

Planning & Regulatory Committee 23 May 2018

Item No 7

UPDATE SHEET 2**MINERALS/WASTE MO/2016/1563****DISTRICT** MOLE VALLEY DISTRICT COUNCIL**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.

FURTHER LETTER FROM LEITH HILL ACTION GROUP

- 1 A further letter of objection has been received from the Leith Hill Action Group (LHAG). This has been circulated to Members in advance of the meeting. The main points raised are as follows:
 - The Report gives no reason for the change from 'limited harm' in the October 2017 Committee Report to 'no harm' to the openness of the Green Belt in the current Committee Report. This is a matter of Planning Judgement and Members are entitled to come to their own view.
 - The proposal is not for mineral extraction and it is not an inevitable precursor to development, further it is for a stand-alone application and therefore cannot be considered to be an 'integral part of the approved hydrocarbon development'. This issue was not tested by the court previously.

OFFICER'S COMMENT

- 2 The planning permission that was granted by the October Planning and Regulatory Committee has now been quashed. As such, the October Committee Report has no status. Officers have reviewed and revised the approach taken to Green Belt openness on the basis of QC's advice and recent case law. Officers agree with LHAG that the determination of 'harm' is a matter of planning judgement and that Members are entitled to come to their own conclusion on this matter. Previously Officers took the view that there was 'limited harm' that was mitigated by the need, limited duration and full reversibility. On the basis of case law and legal advice received, the view is that due to the need, the short duration and the full reversibility, there is no harm and the openness of the Green Belt is preserved.
- 3 Officers do not agree with LHAG's view that the proposal is not for mineral extraction and is not an inevitable precursor. The fencing and welfare facilities are inextricably linked to the development of the wellsite and the need to maintain health and safety. The Planning Inspector acknowledged this in paragraph 105 of the decision letter for APP/B3600/A/11/2166561 where he states *'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'. At that stage it was envisaged that it could be dealt with by a Section 73 application to vary the original planning permission. The security requirements of the site have changed in the intervening period as explained in the Committee Report and the area required for the security fencing and associated facilities now exceeds that available in the original site area, hence the need for a separate application. That this is a separate application by no means diminishes the need or the interrelationship. There would be no need for the fence if there was no proposal for exploratory drilling.

- 4 It is accepted that the recent judicial review proceedings did not consider whether or not the proposal constitutes 'mineral extraction'. As indicated above, Officers are of the view that it is 'mineral extraction' for the reasons specified, LHAG disagree.