surrounding trees and the wider wooded landscape, that the proposal would not have a significant adverse impact on the wider, long distance views towards the application site as can be seen by the attached photograph.
157. The County Landscape Architect has reviewed the LVIA with regards to this application and has commented that, with regards to visual impact of the fencing and welfare facilities, this application is a subsidiary development of a much smaller scale, which will be seen as part of the general paraphernalia of the drilling rig and hydrocarbon development. The County Landscape Architect is of the opinion that the fencing and welfare facilities when observed against the greater level of harm of the drilling rig and hydrocarbon development, which is already established by the Inspector, the additional visual impact caused by the fencing and welfare facilities would be minor to negligible.
158. Officers consider that those walking in the vicinity of the application site on the access land including the paths described as 'customary rights of way' and those driving on Coldharbour Lane may experience some visual impact. The Planning Inspector recognised this impact in paragraph 41 of the Appeal Decision. However whilst Officers consider that the visual impact from the fencing and welfare facilities in the immediate vicinity would have a minor to negligible impact and be out of keeping with the surroundings the application site is set in, Officers consider that this impact is outweighed by the short term nature of the proposal and that the application site would be restored back to a forestry use on cessation of the exploratory activities. Officers also consider this to be the case when considering the development when taken in combination with the exploratory wellsite development.

Impact on Landscape Character

159. 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.
160. The application site is located within the Wooded Greensand Hills Landscape Character Area GW9 'Leith Hill to Bury Hill Wooded Greensand Hills'. The Surrey Landscape Character Assessment (LCA) describes GW9 as a continuation of an extensive stretch of wooded greensand hills to the east of Shamley Green. The character area extends northward to meet the Tillingbourne and Pipp Brook Greensand Valley to the north, and is defined along its southern and western edges by the edge of the underlying greensand geology. The LCA goes on to say the boundary largely follows woodland edges but elsewhere follows recognisable features such as roads and field boundaries and it is within the Surrey Hills AONB.
161. The LCA sets out key characteristics for GW9 and these include the following:
- Complex topography of ridges and valleys, with high points including the prominent Leith Hill in the south-western part of the character area. Descends to meet the low weald to the south and east.
 - a series of local valleys in the northern part of the character area, centred on water courses, including the upper reaches of the Tillingbourne and the Pipp Brook, which flow towards the broader Greensand Valley to the north

- Consists predominately of extensive tracts of woodland, including large areas of ancient woodland, mixed plantation, wooded valley sides, common land and small areas of remnant parkland
 - Extensive tree cover results in an enclosed, secluded character area with limited long distance views from the majority of the area. However, high vantage points, particularly towards the south of the character area, such as at Leith Hill Tower, provide panoramic views over the surrounding landscape.
 - A number of roads and rural lanes, cross the character area. Routes are enclosed and overhung by the surrounding tree cover, resulting in dark tunnels through the woodland. Winding lanes are often sunken with steep deep sided verges and exposed tree roots
 - Access to significant areas of woodland is limited to tracks and paths. However, the public rights of way network, including a long section of the Greensand Way Recreational Path, is extensive, and links to a number of car parks, picnic areas and public houses. Large tracts of the character area are Open Access Land.
 - A rural landscape, with woodland providing a deep sense of remoteness and tranquillity, occasionally tempered by recreational activity, such as at Leith Hill
162. The Mole Valley Landscape Supplementary Landscape Document (SPD) 2013 sets out a Landscape Character Assessment for Mole Valley pursuant to the commitment contained in the Core Strategy (policy CS13). In doing so the SPD recognises that some areas of Mole Valley that are of a higher landscape quality than others. However, the mosaic of different landscape forms, each with its own character, combines to create an environment that is highly valued by those who live, work and spend their leisure time within Mole Valley. The SPD attaches great weight to protection of the AONB and AGLV with regards to development proposals. The SPD places the application site within the Wealden Greensand which outlines that the area has extensive areas of woodland both ancient and mixed including coniferous plantation making it one of the most densely wooded parts of Surrey. The SPD sets out a number of key issues and those relevant to this proposal include: past planting of coniferous woodland in ancient woodland has altered the character of these important features, preserving the peace and tranquillity which exist in the least developed areas; and recreational pressures at key locations such as Leith Hills.
163. The SPD also outlines a character profile for Leith Hills Greensand recognising the dense woodland, valleys having steep wooded sides and open valley floors, conifer plantations emphasising the slope, long distance views across the Weald and to the North Downs being common, network of winding lanes including distinctive sunken lanes with high banks and exposed tree roots, extensive network of rights of way; and high level of peace and tranquillity.
164. The Landscape Institute Guidelines (the 'Guidelines') (as referred to in full above) outlines that an assessment of landscape effects deals with the effects of change and development on landscape as a resource and how a proposal will affect the elements that make up the landscape and its distinctive character. The Guidelines outline that in carrying out an LVIA it should identify elements and features of the landscape along with its character and key characteristics. In judging the likely significant landscape effects of a proposal, an assessment should be undertaken to judge the susceptibility of the landscape receptor to change, judge the value attached to the landscape character, judge the scale of the landscape effect, judge the duration of the landscape effect; and judge the reversibility of the effect.
165. The proposal would involve the installation of 3m high deer proof fencing and 2m high Heras fencing. The security fencing proposed as part of the Appeal application included up to 2m high post and wire fencing around the perimeter of the hydrocarbon exploratory wellsite and the access track. However it is recognised that Heras fencing visually looks different and can be perceived as being more industrial in its appearance. The proposal would also include a compound area and the installation of welfare facilities/ structures for the security personnel.

166. The LVIA with regards to landscape character for the construction and decommissioning phases recognises that the installation of the fencing and welfare facilities would be visual detractors within a rural setting and that this phase would generate traffic movements. However these would be no more of a detractor than the construction activity associated with the hydrocarbon exploratory wellsite. With regards to the operational phase, again it is recognised that the fencing and welfare facilities and compound area would be features in the landscape that would not normally be present on their own. However, as the LVIA discusses, the rig would be present at full height for the duration of the operational phase such that the effect of the fencing and welfare facilities, when seen in that context, would be of minor adverse significance. The LVIA recognises that for this particular development the activities proposed would be below the tree line and would not exert an impact on the wider landscape character. With regards to the immediate landscape character whilst the fencing, and welfare facilities and compound area would be noticeable, the LVIA outlines that given the temporary and short term effects of the operation the proposal would result in a negligible to minor adverse significance of effect on the immediate landscape character.
167. The County Landscape Architect (CLA) reviewed the proposal and agreed with the landscape and visual impact information provided by the LVIA and raises no objection to the proposal provided the installations are removed at the end of the 18 weeks. The CLA has balanced this opinion against the very temporary nature of the development proposal. With regards to the fence coming up to Coldharbour Lane in view of the temporary period of this intrusion, and its subsidiary nature to the main development, the CLA comments the visual and landscape impact would be minor in this context. The impact of the proposed development is mitigated by its subsidiary nature and the fact that the fencing would be there only for the same temporary period of 18 weeks. As such there is no landscape objection to this proposal. The CLA also comments that the deer proof fencing is appropriate in this location given it is used to protect saplings from deer grazing as part of the Forestry Commission planting programme.
168. Officers recognise that the proposal would bring on to the application site fencing, welfare facilities and a compound area that would not normally be present in this locality and would be incongruous in their nature. However these elements are being proposed as an additional component to the hydrocarbon exploratory wellsite. Given the limited height of the proposal (the maximum height of the proposal items would be the deer proof fencing at some 3m) would all be below the surrounding tree line, Officers do not consider the proposal would significantly adversely affect the wider landscape character of the area. Officers recognise that the proposal would cause a localised minor impact to the immediate landscape character by its presence however Officers are aware that this impact would be limited to the 18 week duration and would be wholly reversible.

Area of Outstanding Natural Beauty (AONB)

169. The application area is on level land surrounded by woodland within an area designated as both Area of Outstanding Natural Beauty (AONB) an Area of Great Landscape Value (AGLV). The prime purpose of the AONB designation is to conserve and enhance the natural beauty of the designated area. The Surrey Hills AONB was one of the first AONBs to be designated back in 1958. When its exercising its function in determining this planning application the Council is under a duty to have regard to the purpose of conserving and enhancing the natural beauty of the of the AONB (section 85(1) Countryside and Rights of Way Act 2000).
170. Paragraph 116 of the NPPF states that planning permission should be refused for major developments within an AONB except in exceptional circumstances and where it can be demonstrated to be in the public interest. The NPPF at paragraph 115 states that great weight should be given to conserving landscape and scenic beauty within AONBs which

“have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and heritage are important considerations in all these areas”. 13 letters of representation have cited this reference and how this proposal would contradict this policy.

171. The Surrey Minerals Plan 2011 recognises the importance of the Surrey Hills AONB. Policy MC2 states:
- Mineral development that may have direct or indirect significant adverse impacts on an Area of Outstanding Natural Beauty, a Site of Special Scientific Interest, or nationally important heritage assets, including scheduled ancient monuments, listed buildings and registered parks and gardens, will be permitted only if
- i) it has been demonstrated to be in the public interest, and
 - ii) the applicant can establish that development and restoration can be carried out to the highest standard and in a manner consistent with safeguarding the specific relevant interests.
172. Paragraph 3.31 of the Surrey Minerals Plan recognises that the Surrey Hills AONB is part of the framework of nationally important parts of the countryside and the primary purpose of the designation is to conserve and enhance natural beauty. This not only refers to what the landscape looks like but also includes the features, habitats and heritage that contribute to the distinctiveness of the area. The paragraph goes on to state that public bodies have a duty to take account of the need to conserve and enhance natural beauty of landscapes designated as AONBs. The paragraph then goes on to state that major mineral development within these designated areas will be subject to the rigorous examination in accordance with the public interest test set out in [what was]MPS1.
173. Para 3.33 outlines that it is not just the designated Surrey Hills area but also its setting that should be safeguarded, parts of which are designed as AGLV, such as the application site. the paragraph goes on to state that *“its topography provides a number of significant viewpoints over both the Weald to the south and the London Basin to the north [...] and the use of viewpoints and the landscape character within areas visible from such viewpoints either in the AONB or beyond should be conserved and managed”*.
174. Para 3.35 outlines that potential hydrocarbon resources lies beneath parts of the Surrey Hills AONB designated area. Policy MC2 states that mineral development that may have direct or indirect significant adverse impacts on an AONB will be permitted only if:
- i) It has been demonstrated to be in the public interest, and
 - ii) The applicant can establish that development and restoration can be carried out to the highest standard and in a manner consistent with safeguarding the specific relevant interests.
175. Mole Valley Core Strategy 2009 outlines that over a third of the district is covered by the Surrey Hills AONB and the Surrey Hills is a landscape of national importance. Policy CS13 point 2 states that the Surrey Hills AONB is of national significant, and as such, *“the conservation of the natural beauty of the landscape will be a priority in this area”* and will be protected in accordance with the Surrey Hills Management Plan, with *“particular focus on the impact of development on ridgelines, significant views, peace, tranquillity and levels of artificial light”*. Point 3 refers to the protection of the AGLV and its retention until such time as there has been a review of the AONB boundary and that development in the AGLV will be required to be supported by evidence to demonstrate that it would not result in harm to the AONB, particularly views from and into the AONB.
176. As the application area lies within the Surrey Hills AONB it is covered by the Surrey Hills AONB Management Plan which is a material planning consideration. The Surrey Hills AONB Management Plan 2014-2019 sets out a number of policies to guide development

within the Surrey Hills AONB. The following policies are of relevance to this application. Policy LU1 states that *“In balancing different considerations associated with determining planning applications and development plan land allocations, great weight will be attached to any adverse impact that a development proposal would have on the amenity, landscape and scenic beauty of the AONB”*. Policy LU2 outlines that *“Development will respect the special landscape character of the locality, giving particular attention to potential impacts on ridgelines, public views, tranquillity and light pollution”*. Policy LU2 goes on to outline that the proposed use and colour of external building materials will be strictly controlled however this is with reference to buildings.

177. Policy LU3 seeks high quality design of development proposals in respecting local distinctiveness and being complementary in form and scale with their surroundings and taking opportunities to enhance their setting. Policy LU5 states that *“Development that would spoil the setting of the AONB, by harming public views into or from the AONB, will be resisted”*.
178. National policy set out in the NPPF para 109 looks to the planning system to contribute and enhance the natural and local environment by protecting and enhancing valued landscapes. Paragraph 115 awards the highest level of protection to valued landscapes including AONBs. The NPPF states at paragraph 116 that planning permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated they are in the public interest. The paragraph goes on to state consideration of planning applications within the AONB should include an assessment of the following:
- i) The need for the development including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy
 - ii) The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
 - iii) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Whether the proposal constitutes major development within the terms espoused by the NPPF for AONBs

179. As the Inspector set out in the appeal decision, owing to the construction of the AONB policies outlined above, it is important to establish if the appeal scheme constitutes major development in the terms that would trigger paragraph 116 of the NPPF. 74 letters of representation have been received on this matter stating that as the site is now greater than 1ha it should be considered as major development for the purposes of the AONB. LHAG also state this point.
180. “Major development” has *not* been defined in policy (neither in PPS7 nor the NPPF) and the Courts have rejected the view that “major development” for the purposes of the policy had the meaning ascribed to the phrase “major development” in the Town and Country Planning (Development Management Procedure) Order 2015 (“the Order”) or its predecessors¹⁸: Assessing whether a proposed development is a ‘major’ development is a matter of judgement based on all the circumstances and context. .
181. The draft revised NPPF (at paragraph 170) carries forward the policy on AONB. In the draft NPPF ‘major development’ is defined as:

Major development: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m² or more, or a site of 1 hectare or

¹⁸ see **Aston v Secretary of State for Communities and Local Government** [2013] EWH 1936 (Admin) per Wyn Williams J at paragraphs 91-95 and **R (on the application of Forge Field Society) v Sevenoaks DC** [2014] EWHC 1895 (Admin) per Lindblom J at paragraph 69

more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

182. If the figure of 1 ha as set out in the definition of 'major development' in Town and Country Planning (Development Management Procedure) (England) Order 2015 SI 595 ("the DMPO") were to be adopted, this proposal both individually and in combination with the hydrocarbon exploratory wellsite falls beneath that figure. However, as outlined above, the Courts have held that the words 'major development' in paragraph 116 of the NPPF are not to be interpreted using the definition in the DMPO.
183. In following the discussion and approach taken by the Planning Inspector for Appeal Decision APP/B3600/A/11/2166561 (in particular at paragraphs 30-34), Officers in interpreting the words 'major development' in the NPPF in context, when taking into account the duration of the development proposed and the context to which the fence, welfare facilities and compound area would be located, do not consider the proposal to be 'major' development for the purposes of applying paragraph 116 of the NPPF.
184. However if Officers were to work on the assumption this is major development, the following assessment has been carried out for the purposes of paragraph 116.

The need for the development including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy.

185. The applicant has set out there is a need for the fencing to provide additional security measures for the hydrocarbon site where the national need for the hydrocarbon mineral has been established. The additional security is needed for health and safety purposes to protect both the site and members of the public. Other hydrocarbon drillsites are adopting the practice of a double row of fencing as both a security and health and safety measure. The Inspector stated at para 105 of the appeal decision that "the EA believes that the initial proposals for the fence surrounding the site may need to be reviewed to ensure that there is adequate site security". Given there is a proven national need for the hydrocarbon and that the site should have site security for health and safety reasons, Officers are satisfied there is a need for the fencing, welfare facilities and compound area which are seen together as providing the necessary site security.
186. With regards to the local economy, the additional security staff would bring minor benefit to the local economy such as petrol stations, local shops and other services. However this maybe offset by a reduction in visitors to this part of the AONB and Leith Hill who may be deterred from visiting. Officers consider taking these into account the impact is neutral.

The cost of, and scope for developing elsewhere outside the designated area, or meeting the need for it in some other way; and

187. As the application is inextricably linked to the hydrocarbon development, there is no scope for placing the fence outside the AONB as its purpose is to provide security of the hydrocarbon site. The appeal decision deals with the need for the hydrocarbon wellsite to be in the AONB. The Inspector highlighted that it was likely the fencing would have to be reviewed due to the Environment Agency's concern regarding security. The exploratory wellsite is limited in size. Security measures are required to be 24 hours a day to ensure the security of the site. When the 18 week programme commences, due to the limited size and level of site activity, for security personnel to patrol the site productively the additional fencing is necessary.

Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

188. Officers have assessed the effects of the proposal in terms of the environment including lighting, noise, traffic, biodiversity and ecology; and pollution and have, in consultation with statutory consultees, found no detrimental effect on these environmental considerations. In assessing the landscape, the County Landscape Architect commented that the proposal is much smaller scale when seen as part of the exploratory wellsite and when seen against the exploratory wellsite the additional impact by the fencing and welfare facilities would be minor to negligible. The County Landscape Architect also commented about the landscape impact in terms of the fencing going up to Coldharbour Lane and commented that in view of the temporary period of this intrusion the landscape impact would be minor.
189. There are no rights of way across the site however there are tracks/ paths that do cross the application site and the application site is in an area designated as Open Access Area under the CROW Act. Therefore whilst the proposal is in place it would have an adverse effect on recreational opportunities of using this particular part of the AONB.

Conclusion on paragraph 116 of the NPPF

190. In terms of the proposal's impact on the landscape and natural beauty of the AONB and on the public appreciation and enjoyment of it, the proposal would impact upon these as the development proposal would not be in keeping with the AONB characteristics. Furthermore whilst Officers recognise that the proposal would impact the recreational opportunities in this immediate area of the AONB this would be for a limited and short duration of 18 weeks which includes a period of restoration and reinstatement of the land. By allowing the wellsite to remain secure during this 18 week programme, this will minimise disruption from protest activity so that the development can be carried out within the planned 18 weeks and not have to be extended because of the disruption. Keeping to the 18 week period is important to the AONB. When in taking in to account the matters above, Officers consider the proposal is in the public interest to provide health and safety safeguards whilst the 18 week hydrocarbon wellsite programme takes place. Officers also consider taking into account the matters above that they would constitute exceptional circumstances for the purposes of para 116 of the NPPF.

Whether the proposal meets the requirements of the Development Plan.

191. With regards to Policy MC2 of the SMLP2011 Officers consider the proposal would have a direct adverse impact on the AONB given the Heras fencing, compound and welfare facilities would be in discordance with the character of the AONB and area. Deer proof fencing is used in settings such as the AONB by the Forestry Commission for protection of saplings so would not be out of keeping. Where a significant adverse impact is acknowledged on an AONB, the proposal can only be permitted if the two criteria set out in the policy are satisfied. Whilst Officers consider that there is a direct adverse impact, it is not considered to be significant in the terms of Policy MC2, given the 18 week limited duration and its total reversibility. Officers have however assessed the proposal in accordance with the two criteria in the policy to ensure that, even if the impact was to be considered significant, the analysis is robust.
192. With regards to criteria (i), Officers have assessed whether the proposal demonstrates that it is in the public interest above as part of the assessment required for para 116. Officers consider given the need for the proposal to provide security measures to ensure the health and safety of the wellsite and members of the public as part of a hydrocarbon wellsite to which the national need has been proven, demonstrates the proposal to be in the public interest.
193. With regards to criteria (ii) the applicant has an approved restoration scheme for the hydrocarbon wellsite to return the wellsite to forestry use. This application contains a condition requiring restoration of this application area to also be restored in the same manner and for care to be taken when removing the posts of the deer proof fencing. The

applicant has provided details that of how the deer proof fencing would be installed with care to safeguard any tree roots and that ecological checks will be carried out. The small compound area would be laid with a geotextile membrane to ensure protection to the underlying ground. The generator fuel cell has its own bunded containment to 110% capacity to ensure protection from the environment and the applicant outlines that spill mats would be kept adjacent for when the fuel cell is to be refuelled. These are all standard procedures at hydrocarbon wellsites. The applicant has confirmed no trees are to be removed for the installation of the fencing, welfare facilities or compound. The applicant has provided this information to demonstrate the development can be carried out to the highest standards and in a manner consistent with safeguarding the specific relevant interests. Given this Officers are satisfied the proposal meets the requirements of Policy MC2.

194. With regards to Policy CS13 in the MVCS2009 the proposal would not be contrary to the policy as the conservation of the AONB can be preserved given the temporary and reversible nature of the proposal. The proposal would not impact on ridgelines or significant views and would not introduce artificial levels of lighting. The proposal may have a localised, short-term minor impact on the peace and tranquillity of the AONB but this is entirely reversible. Policy CS13 refers to the objectives in PPS7 but this has been superseded by the NPPF.

Conclusion on landscape character, visual impact and AONB

195. Officers consider given the context of the proposal based on case law that the proposal would not constitute major development for the purposes of para 116 of the NPPF. However, were it to be identified that the proposal were major development, Officers have carried out an assessment which when taking the factors into account amounts to there being exceptional circumstances for the proposal and for it to be in the public interest. Officers consider that the proposal complies with the NPPF and, having given great weight to conserving the landscape and scenic beauty in the AONB, consider on balance that the development should be permitted.
196. The impact of the proposal on landscape character and visual impact is considered by officers to be negligible to minor, with a minor impact along Coldharbour Lane. In view of the short-term and entirely reversible nature of the proposal, Officers consider the proposal meets the requirements of Policies MC2 and MC14 of the SMLP2011, Policy CS 13 if the MVCS2009 and therefore complies with the requirements of the Development Plan.

GREEN BELT

Surrey Minerals Plan 2011

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

Mole Valley Core Strategy 2009

Policy CS1 – Where will development be directed (A Spatial Strategy)

197. The proposal would form the boundary around the development permitted by the extant planning permission. This planning application would not be proposed in this location were it not for the exploratory hydrocarbon wellsite having planning permission therefore it is inextricably linked and incidental to the exploratory wellsite itself. The two developments will be visually and functionally indistinguishable. The current proposal as submitted is freestanding and is to be determined on its own merits. Representations received have commented that the proposal would be inappropriate development in the Green Belt causing industrialisation (50 reps).
198. The application site falls within the Metropolitan Green Belt where policies of restraint apply. National planning policy with regards to Green Belt is set out within the NPPF which states at paragraph 79 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 80 goes on to state that Green Belt serves five purposes. These are:

- To check unrestricted sprawl of large built-up areas
- To prevent neighbouring towns merging into one another
- To assist in safeguarding the countryside from encroachment
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration

The most relevant purpose for this planning application is to assist in safeguarding the countryside from encroachment.

199. Green Belt policy seeks to protect Green Belt land from inappropriate development. The NPPF states at paragraph 87 that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". The NPPF requires at paragraph 88 "*that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations*".
200. Paragraph 90 of the NPPF sets out "*certain forms of development [...] are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt*". One of these forms of development is mineral extraction.
201. The Surrey Minerals Plan recognises that almost all workable mineral deposits in Surrey are within the Metropolitan Green Belt (MGB) and (at paragraph 3.45) states that mineral extraction need not be inappropriate development in Green Belt as it is a temporary operation that can be carried out without compromising openness. Para 3.46 states that "*proposals for other forms of mineral development within the MGB will need to identify very special circumstances sufficient to outweigh any potential harm to the Green Belt or the reasons for keeping it open*". 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. The policy goes on to state proposals in the Green Belt for mineral development, other than extraction and primary treatment, will only be permitted where the applicant has demonstrated that very special circumstances exist to outweigh the harm by reason of its inappropriateness and any other harm.
202. MVCS2009 Policy CS1 criteria 3 states that in the countryside development will be considered in the light of other policies within the Core Strategy and the provisions of what as PPG2 and PPS7 have now been subsumed into the NPPF. Green Belt policy in the MVLP2000 has been superseded by the Core Strategy.
203. In the High Court judgment in ***Europa Oil and Gas v. Secretary of State***¹⁹ the court held that the phrase 'mineral extraction' as it appears in the NPPF is not synonymous with and exclusively confined to "production", but also covers the inevitable precursor steps of exploration and appraisal where they are necessary, and that the exploratory well site proposed by the applicant to drill for and remove a testing sample of any hydrocarbons found fits comfortably within the concept of extraction.
204. The development proposed in this application forms part of the exploratory well-site and is therefore to be considered to be an inevitable precursor step, falling within the meaning of the words 'mineral extraction' as they appear in the NPPF and in Minerals Core Strategy policy MC3.

¹⁹ [2013] EWHC 2643 (Admin) at paragraphs 43-47, upheld in the Court of Appeal at [2014] EWCA Civ 825 in particular at paragraphs 24 and 32

205. Paragraph 90 of the NPPF states that mineral extraction in the Green Belt is not inappropriate provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt.

206. In the High Court judgment in *Europa Oil and Gas v. Secretary of State* the judge stated:

66. Secondly, as Green Belt policies NPPF 89 and 90 demonstrate, considerations of appropriateness, preservation of openness and conflict with Green Belt purposes are not exclusively dependent on the size of building or structures but include their purpose. The same building, as I have said, or two materially similar buildings; one a house and one a sports pavilion, are treated differently in terms of actual or potential appropriateness. The Green Belt may not be harmed necessarily by one but is harmed necessarily by another. The one it is harmed by because of its effect on openness, and the other it is not harmed by because of its effect on openness. These concepts are to be applied, in the light of the nature of a particular type of development.

67. One factor which affects appropriateness, the preservation of openness and conflict with Green Belt purposes, is the duration of development and the reversibility of its effects. Those are of particular importance to the thinking which makes mineral extraction potentially appropriate in the Green Belt. Another is the fact that extraction, including exploration, can only take place where those operations achieve what is required in relation to the minerals.²⁰

207. In the decision letter for the Appeal Decision APP/B3600/A/11/2166561 the Planning Inspector held that the exploratory well site was not inappropriate development. In coming to that judgement he took account of the fact that the proposal was for a short term reversible activity (see in particular paragraph 26).

208. As outlined above, Officers consider that the installation of the security fencing and the welfare facilities are inextricably associated with the exploratory works that have planning permission at Bury Hill Wood. It has been established at the appeal for appeal decision APP/B3600/A/11/2166561 that the exploratory phase of oil and gas development proposals fall within the definition of mineral extraction.

209. It is the view of officers that the development proposed forms part of the exploratory well site development and is an inevitable and necessary precursor step to production, forming part of exploration and appraisal, and is therefore to be considered to be mineral extraction for the purposes of applying the policy in paragraph 90 of the NPPF and in MC3 of the Minerals Core Strategy.

Harm and Openness

210. Given that proposal would bring onto site new elements within the Green Belt it is appropriate to assess whether the openness of the Green Belt would be preserved and whether there would be conflict with the purposes of including land in Green Belt. The purposes of the Green Belt are described above and of the five purposes the one directly relevant to this application would be to assist in safeguarding the countryside from encroachment.

211. The concept of openness has been the subject of a number of court judgements in recent times. The most recent case law from the Court of Appeal (*Samuel Smith Old Brewery(Tadcaster) vs North Yorkshire County Council* (2018) EWCA Civ 489)

²⁰ [2013] EWHC 2643 (Admin) at paragraphs 66 and 67, upheld in the Court of Appeal [2014] EWCA Civ 825

indicates that *different factors are capable of being relevant to the concept when it is applied to the facts of a particular case. Visual impact as well as spatial impact is...implicitly part of it.*²¹ The County Landscape Architect has already reviewed the proposal and concludes that there will be a visual impact. Consideration of openness in this case should therefore include spatial and visual impacts. **Smith vs North Yorkshire** also makes it clear that *whether development would “preserve” the openness of the Green Belt cannot mean that a proposal can only be regarded as “not inappropriate in the Green Belt” if the openness of the Green Belt would be left entirely unchanged. It can only sensibly mean that the effects on openness must not be harmful – understanding the verb “preserve” in the sense of “keep safe from harm” – rather than “maintain (a state of things)”.*²²

Case law has also established that the decision as to whether a development harms openness or not is a matter of planning judgement.

212. The proposal would result in the erection of the following structures that would impact upon the openness of the Green Belt:
- Some 440m in length of 2m high Heras fencing following the line of the post and wire fence which formed part of the Appeal Decision
 - Some 595m in length of 3m high deer proof fencing,
 - Two accommodation cabins both 16.25m²
 - One office/ canteen 16.25m²
 - Two water tanks both 3m²
 - A fuel cell
 - A generator 3m²
 - An office 7.5m² and WC within a new compound area adjacent to the access track of some 27m²
213. This would bring onto land at Bury Hill Wood structures amounting to approximately 67.5m² in surface area. The proposed compound area is approximately 94.5m² in surface area. There would also be the fencing line as outlined above alongside the patrol zone between the fencing. This would be in addition to the structures permitted in the appeal decision²³. It should be noted that the cabins, canteen, office, WC, generator and fuel cell would be of a similar height and massing to those temporary buildings permitted by the Appeal Decision.
214. These structures will have an impact on the openness of the Green Belt for a temporary period of 18 weeks.
215. The impact on the openness of the Green Belt must be considered in the context of the temporary duration of the development and the end point of the proposal, a well-restored site. The potential for natural gas and oil extraction remains a possibility and so is a material planning consideration but the application under consideration will make no permanent change to the openness of the Green Belt as the development, both in isolation and in combination, is short term and reversible.
216. With regards to the five purposes set out in para 80 of the NPPF, Officers consider the encroachment would be limited given the limited surface area of the development, its temporary nature and its removal either during the decommissioning phase or on completion of the restoration of the site. Then the site would be restored to forestry.
217. With regards to the impact on the visual amenities of the Green Belt, Officers recognise there will be an impact during the 18 week operational period. However, as outlined in

²¹ [2018] EWCA Civ 489 at paragraph 37

²² [2018] EWCA Civ 489 at paragraph 39

²³ Structures permitted as part of the Appeal Decision included: four cabins, a shower unit, a mess, a tool pusher container, two generators, one mix tank, two mud tanks, one fuel; and two containers for sensors.

the discussion above, this impact is short term and reversible such that the impact would not have a permanent spatial or visual impact on the Green Belt.

218. With regards to restoration where wooden posts have been inserted for the fencing these would be backfilled with the soils that would have been displaced to insert the posts. The cabins, canteen, generator and fuel cell would be placed on an access track which will not require any materials laid down in advance therefore no works would be required on their removal.

Conclusion on Green Belt

219. This proposal is considered by Officers to be a necessary and integral part of the approved hydrocarbon exploration at the site. It is therefore essential that it does not cause harm to openness and does not conflict with the purposes of including land in the Green Belt in order to comply with the NPPF. Policy MC3 of the SMLP2011 requires that the land is restored to a beneficial after-use consistent with Green Belt objectives.
220. Whilst there would be some impact on the openness and visual amenities of the Green Belt and one of the five purposes listed in para 80 of the NPPF during the 18 week period, given the short term and reversible nature of the proposal and that the application site would be returned to woodland as part of the restoration scheme, Officers consider that the effects on openness are not harmful and that the proposal preserves the openness of the Green Belt including its spatial and visual aspects, and would not conflict with the purposes of including land in the Green Belt and that the proposed development is therefore not inappropriate development in the Green Belt. The proposal therefore complies with the requirements of the NPPF and Policy MC3 of the SMLP2011.

HUMAN RIGHTS IMPLICATIONS

221. 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.
222. In the case of this application it is recognised that there would be a short term adverse impact in terms of visual disturbance and the openness of the Green Belt during the retention of the fence and welfare facilities and this has been acknowledged and discussed within the report.
223. The 28 traffic movements will be in addition to the existing number of traffic movements for the exploratory wellsite however this is to be managed by a Construction Traffic Management Plan. It is acknowledged that the traffic movements would inevitably cause disruption and some delay to local residents over the temporary period it would be operational. These issues have been discussed within the report and given the scale and temporary nature of the impacts they are not considered sufficient to interfere with the right to private and family life, and or homes, and not sufficient to interfere with peaceful enjoyment of possessions so as to engage Article 8 or Article 1 of The First Protocol. Alternatively, if considered to interfere with such rights the interference is necessary in a democratic society in the interests of the economic well-being of the country and in the public interest. With the exception of the road closures already dealt with by the planning appeal decision, potential impacts of the development can be mitigated by planning conditions. As such, this proposal is not considered to interfere with any Convention right.

CONCLUSION

224. The Development Plan for the purposes of this planning application consists of the Surrey Minerals Local Plan 2011 (SMP2011), the Mole Valley Local Plan 2000

(MVL2000), the Mole Valley District Core Strategy 2009 (MVCS2009) and the Capel Parish Council Neighbourhood Plan (November 2017) (CPNP2017). Officers consider that the proposal as a whole meets the requirements of the Development Plan and also other material considerations including the NPPF.

225. The proposal is to erect 2m high Heras fencing and 3m high deer proof fencing so that together, with a 2m wide patrol zone in between, they can form security fencing for the already permitted exploratory hydrocarbon wellsite which was granted on appeal in August 2015. To allow security personnel to be on site for patrol 24 hours a day/ 7 days a week the proposal also includes the provision of welfare facilities i.e. cabins and a canteen with a generator for these. As the proposal involves the fencing going up to 1m of the public highway and then a gate across the entrance to the access track, the proposal also includes a site office, and WC, approximately 20m from Coldharbour Lane at the site entrance to monitor vehicles arriving/ leaving the site. All of the proposal is for a limited period of 18 weeks duration and would be brought on to site at the commencement of the development permitted on appeal (Appeal Decision ref: APP/B3600/A/11/2166561) and would be removed as part of the decommissioning and restoration phase. An Environmental Statement and Environmental Statement Addendum have been submitted for this application with the only technical chapter being Landscape and Visual Impact.
226. The applicant has stated there is a need for the additional fencing around the exploratory hydrocarbon wellsite due to a change in circumstances since the exploratory hydrocarbon well site was discussed at appeal during 2015 and since the issuing of the Appeal Decision in August 2015. The change in circumstances is the increased prevalence of protest camps being established around conventional and unconventional hydrocarbon wellsites and of most relevance a protest camp established opposite the site entrance on Coldharbour Lane. The applicant states the fence is necessary to ensure health and safety is maintained at the exploratory well site for site contractors/ staff and the protestors. The presence of the fence should assist in the exploratory hydrocarbon wellsite programme keeping to the 18 week period which is important to the AONB. Officers recognise that the proposal would result in a further area of development at land at Bury Hill Wood of 0.2ha. Officers are satisfied that there is a need for fencing to be erected.
227. Officers consider that the proposal is for mineral extraction and that it preserves openness and does not conflict with the purposes of including land in Green Belt and is not inappropriate development in the Green Belt. Officers recognise that there would be very limited impact on the visual amenities of the Green Belt and encroachment whilst the fence and welfare facilities are in place and that the proposal would result in further development in the Green Belt. However this development would be short term and reversible, as such Officers consider that given this temporary impact, the openness of the Green Belt is preserved and the proposal would not conflict with the purposes of including land in the Green Belt; and as such, it would not be inappropriate development.
228. Officers consider that given that all the proposed elements would be below the surrounding tree line the proposal would not cause significant adverse harm to the wider landscape character of the area or long-distance visual impact. Officers recognise that there would be some impact on the immediate landscape character and visual amenities. Officers recognise this would be of particular importance to the view of the application site from Coldharbour Lane where the fence line would come within 1m of the public highway and there would be a compound for the office and WC.
229. Officers consider that the proposal would not have any significant adverse impact on the wider landscape character of the locality or distance viewpoints. Officers do recognise that the proposal would cause a short-term, limited impact on the immediate landscape character and visual amenities due to the physical presence of the development including welfare facilities, the fencing (albeit deer proof fencing is used within forestry

settings), and by it being a further area of development around the exploratory wellsite. Officers having reviewed the proposal with regards to the AONB do not consider it to be 'major' development in accordance with the requirements of paragraph 116 of the NPPF. Nevertheless Officers recognise that this proposal would impact on the AONB by its physical presence and the structures being proposed being discordant with the AONBs character. However in assessing this proposal Officers are mindful of the short term and temporary nature of the development and that the site would be restored on decommissioning. Officers consider that, whilst giving great weight to conserving landscape and scenic beauty, the impact on the AONB and immediate landscape character and visual amenities when viewed as a change to the original appeal decision, is clearly outweighed by the short term duration and temporary nature of the proposal alongside the need for the fencing to be in place to ensure that the exploratory wellsite proposal keeps to the 18 week timetable.

230. Officers have also considered the cumulative impact of the proposal with the permitted hydrocarbon development as a material consideration. Officers have considered this on matters of traffic, ecology, air quality, landscape and visual impact, Green Belt, AONB, lighting, noise and rights of way. In doing so, Officers consider that the proposal in combination with the permitted hydrocarbon development would not give rise to any material further impact in addition to that considered at the appeal. As part of this application given the temporary nature of the development and its reversibility all of the proposed elements will be removed after 18 weeks and the land restored.

RECOMMENDATION

The recommendation is to PERMIT subject to the following planning conditions:

It is also recommended that this report is adopted as the reasons for granting planning permission.

Conditions:

Approved Plans

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

4100 F 01 Rev A	Location Plan	April 2016
4100 F 02 Rev D	Site of Application	November 2016
4100 F 03 Rev C	Proposed Access off Coldharbour Lane	November 2016
4100 F 04 Rev C	Proposed Site Layout	April 2016
4100 F 05	Fencing Details	April 2016
4100 F 06	Site Entrance Cabin Details	April 2016
4100 F 07	Security Cabin Details	April 2016
4100 RF 03 Rev A	Tree Felling Plan	January 2017

Displaying Site Notice

- A copy of this decision notice, together with the approved plans and any schemes and/or details subsequently approved pursuant to this permission, shall be kept at the site office at all times and the terms and contents shall be made known to supervising staff on the site.

Duration

- Within 18 weeks from the commencement of the development hereby permitted, all buildings, fencing, the generator, the water and fuel cell; and the ramp connected therewith, on or related to the application site (including any hard surface constructed for any purpose), shall be removed from the application site and the application site shall be

reinstated to a condition suitable for forestry. The application site shall be fully restored in accordance with the detailed restoration scheme in accordance with the details approved under planning approval MO/2016/1752 dated March 2017.

Hours of Construction, Decommissioning and Restoration

- 4. With the exception of emergencies and ingress and egress by relevant HGVs as specified in Condition 15 or the patrolling of security personnel, no external fixed lights shall be illuminated nor shall any operations or activities authorised or required by this permission, take place other than during the hours of:

0700 to 1800 hours on Monday – Friday
 0700 to 1300 hours on Saturday

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

Hours of Operation

- 5. With the exception of emergencies and the patrolling of security personnel, no external fixed lights shall be illuminated nor shall any operations or activities authorised or required by this permission, take place other than during the hours of:

0700 to 1800 hours on Monday – Friday
 0700 to 1300 hours on Saturday

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

Limitations

- 6. Notwithstanding any provision to the contrary under Part 17 (Class A, B, C, L & M) of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent Order,
 - a. 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;
 - b. No waste materials other than materials approved for use in the restoration of the site shall be deposited at the site without the prior written agreement of the County Planning Authority; and
 - c. no fencing other than those permitted by this application shall be installed or erected at the application site

Dust

- 7. No activity hereby permitted shall emit dust beyond the site boundary which could cause harm to residential amenity. If such an emission occurs, action will immediately be taken using all reasonable methods and controls (including suspension of activities), to reduce dust levels to acceptable levels. The development shall be operated strictly in accordance with the scheme to deal with dust management approved under planning approval MO/2016/1009 dated 8 December 2016.

Noise

- 8. The level of noise arising from any operation, plant or machinery on site, at a height of 1.2m above ground level and at least 3.5m from the facade of any residential property or

other noise sensitive building most exposed to noise from the site shall not exceed the limits in the table below:

Activities	Times of day	Noise limit LAeq, 30 min dB
All activities	07:00 – 18:00h daily	45
Any activity	18:00 – 07:00h daily	42

Badgers

9. Prior to the commencement of development and to the completion of installation of the Heras fencing and deer proof fencing, a badger check will be carried out on the application area and exploratory well site area by a qualified ecologist to establish if badgers are present within the application site and exploratory well site. Should evidence of badgers be found, the County Planning Authority shall be notified in writing and a one way gate shall be placed within the deer proof fencing so to allow the badgers to leave the application site.

Lighting

10. No fixed external lighting shall be installed, placed or used within the application site at any time.

Restoration

11. All holes made from the positioning of the wooden posts for the deer proof fencing shall be backfilled with soils that were displaced when inserting the wooden posts and the application site shall be restored in accordance with the details approved under planning approval MO/2016/1752 dated March 2017.

Highways

12. The development hereby permitted shall not commence unless and until the Traffic Management Scheme required under Condition 19 of Appeal Decision ref: APP/B3600/A/11/2166561 dated 7 August 2015 has been approved and implemented.
13. All HGV movements to and from the site shall be in accordance with the Traffic Management Scheme required under Condition 19 of Appeal Decision ref: APP/B3600/A/11/2166561 dated 7 August 2015, including all HGVs accessing and egressing the site accompanied by an escort vehicle
14. All HGVs shall enter the site immediately on arrival at the application site and shall at no time wait or park up on the public highway for the fencing to be removed from the access.
15. No relevant vehicle (i.e. any HGV connected with the development hereby permitted) shall enter or leave the application site other than between the hours of 0930 to 1500 hours Monday to Friday and 0930 to 1300 hours on Saturdays; no relevant vehicles shall enter or leave the site at any time on Sundays, Bank or National Holidays.
16. The Heras fencing as shown on plan 4100 F 03 Rev C shall be positioned at least 1 metre from the carriageway edge and the feet of the Heras fencing shall not extend closer than 450mm to the nearside carriageway edge. Once erected the fencing shall be provided in accordance with the above requirements throughout its use and to the satisfaction of the Highway Authority.

17. The Heras fencing as shown on plan 4100 F 03 Rev C shall, along the carriageway edge of Coldharbour Lane and for the first 1.5m extending into the site, be kept permanently clear of any signage, banners, or other fixings between a height of 0.6m-2.0m.
18. The width of the gates within the Heras fencing as shown on plan 4100 F 03 Rev C shall be provided such that they can safely accommodate the inbound and corresponding outbound movement of cars and light goods vehicles.
19. Reflective banding/plates shall be located on the leading edges of the Heras fencing as shown on plan 4100 F 03 Rev C facing northbound and southbound traffic, (whilst remaining in compliance with Condition 17 above).

Wheel Cleaning

20. The application site shall operate in accordance with the wheel cleaning details as approved under planning approval ref: MO/2016/1009 dated 8 December 2016.

In cab cameras/ CCTV

21. All relevant vehicles (as defined in Condition 15) shall be fitted with a camera or CCTV within the cab. This feature shall be fitted to give a forward view from the cab and capable of covering the width of the carriageway and immediate highway verges/ banks. The cameras shall be running at all times the relevant vehicles are traversing the route of Knoll Road and Coldharbour Lane in either direction. The film/ tapes shall be retained without deletion of content in accordance with the details as approved by planning approval ref: MO/2016/1009 dated 8 December 2016.

Japanese Knotweed

22. The Japanese Knotweed as shown on plan 4100 RF 03 rev A Tree Felling Plan January 2017 shall be sprayed with appropriate herbicide within the first available spraying season from the date of this decision and shall continue to be sprayed during that season and then any subsequent seasons for the duration of the development hereby permitted.

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 that site operatives are conversant with the terms of the planning permission in the interests of the local environment and amenity to accord with Policy MC14 of the Surrey Minerals Plan 2011.
3. To enable the County Planning Authority to exercise planning control over the operation so as to minimise the impact on local amenity and to ensure the prompt and effective restoration to comply with Schedule 5 paragraph 1 of the Town and Country Planning Act 1990 and Policy MC17 of the Surrey Minerals Plan 2011.
4. To enable the County Planning Authority to exercise planning control over the operation so as to minimise the impact on local amenity and to ensure the prompt and effective restoration to comply with Schedule 5 paragraph 1 of the Town and Country Planning Act 1990 and Policy MC17 of the Surrey Minerals Plan 2011.
5. To enable the County Planning Authority to exercise planning control over the development so as to minimise disturbance and avoid nuisance to the locality, to

safeguard the environment and protect the amenities of local residents in accordance with the terms of Policy MC14 of the Surrey Minerals Plan 2011.

6. To safeguard the environment and protect the amenities of the locality in accordance with the terms of Policy MC14 of the Surrey Minerals Plan 2011.
7. To ensure minimum disturbance from operations and avoidance of nuisance to the local community and local environment from dust in accordance with the requirements of the National Planning Policy Framework 2012, Policy MC14 of the Surrey Minerals Plan 2011
8. To ensure minimum disturbance from operations and avoidance of nuisance to the local community and local environment from noise in accordance with the requirements of the National Planning Policy Framework 2012, Policy MC14 of the Surrey Minerals Plan 2011
9. To ensure minimum disturbance from operations and avoidance of nuisance to the local community and local environment from noise in accordance with the requirements of the National Planning Policy Framework 2012, Policy MC14 of the Surrey Minerals Plan 2011
10. In the interests of amenity and wildlife conservation to comply with Surrey Minerals Plan 2011 Policy MC14
11. To safeguard the environment and protect the amenities of the locality in accordance with the terms of Policy MC14 of the Surrey Minerals Plan 2011.
12. To enable the County Planning Authority to exercise planning control over the operation so as to minimise the impact on local amenity and to ensure the prompt and effective restoration to comply with Schedule 5 paragraph 1 of the Town and Country Planning Act 1990 and Policy MC17 of the Surrey Minerals Plan 2011.
13. In order to ensure that the development should not prejudice the free flow and condition of safety on the highway, nor cause inconvenience to other highway users and to comply with the terms of Policy MC15 of the Surrey Minerals Plan 2011
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21. In order to ensure that the development should not prejudice the free flow and condition of safety on the highway, nor cause inconvenience to other highway users and to comply with the terms of Policy MC15 of the Surrey Minerals Plan 2011
22. To safeguard the environment and protect the amenities of the locality in accordance with the terms of Policy MC14 of the Surrey Minerals Plan 2011.

Informatives

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or is being built. Planning consent for a development does not provide a defence against prosecution under this Act.

Trees and scrub are likely to contain nesting birds between 1 March and 31 August inclusive. Trees and scrub are present on the application site and are assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity during this period and shown it is absolutely certain that nesting birds are not present.
2. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by: 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 Minerals 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. Issues of concern have been raised with the applicant including impacts of and on traffic, trees, ecology, need, landscape and addressed through negotiation and acceptable amendments to the proposals. The applicant has also been given advance sight of the draft planning conditions. This approach has been in accordance with the requirements of paragraphs 186-187 of the National Planning Policy Framework 2012.
3. Should the disposal of Japanese Knotweed be required, the applicant is advised to contact the Environment Agency with regards to the potential need for a waste carriers licence and for further information at: Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY, enquiries@environment-agency.gov.uk
4. The definition of 'all activities' and 'any activities' in Condition 8 'Noise' shall include all those activities to be carried out under Appeal Decision ref: APP/B3600/A/11/2166561 dated 7 August 2015.
5. The applicant is reminded to contact the Open Access contact centre to ensure that they meet their obligations with regards to the Countryside and Rights of Way Act 2000: openaccess@naturalengland.org.uk 0300 060 2091 <https://www.gov.uk/right-of-way-open-access-land/use-your-right-to-roam> The open access centre will advise whether a 'direction' for closure is required if given the detail.

6. The applicant is advised that further information required to satisfy the above conditions (16 – 19) may be obtained from Surrey County Council’s Transport Development Planning Team.
7. The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding or any other device or apparatus for which a licence must be sought from the Highway Authority Local Highways Service.

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 Minerals Plan Core Strategy 2011
 Mole Valley Local Plan 2000
 Mole Valley Core Strategy 2009
 Mole Valley Landscape Supplementary Planning Document 2013
 Capel Neighbourhood Plan 2017

Other Documents

Capel Parish Neighbourhood Plan, November 2017
 Environmental Impact Assessment (England) Regulations 2011 (as amended)
 Surrey Hills AONB Management Plan 2014-2019
 Appeal Decision APP/B3600/A/11/2166561 dated 7 August 2015
 Surrey County Council Screening Opinion EIA Case ref 016-009 – Land at Bury Hill Wood, off Coldharbour Lane, Holmwood, Surrey (security fencing)
 The Forestry Commission Guidance, Forestry Practice 9, “Forestry Operations and Badger Setts”, 1995
 The Surrey Landscape Character Assessment, 2015
 Landscape Institute and Institute of Environmental Management and Auditing “Guidelines for Landscape and Visual Assessment”, Third Edition, 2013
