

**To:** Planning & Regulatory Committee

**Date:** 29 June 2022

**By:** Planning Group Manager

**District(s)** Waverley Borough Council

**Electoral Division(s):**  
Waverley Eastern Villages  
Mr Deanus

**Case Officer:**  
David Maxwell

**Purpose:** For Information

**Grid Ref:** 501773 137324

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**Title: Minerals/Waste Application WA/2019/0796**

Decision on planning appeal ref: APP/B3600/W/21/3268579 and on costs application  
**LOXLEY WELL SITE - LAND SOUTH OF DUNSFOLD ROAD AND EAST OF HIGH LOXLEY ROAD, DUNSFOLD, SURREY, GU8 4BW**

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**SUMMARY REPORT**

On 27 November 2020, the Planning and Regulatory Committee refused planning application Ref. WA/2019/0796 for the *construction, operation and decommissioning of a well site for the exploration and appraisal of hydrocarbon minerals from one exploratory borehole (Loxley-1) and one side-track borehole (Loxley - 1z) for a temporary period of three years involving the siting of plant and equipment, the construction of a new access track, a new highway junction with High Loxley Road, highway improvements at the junction of High Loxley Road and Dunsfold Road and the erection of a boundary fence and entrance gates with restoration to agriculture.*

This report provides details of the outcome of a recovered appeal against that decision and an associated application for partial costs.

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**RECOMMENDATION**

**It is recommended that the Committee notes the result and outcomes of the appeal and associated application for partial costs made by UKOG (234) Ltd against the decision of Surrey County Council not to grant planning permission Ref. WA/2019/0796 on 27 November 2020.**

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**Appeal details**

**Appellant**

UKOG (234) Ltd

**Appeal start date**

1 March 2021

## Appeal procedure

Public inquiry held between 27 July and 13 August 2021.

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### Illustrative material

Site Plan

Plan 1

Aerial Photographs

Aerial 1 and 2

Site Photographs

Figures 1 to 16

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### APPEAL CONTEXT

1. Planning application ref. WA/2019/0796 was considered at Planning and Regulatory Committee on 27<sup>th</sup> November 2020. The application proposed: *The construction, operation and decommissioning of a well site for the exploration and appraisal of hydrocarbon minerals from one exploratory borehole (Loxley-1) and one side - track borehole (Loxley - 1z) for a temporary period of three years involving the siting of plant and equipment, the construction of a new access track, a new highway junction with High Loxley Road, highway improvements at the junction of High Loxley Road and Dunsfold Road and the erection of a boundary fence and entrance gates with restoration to agriculture.*

2. The Officer's recommendation to the Committee was that the application be permitted subject to conditions. Following the debate at the meeting, a motion to refuse the planning application was supported by a majority of Committee Members and the Committee resolved to refuse the planning application for the following reasons:

Reason 1: *It has not been demonstrated that the highway network is of an appropriate standard for use by the traffic generated by the development, or that the traffic generated by the development would not have a significant adverse impact on highway safety contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC15.*

Reason 2: *It has not been demonstrated that the applicant has provided information sufficient for the mineral planning authority to be satisfied that there would be no significant adverse impact on the appearance, quality and character of the landscape and any features that contribute towards its distinctiveness, including its designation as an Area of Great Landscape Value, contrary to Surrey Minerals Plan Core Strategy 2011 Policy MC14(iii).*

3. The application was then refused by notice dated 15<sup>th</sup> December 2020. The applicant, UKOG (234) Ltd, appealed to the Planning Inspectorate under section 78 of the Town and County Planning Act 1990 in February 2021 and made a claim for partial costs against the County Council on the basis that the highways evidence advanced in support of the first reason for refusal was considered weak.

### BACKGROUND

4. The appeal site is located in a rural landscape approximately one mile north-east of the village of Dunsfold and half-a-mile north of Dunsfold Park in an area known as Loxhill. It extends to an area of 2.3 hectares and comprises worked agricultural fields situated in rolling countryside. The proposed well site compound would be situated to the south and west of four established woodland blocks, three of which are the subject of a clear-fell license granted to the Hascombe Estate by the Forestry Commission.
5. The site is situated in Countryside beyond the Green Belt and is designated as an Area of Great Landscape Value (AGLV). The boundary with the Surrey Hills Area of Outstanding Natural Beauty (AONB) lies approximately 530 metres to the north of the well site compound. There are three residential properties lying in extensive grounds located to the north, south and south-west of the proposed well site compound, the nearest of which is Thatched House Farm located approximately 330 metres to the north of the centre of the compound. These three properties contain a total of seven Grade II listed buildings between them. Thatched House Farm and High Billingham Farm to the south also accommodate established local businesses including sheep and organic pig farming, a craft brewery and an annual cancer festival at the former and an events venue hosting up to 50 events annually at the latter.
6. Lydia Park and New Acres are situated around 485 metres east of the centre of the well site compound and comprise a traveller site and mobile home park off Stovolds Hill. A further 4 applications have been permitted by Waverley Borough Council for gypsy and traveller accommodation on land to the north and west of Lydia Park, the closest being 420 metres to the north-east.
7. The proposed development is concerned with the exploration and appraisal stages of hydrocarbon development using conventional methods and does not involve hydraulic fracturing. It involves the drilling of a new well (Loxley-1) and one side-track well (Loxley-1z) for the exploration and appraisal of oil and gas for a temporary period of 3 years with restoration to agriculture. The primary target for exploration is gas from the Portland Sandstone Formation within the Godley Bridge Gas Discovery. The secondary target is oil from the deeper Kimmeridge Limestone Formation. The proposal will be carried out in 4 distinct phases.
8. Phase 1 (Access and Well Site Construction) would last for 14 weeks and include the construction of a new junction within High Loxley Road, the development of the well site compound with an impermeable membrane, the installation of a new access track to connect the new junction with the well site compound and minor highway improvement works on High Loxley Road and at the junction of High Loxley Road and Dunsfold Road.
9. Phase 2 (Drilling, Testing and Appraisal) would last up to 60 weeks and include the mobilisation and demobilisation of surface plant and machinery, the drilling of the well and side-track well using a drilling rig up to 38 metres in height, subsequent appraisal by initial short-term flow testing and extended well testing which is likely to involve the use of a crane when necessary up to 42 metres in height, and the potential deployment of a rig (up to 35 metres in height) or a coil tubing unit (up to 25 metres in height) to support any maintenance workover. Drilling, testing and appraisal represent a continuous process and involve 24 hour operations. The need for night time working will be minimised however where this cannot be avoided, operations are likely to be intermittent and of a temporary nature.
10. Phase 3 (Well Plugging, Abandonment and Decommissioning) would take place over a period of 5 weeks and include the removal of all surface equipment followed by the plugging and abandonment of the well.

11. Phase 4 (Site Restoration) would take 5 weeks and involving the restoration of the site to its original use subject to a period of aftercare. If commercially exploitable reserves of hydrocarbons are found to be present, then restoration would be delayed pending the submission of a further planning application to retain the site to enable long term production to take place prior to the carrying out of restoration and aftercare. The site would be restored back to agriculture and include a legacy enhancement programme. This would include the replacement of trees and hedgerows removed during construction works, a programme to retain and protect existing trees and hedgerows and a timed programme for the planting of new trees and hedgerows and the creation of new biodiversity habitat. This would be designed to deliver biodiversity and wider environmental net-gain making use of native species and reflecting the historic use of the site as worked agriculture land and forestry.
12. The proposal would result in a maximum of up to 20 heavy goods vehicle (HGV) movements per day between 0700 and 1700 hours Monday to Thursday and 0900 to 1300 hours on Friday and Saturday. All lorry traffic will be routed via Dunsfold Road and the A281 to the east.

## **THE APPEAL**

13. A public inquiry was opened into the appeal against the County Council's decision by the Planning Inspector on 27<sup>th</sup> July 2021. It was held virtually and sat for a total of nine days. As Officers had recommended that the planning application be permitted, the County Council's witnesses were all external consultants.
14. On 5<sup>th</sup> January 2022, the appeal was recovered for determination by the Secretary of State for the Department for Levelling Up, Housing and Communities. As a result of this, the Inspector made recommendations in a report to the Secretary of State rather than determining the application himself.
15. On 7<sup>th</sup> June 2022, the County Council received notification that the Minister of State for Housing, on behalf of the Secretary of State for Levelling Up, Housing and Communities, had allowed the appeal and granted planning permission, subject to conditions. The Inspector had recommended that the appeal be allowed and the Minister of State for Housing, on behalf of the Secretary of State for Levelling Up, Housing and Communities, had agreed with this recommendation.

### **Highway Matters**

16. In respect of the first reason for refusal, the County Council's principal concerns related to the use of Dunsfold Road and its junction with High Loxley Road by HGVs, particularly impacts on highway safety when larger HGVs would need to manoeuvre on the highway to turn into High Loxley Road. The Inspector considered that this could be safely managed by way of the proposed traffic management scheme and would not have any significant adverse impacts on highway safety or the effective operation of the highway network.
17. The Secretary of State agreed with the Inspector that the proposed traffic management scheme had been shown to be acceptable in terms of highway safety and the local road network and that the proposal complied with Policy MC15 of the Surrey Minerals Plan 2011. He further agreed that the arrangements for site access and traffic generated by the development would not have any significant adverse impacts on highway safety or the effective operation of the highway network.

### **Landscape Character and Appearance**

18. In respect of the second reason for refusal, the County Council argued that the landscape, which was within the setting of the AONB and within an AGLV was a 'valued' landscape as defined in the National Planning Policy Framework (NPPF). The Inspector disagreed and, whilst acknowledging the value of the landscape to local residents, could not consider the landscape to be valued in NPPF terms. The Inspector did acknowledge however that there was harm to the landscape character, visual effects and tranquillity, contrary to Surrey Minerals Plan Policies MC14 and MC12.
19. The Secretary of State agreed with the Inspector's analysis that there would be significant levels of landscape and visual impacts from the proposal and that it did not comply with Policy MC14 of the Surrey Minerals Plan 2011 and policies in the Waverley Local Plan. These significant harms to the AONB and its setting, and the AGLV would not be permanent however and had to be weighed in the balance against the short-term nature of the proposals, the restoration scheme and the reversibility of the proposal; and in addition to the benefits of the scheme.

### **Impact on Local Residents and Businesses**

20. The Inspector also considered the effect of the proposals on the living conditions and local businesses, as did the Secretary of State. The Secretary of State agreed with the Inspector that while there would be some impact in terms of noise and visual intrusion, the noise could be controlled by condition and there would be moderate harm to the overall character and appearance of the area.

### **Other matters**

21. The Secretary of State considered several other matters addressed by the Inspector including downstream impacts, benefits, impacts on proposed residential development at Dunsfold Park and the nearby gypsy and traveller community, ecology, groundwater and air pollution, common land and the financial situation of the operator.

### **Planning Balance**

22. The Secretary of State accepted that the proposal was contrary policies MC12 and MC14 of the Surrey Minerals Plan 2011. He then considered whether there were other material considerations which indicated that the application should be determined not in accordance with the plan. The Secretary of State's findings are as follows:

*33. Weighing against the appeal are harm to the landscape character and appearance of the area, including degrading the qualities of the setting of the AONB and failure to demonstrate the site has been selected to minimise adverse impacts; and harm to local businesses. The Secretary of State affords these matters collectively moderate weight.*

*34. In favour of the appeal the Secretary of State affords the benefits of the gas exploration/appraisal phase great weight, and the economic benefits limited weight.*

*35. Overall, the Secretary of State considers that the material considerations in this case indicate a decision which is not in line with the development plan – i.e. a grant of permission.*

*36. The Secretary of State therefore concludes that the appeal should be allowed, and planning permission granted, subject to conditions.*

## **PARTIAL CLAIM FOR COSTS**

23. The applicant only sought to have their costs covered in respect of the first reason for refusal. This was largely on the basis that the Planning & Regulatory Committee came to a decision contrary to officers' advice without any technical evidence. They alleged that the highways evidence was weak with no technical reasons advanced, it was flawed and anecdotal. The County Council therefore behaved unreasonably.
24. The County Council disagreed. The Committee was entitled to come to a different view, particularly given the unusual nature of the highway arrangements, the views expressed were both reasonable and substantiated at the appeal. While the Inspector's own findings differed to those of the Council, he did not consider their approach was unreasonable.
25. The Secretary of State agreed with the Inspector that the County Council's approach was not unreasonable and therefore the application for the partial award of costs was refused.

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## CONCLUSIONS:

26. The Secretary of State granted planning permission, but acknowledged the County Council's concerns in respect of landscape and visual appearance, with the main difference being the weight given to those concerns by the Inspector and the Secretary of State. Officers had come to a similar conclusion in the report to Committee. The weight to be given to different factors is a matter for the decision maker however so Members were entitled to come to a different view. The Secretary of State and the Inspector clearly disagreed with the County Council in respect of highways matters, however in not awarding costs on that point clearly felt that the Committee's concerns had some merit.

### Recommendation

**It is recommended that the Committee notes the result and outcomes of the appeal and associated application for partial costs made by UKOG (234) Ltd against the decision of Surrey County Council not to grant planning permission Ref. WA/2019/0796 on 27 November 2020.**

### Financial and value for money implications

None.

### Equalities and Diversity Implications

The decision being reported was taken by the Minister of State for Housing, on behalf of the Secretary of State for Levelling Up, Housing and Communities in accordance with Section 78 of the Town and Country Planning Act 1990.

### Risk Management Implications

None

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**Contact Caroline Smith or David Maxwell**

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### **Background papers**

Appeal decision and costs decision both dated 7 June 2022 in relation to planning appeal ref: APP/B3600/W/21/3268579.

[Current minerals and waste planning appeals - Surrey County Council \(surreycc.gov.uk\)](https://www.surreycc.gov.uk)

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