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# Appeal Decision

Inquiry held on 10 to 13 and 17 to 19 July 2012

Site visit made on 18 July 2012

**by Mr Keri Williams BA MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26 September 2012**

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**Appeal Ref: APP/B3600/A/11/2166561**

**Bury Hill Wood, Coldharbour Lane, Holmwood, Surrey**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Europa Oil and Gas Limited against the decision of Surrey County Council.
- The application Ref.2008/0169/PS, dated 1 December 2008, was refused by notice dated 30 June 2011.
- The development proposed was described in the planning application as the construction of an exploratory wellsite including plants, buildings and equipment with preliminary short term drill stem test for one exploratory borehole, the erection of security fencing and associated works to existing track.

**Summary of Decision: The appeal is dismissed.**

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## Preliminary Matters

1. Before the start of the Inquiry, the Council confirmed that it was no longer contesting the second of its reasons for refusal of planning permission. It concerned evidence to show that an exploratory drillsite could not be located outside the Surrey Hills Area of Outstanding Natural Beauty (AONB). It also confirmed that, having regard to the recent felling of trees by the Forestry Commission, the words "*have the potential to irreversibly damage the historic banks and trees and*" will be deleted from its third reason for refusal of the planning application. I take these matters into account. The evidence of Mr Bradley on ecological matters was withdrawn by the Leith Hill Action Group (LHAG) during the Inquiry and I have not had regard to it.
2. In its notice of refusal of planning permission the Council describes the development as the "*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.*" It seems to me that this description more fully and accurately describes the proposed development than that in the initial planning application form. I have therefore considered the development having regard to that description.
3. Planning application Ref.2008/0169/PS was the subject of a report to the Council's Planning and Regulatory Committee on 25 May 2011. That report concluded with a recommendation that planning permission be granted subject

to a legal agreement and a range of planning conditions. I take that report into account but I have reached my own conclusions on the main issues.

### **Background and Main Issues**

4. The site extends to about 0.8 hectares. It is in the countryside to the north of the village of Coldharbour and to the west of Coldharbour Lane. It is within an area of Forestry Commission managed plantation woodland forming part of Abinger Forest. Existing vegetation on the site includes some mature conifers, silver birch, other young deciduous trees and undergrowth. There is evidence of former quarrying on the land. The site is within the Metropolitan Green Belt and the Surrey Hills AONB. It is also within an Area of Great Landscape Value (AGLV), as designated in Mole Valley Core Strategy, Development Plan Document, 2009 (MVCS). The drilling rig, a wellhead cellar and related plant, equipment and temporary buildings would be within the main body of the site, which would comprise a 118m by 55m compound with soil bunds on the northern periphery. An existing access point off Coldharbour Lane would be used and an access track connecting it to the operational part of the site would be upgraded. A flare pit containing three Clean Air Burners would be located near this track, to the south of the main body of the site. A revised site layout drawing (Ref.1.7C) was submitted at the Inquiry and I take that into account.
5. The purpose of the proposed development is to explore for hydrocarbons in the Holmwood Prospect, which is within UK Onshore Licence PEDL143. In broad terms, the Prospect is located beneath Coldharbour village and the proposal would involve offset drilling. There would be four phases: site clearance and preparation; equipment assembly and drilling operations; testing and evaluation (if hydrocarbons are found) and site reinstatement. The appellants consider that these phases would take 6 weeks, 5 weeks, up to 4 days and 6 weeks respectively. Planning permission is sought for a temporary period of 3 years, with operations extending over an 18 week period. The principal elements of the development are set out more fully in the Statement of Common Ground at paragraph 2.2. The development would be for exploratory purposes only, to establish whether hydrocarbons are present. I approach this decision solely on that basis. If viable reserves were found, a separate planning application for a suitable location would be required.
6. I consider the main issues to be:
  - i) Whether the proposal amounts to inappropriate development in the Green Belt;
  - ii) The effect on Green Belt openness and on the purposes of the Green Belt;
  - iii) The effect on the landscape and natural beauty of the Surrey Hills Area of Outstanding Natural Beauty (AONB) and on public enjoyment of it;
  - iv) The effect of traffic movements associated with the development on local residents and highway users;
  - v) The need for the development and its consistency with the Government's policies for minerals and energy development;
  - vi) Whether the proposed exploratory drilling site could reasonably be located outside the AONB;

- vii) The overall balance. If this is inappropriate development, whether the harm through inappropriateness and any other harm is clearly outweighed by other considerations and whether there are very special circumstances which would allow planning permission to be granted.

### **Planning Policies**

7. The development plan for the area includes the South East Plan, 2009, (SEP) the Surrey Minerals Plan Core Strategy Development Plan Document, 2011 (MCS), the Mole Valley Local Plan, 2000 (Saved Policies) (MVLV) and the Mole Valley Core Strategy Development Plan Document, 2009 (MVCS).
8. Amongst the most directly relevant development plan policies are MCS policies, MC2, MC3, MC12 and MC14. Amongst other things, policy MC2 requires that mineral development that may have direct or indirect significant adverse impacts on the AONB should only be permitted if it is demonstrated that the development is in the public interest and 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. Policy MC3 deals with mineral development in the Green Belt. Amongst other things it requires, in respect of development other than extraction and primary treatment, demonstration that very special circumstances exist to outweigh the harm by reason of inappropriateness and any other harm. Policy MC12 deals with oil and gas development. Amongst other things it requires demonstration that, in the context of the geological structure being investigated, sites for exploration boreholes are selected to minimise impacts on the environment and that the potential for directional drilling is assessed. Policy MC14 requires a demonstration of need and the absence of significant adverse impacts. It also sets out criteria for assessing proposals.
9. Policy CS13 of the MVCS deals with landscape character. It recognises the national significance of the AONB and requires its protection in accordance with the objectives of the Surrey Hills Management Plan 2009 (SHMP), with particular focus on the impact of development on ridgelines, significant views, peace, tranquillity and levels of artificial light. Policy CS13 also requires new development to respect and, where appropriate, enhance the character and distinctiveness of the landscape area in which it is proposed. Policy ENV4 of the MVLV protects landscape character while, amongst other things, policy MOV2 requires that development is compatible with the transport infrastructure and environmental character of the area having regard to all forms of traffic generated.
10. The SHMP is also a material consideration to which significant weight can be attached. SHMP policy LU2 requires that, in balancing different considerations associated with determining planning applications, substantial weight will be attached to any adverse impact on the character of the AONB. Policy LU3 requires development to respect the special landscape character, giving particular attention to potential impacts on ridgelines, significant views, tranquillity and light pollution.
11. The National Planning Policy Framework (the Framework) is a material consideration in my decision and the relevant development plan policies are broadly consistent with it. Having regard to the range of relevant development plan policies I do not consider this to be a situation where, in the terms set out

in paragraph 14 of the Framework, the development plan is absent, silent or relevant policies are out of date.

12. Paragraph 115 of the Framework confirms that great weight should be given to conserving landscape and scenic beauty in AONB. They have the highest status of protection in relation to landscape and scenic beauty. SEP policy C3 is consistent with this approach.
13. Paragraph 116 of the Framework says that planning permission should be refused for major developments in an AONB except in exceptional circumstances and where it can be demonstrated that they are in the public interest. It goes on to set out relevant criteria for assessment. In that context, I have considered whether this development would amount to a "major development", a term which is not defined in the Framework. The appellants refer to section 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2010. It contains a definition of major development which includes the winning or working of minerals on a site exceeding 1 ha. In contending that this proposal is not a major development the appellants observe that it is exploratory rather than the winning and working of minerals and the application site is less than 1 ha. The 2010 Order definition is not referred to in the Framework and the Order makes it clear that the definitions provided apply within the Order. I do not consider its definition to be determinative. I appreciate that the proposed development would result in a significant number of HGV movements to and from the site. Nevertheless, having regard to the scale of the development in the context of minerals development generally, its temporary nature and its reversibility, I do not consider this to amount to major development for the purposes of paragraph 116 of the Framework.
14. Paragraphs 79 to 92 of the Framework set out policies for the Green Belt and paragraphs 142 to 149 address mineral working. I return to relevant parts of these provisions below. The Overarching National Policy Statement for Energy (EN-1) addresses the Government's policy for the delivery of major energy infrastructure rather than the scale of development proposed here. Nevertheless, its references to the need for all types of energy infrastructure, the need for energy security and the continuing significant role for fossil fuels in the foreseeable future are of relevance. That continuing role is not disputed by the main parties.

*Whether this would be inappropriate development in the Green Belt*

15. As I set out above, this proposal is for exploratory drilling rather than for the production of hydrocarbons. It is consistent with paragraph 147 of the Framework to clearly distinguish between the three phases of development (exploration, appraisal and production) when considering planning issues arising from on-shore oil and gas development. I have considered the appellants' contention that this exploratory development should be regarded as part of mineral extraction. However, in the light of paragraph 147 of the Framework, this does not seem to me to be the correct approach. In that context, I do not consider that this development falls within the specific term "mineral extraction", which is the production phase and is cited in paragraph 90 of the Framework as a category of development which is not inappropriate, subject to the effect on Green Belt openness and purposes. Nor does the development, when considered as a whole, fall into the category of "engineering operations", which is also referred to in paragraph 90, although it

includes elements of such operations. Moreover, the Framework does not exclude temporary development from amounting to inappropriate development.

16. Having regard to the above, I conclude that the development would amount to inappropriate development. Paragraph 87 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This requirement is also reflected in MCS policy MC3.

*The effect on Green Belt openness and on Green Belt purposes*

17. Paragraph 79 of the Framework explains that the essential characteristics of Green Belts are their openness and permanence. The purposes of Green Belts are set out in paragraph 80 of the Framework and include assisting in safeguarding the countryside from encroachment. The appeal site is within woodland, so that the site and the surrounding area are not of an open appearance. However, I consider Green Belt openness in terms of the absence of development. The proposal would require the creation of an extensive compound, with boundary fencing, the installation of a drilling rig of up to 35 metres in height, a flare pit and related buildings, plant, equipment and vehicle parking on the site. Taking this into account, together with the related HGV and other traffic movements, I consider that Green Belt openness would be materially diminished for the duration of the development and that there would be a conflict with Green Belt purposes in respect of encroachment into the countryside over that period.

*The effect on the AONB and on public appreciation and enjoyment of it*

18. The site is within the Greensand Hills: Leith Hills landscape character area as defined in the Surrey Hills Landscape Assessment, 1998. Its character is described in the SHMP as *"a series of prominent wooded hills, divided by deep interlocking valleys. The topography of this part of the Greensand Hills creates a dominant and dramatic elevated landscape with commanding views over the Weald. The area retains an isolated feel and sense of wildness, with small settlements in secluded valleys, extensive woodland cover, small-scale agriculture in wooded clearings, distinctive architecture and a network of attractive lanes, many of them sunken."* Notwithstanding their different assessments of the effect of the development, both the Council and the appellants consider the panoramic views over the Weald, extensive woodland cover and sunken lanes with high banks and exposed tree roots, to be important AONB features. Part of Coldharbour Lane is an example of a sunken lane.
19. There is starkly contrasting evidence on landscape and visual impact. The Council contends that the development would cause significant harm to the AONB which would not accord with policies to protect it. It assesses the landscape quality and sensitivity of the AONB in the setting of Leith Hill as high and its value as very high or exceptional. The landscape quality of the appeal site and its surroundings is assessed as good, its value as very high or exceptional and its sensitivity high. The impact of the development on landscape character of the AONB in the setting of Leith Hill is assessed as medium and the effect on natural beauty as moderate adverse. Reference is made to the loss of trees and vegetation, changes to landform and the effect of lighting and on tranquillity. Coldharbour Lane is considered to be a key feature

of high or exceptional quality, very high or exceptional value and high sensitivity. The Council considers that the effect of HGV movements on the landscape character of Coldharbour Lane would result in harm to tranquillity, amenity and the sense of remoteness, with a medium impact on the country lane and a moderate adverse impact on the setting of Leith Hill.

20. With regard to visual impact, the Council assesses a medium to high magnitude of change for receptors at residential properties or users of open land with public access close to Coldharbour Lane, depending on the direction of view. When present on the site, the drill rig would be visible from receptors, including some in the adjacent valley overlooking farmland towards the wooded ridge. It is argued that it would appear as a new, uncharacteristic and prominent feature on the skyline in an undeveloped wooded landscape, resulting in a major adverse significant impact. There would also be more distant views.
21. The Surrey Hills Board (SHB) also contends that important qualities of the AONB would be undermined, including visual attractiveness, isolation, wildness, tranquillity and dark skies. It likens the proposal and the related traffic management measures to an industrial operation and also refers to the area's recreational importance, including for cyclists and walkers, which it argues would be diminished. Similar concerns are put by Capel Parish Council (CPC) and by many of the large number of other third party objectors to the development. CPC also contends that the duration of the development would be greater than suggested by the appellants, so that the related harm would occur over a longer period.
22. The appellants' assessment, on the other hand, is that the development would have no lasting effect on the special qualities of the natural beauty of the AONB. It would not affect the key features and viewpoints identified in the SHMP. While there would be some tree loss, there would be provision for replanting and site restoration. Nor would there be any significant effect on woodland, routeways and public rights-of-way or tranquillity.
23. The effects of the development were assessed in the Environmental Statement (ES, 2009) and the appellants have reviewed that evidence, taking into account changes since then, including the effect of tree growth on views. Having regard to the temporary and reversible nature of the development, they contend that adverse visual impact would be low to negligible from two of eight viewpoints, negligible from two others and with no discernible effect from the remainder. They also refer to the siting of the development within an area of managed woodland, which is considered less sensitive, utilizing an existing access track and with limited loss of trees. They contend that ongoing forestry management operations are likely to have a greater effect on landscape character than would the development. Subject to appropriate conditions it is argued that the effects of the development with regard to noise and lighting would be negligible. The tranquillity of the area around the site is considered to be limited.
24. Commissioning and decommissioning of the site would require HGV movements to and from the site along Coldharbour Lane, from its junction with Knoll Road in Dorking to the site access. Some components would be taller and wider than normal HGV traffic. They would include vehicle movements to transport the rig and Clean Air Burner components to and from the site. With the use of low-loaders, it is intended that the tallest load would not exceed 4.26m. As part of a proposed Traffic Management Scheme (TMS), movement of these loads to

and from the site would take place during two periods of daytime closure of part of Coldharbour Lane, with each closure being over a three day period. The appellants have submitted an updated Tree Canopy Survey which assesses the effect of vehicle movements on trees. It suggests that no tree removal would be required, that there would be a need for the trimming of tree foliage and light branches at 14 points on Coldharbour Lane and that the severity of trimming would be akin to that required for normal highway maintenance.

25. The appellants' evidence with regard to the risk of physical damage to the banks of Coldharbour Lane conflicts with that of LHAG. The appellants carried out surveys in 2009 to confirm, with Council officers, that the drilling rig could pass along the road without causing damage to protruding trees or through over-running verges. They have reviewed the position more recently and say that works carried out by the Forestry Commission in March 2012 have removed trees which would have presented the most significant obstruction. A revised Drilling Rig Swept Path Plan drawing (Fig.5.11A) is submitted to illustrate the location of some felled trees and the ability of the rig vehicles to pass along part of Coldharbour Lane. LHAG, on the other hand, refers to the fragile nature of the banks of the sunken lane and submits a three dimensional image of the same section of Coldharbour Lane which, it contends, shows that such a vehicle would be unable to pass without impinging on the banks of this part of the lane.
26. In reaching my conclusions on this issue I take into account that the impact of the development could be mitigated by conditions, for example in respect of noise, lighting, maximum load dimensions and the details of the TMS. I also take into account the temporary and reversible nature of the development. Even if, as suggested by CPC, there was a degree of overrun in the duration of the project, subject to appropriate site restoration, which could be required by condition, there would not be permanent harm to the landscape character of the AONB or to the public's appreciation and enjoyment of it.
27. Nevertheless, the proposal would introduce a form of development which was inconsistent with and at odds with the prevailing character of this part of the AONB. For the duration of the development the site's appearance would be akin to that of an industrial site and would be incongruous in its woodland setting. The development itself and related HGV movements would result in a degree of harm to the character of the AONB and to the perception of it by the public.
28. Although the site is elevated, the visual impact of the development would be significantly reduced by woodland. There would, however, be an adverse visual impact from some viewpoints, particularly from four of the viewpoints in appendix 2 of Ms Foyne's evidence. They are viewpoints 1 (Coldharbour Lane), 2 (Wolvens Lane South), 3 (footpath 249) and, to a lesser extent, 5 (footpath 250). This effect would result primarily from the drilling rig for the period of about 6 weeks when it was erected at the site. It would impinge on the skyline within the AONB and would be lit with an aircraft warning light in hours of darkness. The rear of the flare pit would also be seen from viewpoint 1. The visual impact of the site would also be apparent to walkers who penetrated the woodland close to the site, to which there is public access, and there would be a degree of visual impact from the passage of HGVs along Coldharbour Lane and signage related to the TMS.
29. The direct effect on trees along Coldharbour Lane would not be sufficient to weigh materially against the development. While I take into account the

evidence of LHAG, the maximum dimensions of vehicles could be controlled by condition and the recent removal of some trees would assist the passage of the largest loads along the most constricted parts of Coldharbour Lane. On balance I consider it unlikely that there would be material physical harm to the banks of the sunken lane.

30. Although no quantitative evidence is submitted of the recreational use of Coldharbour Lane and the woodland around the site, I see no reason to doubt the evidence of the SHB and CPC, which is supported by other third party representations, of the recreational value of the area and of a significant level of use by cyclists and walkers in the area. The proposal would not materially reduce the extent of public access in this part of the AONB but the proposed TMS, the increased passage of HGVs along Coldharbour Lane and, to a lesser extent, the development on the site itself, is likely to result in a degree of harm to recreational enjoyment of the area for the duration of the development.
31. Amongst other things, MVCS policy CS13 requires particular focus on the effect of development on tranquillity, an approach which is consistent with that of SHMP policy LU3. The approach to noise in paragraph 123 of the Framework includes the aim of identifying and protecting areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for that reason. A quality of tranquillity rests, in part, on quietness and peacefulness but also encompasses wider qualities of a landscape which promote a sense of remoteness and isolation.
32. An assessment of levels of tranquillity is shown in map form in the SHMP. It appears to show the site as being in an area about mid-way in a scale from least to most tranquil, although the scale of the map and the resulting difficulty of interpretation limit the weight I give it. The site and its surroundings are not immune from some noise, including that from forestry management operations and road traffic. However, those who live and work in the area are well placed to be aware of its character over the long term and the evidence of LHAG, CPC and SHB suggests that tranquillity is an important and valued quality of the area around the site.
33. The appellants have assessed the effect on noise levels at the nearest dwellings arising during commissioning and decommissioning of the site, and from drilling and flaring operations. Noise levels would be within accepted planning standards and could be controlled by condition. The retention of a quality of tranquillity relies, in part, on the maintenance of particularly low noise levels. Daytime and night time activity at the site would produce noticeable levels of noise and the passage of additional HGVs on Coldharbour Lane would also impinge on a sense of tranquillity. In that context I consider that there would be a degree of harm to the quality of tranquillity.
34. I conclude that there would be some harm to the AONB and the public's appreciation of it with regard to visual impact and harm to landscape character, including the quality of tranquillity. Notwithstanding the temporary and reversible nature of the development, in the context of the highest status of protection given to an AONB in the Framework, it is sufficient to amount to a significant adverse impact as referred to in policies MC2 and MC14. The development would conflict with MVCS policy CS13 and would not be consistent with MVLP policy ENV4 and SHMP policy LU3. Having regard to the site's location in the AONB, its inclusion in an AGLV does not add to my conclusions on this issue.



*The effect of traffic movements associated with the development on local residents and highway users*

35. The proposal would generate a significant level of HGV movements to and from the site, amounting to a total of about 1,100 movements. There would be a similar number of non-HGV movements. The proposed route for vehicles to and from the site includes Knoll Road in Dorking and Coldharbour Lane between its junction with Knoll Road and the entrance to the appeal site.
36. Traffic flows would be managed in two ways. Firstly, there would be a period of three days during the mobilisation phase when part of Coldharbour Lane would be closed between 09.00 and 18.00, with another three day closure during the demobilization phase. This is intended to allow the safe passage of vehicles, including those related to the drilling rig, with loads which require the exclusion of other traffic. Secondly, the proposed TMS is intended to control access of HGVs to and from the site and avoid conflict with other traffic. It would entail an HGV holding area on Knoll Road during the construction phase, where up to three HGVs would be held before proceeding in an escorted convoy along Coldharbour Lane to the site. In addition, there would be a combination of one-way traffic flows with traffic lights and stop/go boards and direct instructions from banksmen on parts of Coldharbour Lane.
37. The hours of operation of the TMS could be limited by condition to between 09.30 and 15.00 from Monday to Friday and 09.30 to 13.00 on Saturdays. The TMS is illustrated on Figure 5.3B. It shows the route between the end of Knoll Road and the site entrance divided into green sections (considered suitable for two HGV to pass), amber sections (considered suitable for an HGV and a car to pass) and red sections (not suitable for an HGV and a car to pass).
38. I do not underestimate the extent of public concern about the effects of traffic related to the development, of road closures and of the TMS. The main areas of concern are explained in the evidence of LHAG. They include the constraints imposed by the physical character of Coldharbour Lane, including its width, gradients, bends, overhanging trees and steep banks; the potential for damage to the road surface; the effect on the amenity of residents of Coldharbour Lane and Knoll Road of the passage of HGVs and the effect of additional waiting times, or of taking longer alternative routes, on local residents, businesses and other road users with regard to additional time, inconvenience and cost. There are further concerns about the practicalities of operating the TMS with regard to assumptions about vehicles being able to pass on some parts of Coldharbour Lane, the feasibility of banksmen being able to adequately control traffic and the suitability of passing places. It is suggested that these deficiencies would render the TMS as proposed unworkable and that the more comprehensive measures required would result in unacceptable travel times and delays.
39. The Council assesses that there would be a minor adverse effect on residential amenity from noise, disturbance and visual intrusion, arising from the passage of HGVs and the HGV holding area. It refers to inconvenience to local residents, including the need to take lengthy detours, arising from the management of convoys of HGVs during establishment and decommissioning.
40. Knoll Road is a suburban residential road, with houses generally set back from the road. A marked incline rises from Flint Hill to a crest before the road falls towards its junction with Coldharbour Lane. It is not a narrow road and parking can take place on both sides of the road. A traffic survey in 2010 showed the

road to be lightly trafficked and to have an average of 22 HGV movements per day. The appellants estimate that about 20-22 HGV daily movements on Knoll Road would result from the development. This would approximately double existing HGV movements but, in absolute terms, is not a large number in the context of an urban road. The HGV holding area would be towards the western end of Knoll Road, near its junction with Coldharbour Lane. It is likely that the duration of each use would significantly exceed the one minute referred to by the appellants if, for example, there was other traffic coming along Coldharbour Lane. Nevertheless, for much of the day the holding area would not be in use. If, for example, 12 HGV loads were to be delivered to the site on a particular day, the holding area would be required 4 times.

41. Notwithstanding the physical constraints of Coldharbour Lane, there is no restriction to prevent HGVs travelling along it. As I saw during my visits, they form a component of existing flows. Overall traffic flows on Coldharbour Lane are relatively low. The measures proposed are intended to manage traffic arising from the development while taking into account the constraints imposed by the nature of the lane and, in particular, avoiding HGVs passing other vehicles where necessary.
42. I do not doubt that the proposed periods of road closure and traffic control would result in inconvenience to local residents and other road users. Some journeys might be forgone and journey times would be lengthened in negotiating the proposed traffic management measures or in taking alternative routes, some of which would add significantly to journey times and involve the use of narrow lanes. On the other hand, temporary road closures or other interruptions to traffic flows are not uncommon on rural roads such as this. In practice, it is likely that there would be some scope to reduce the effect on road users through liaison with them by the operator and by standing down the traffic management measures when not required. Close liaison with the emergency services would also minimise the risk of any adverse effect on them.
43. The appellants acknowledge that some adjustments to the TMS are likely to be required, for example with regard to the positioning of traffic lights near the junction of Knoll Road, and further consideration may be needed of the number of banksmen and to ensure adequate communication between them. To the extent that such changes resulted in an additional level of control the effect on road users would be likely to increase.
44. There is conflicting evidence on the likelihood of damage to the road surface or sub-structure of Coldharbour Lane arising from traffic generated by the development. Based on their investigations and inspection of the road, the appellants consider such damage unlikely. The proposal is considered acceptable by the Highway Authority. Others, including LHAG and CPC suggest that such damage is likely having regard to the underlying geology and fragility of the lane. The risk of some damage cannot be discounted. If there was damage, there would be some additional effect on local residents and other road users while repairs were carried out, although the duration of any repairs is unknown. Based on their assessment and experience of similar developments elsewhere, the appellants are confident that the development could be carried out within an 18 week period. However, the proposal is of some complexity and I do not discount the possibility of it extending beyond that period, as suggested by CPC having regard to the range of operations to be carried out in

each phase. If the 18 week period was extended, the effects of the TMS on local residents and road users would also be extended.

45. In considering the likely effects on local residents, I take into account paragraph 32 of the Framework, which says that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. I conclude on this issue that, while there would be some effect on residential amenity for residents of Knoll Road, and Coldharbour Lane, the extent would be limited. I also conclude that, if planning permission was granted, it would be feasible to devise a TMS based on temporary road closures and other traffic management measures such that there would not be unacceptable disruption and delay to local residents and other road users. The development would not conflict with MVLP policy MOV2 in that respect.

*The need for the development and its consistency with the Government's policies for minerals and energy development*

46. Paragraph 142 of the Framework explains that minerals are essential to support sustainable economic growth. It refers to the importance of a sufficient supply to provide the infrastructure, buildings, energy and goods that the country needs. It also says that, since minerals are a finite resource, and can only be worked where they are found, it is important to make the best use of them to secure their long term conservation. Amongst other things, paragraph 144 says that when determining planning applications local planning authorities should give great weight to the benefits of mineral extraction, including to the economy. As I set out above, the continuing role of fossil fuels in meeting energy needs is not in dispute. In a speech to Parliament, on 22 May 2012, Mr Greg Barker MP referred to the country's continuing dependence on fossil fuels for many years to come and to the need to extract fossil fuels wherever there is an opportunity, provided it can be carried out with full regard to the protection of the environment. The exploitation of the country's fossil fuels is also consistent with considerations of security of energy supply.
47. This proposal is exploratory rather than for mineral extraction and, as I set out above, the Framework provides for separate consideration of issues arising from extraction, appraisal and production in respect of on-shore oil and gas. Nevertheless, the principle of investigating potential hydrocarbon reserves is supported by these aspects of the Framework and is consistent with national energy policy. Having regard to the "in principle" need for mineral related development and the absence of any minimum threshold below which mineral extraction cannot be said to be in the national interest, the appellants contend that the quantity of hydrocarbon reserves in the Holmwood Prospect is not an issue for this appeal. However, it seems to me that the likelihood of finding hydrocarbons and the likely quantity are significant material considerations with regard to the weight to be given to need in the particular circumstances of this proposal.
48. The drillsite would explore two reservoir rocks, the main one being Portland Sandstone and the secondary one Corallian Sandstone. Based on available data, including geological and seismic data and information from nearby exploration wells, the appellants estimate a 32% probability of hydrocarbons being present for the Portland reservoir and a 25% probability for the Corallian reservoir. The appellants explain that these levels of probability are high by industry standards. While it is not known whether reserves would be of oil or

gas, the presence of oil is considered more likely. The appellants' estimate of the mean oil resource, of 5.6 million barrels (mb), is derived from a Competent Persons Report (CPR) prepared by an independent third party. This estimate would be equivalent to about 2-4 days of UK production. After taking into account expected costs the appellants also estimate, at net present value and on current tax rates, that if it was exploited a level of resource of this magnitude would result in £117m accruing to the Government in tax and £78m to the Licensee Group. A lower estimate of the resource, of 3.6mb, is submitted by Mr Johnson, for LHAG. However, it is based on a Decline Curve Analysis approach which he acknowledges to be less scientific than the approach in the CPR.

49. I conclude on this issue that the principle of investigating onshore oil and gas resources is consistent with the Government's policies towards energy and minerals. The evidence submitted suggests a significant level of uncertainty with regard to the likelihood of hydrocarbons being found in this case and, if they are found, the scale of the resource. Based on the appellants' own estimates, while the chances of finding hydrocarbons are good by industry standards, it is more likely that no resource would be found. While not insignificant, the estimated amount of resource is small in the context of UK production. The potential for future commercial and tax revenues weighs in the appellants' favour. However, these benefits would not result directly from this development but from future extraction which, if it occurred, is likely to be in a different location.

*Whether the proposed exploratory drilling site could reasonably be located outside the AONB*

50. In addition to the appeal site the appellants initially assessed 5 other sites, all of which are within the AONB. They later provided an updated assessment which added 4 further sites, including two sites which are outside the AONB. They are Site I (Beare Green West) and Site J (Old Horsham Road). Another site (Site H, Jersey Farm) is close to the AONB boundary. The sites were assessed for their technical feasibility and in other respects, including access and the effects on the environment and residential amenity.
51. The evidence of Mr Burdis explains the practical limits on directional drilling for exploration purposes. These limit the extent to which a drillsite can be offset from the target, particularly as the exact location and depth of the target is not known and the aim is to evaluate the reservoir properties of the hydrocarbon bearing layers, while intersecting the primary and secondary targets using the same well bore. He also refers to the importance of drilling along a seismic survey line, which would be possible only at the appeal site or at Site D (Anstiebury Farm). He considers none of the other alternatives to be practicable, being further away from the Holmwood Prospect, with greater chance of failing to reach or evaluate the Prospect. Sites outside the AONB would have an unacceptably low chance of successfully reaching the Prospect.
52. Site D (Anstiebury Farm) is to the south of the appeal site and within the AONB. It is closer to Coldharbour village and is on elevated land to the east of Coldharbour Lane. In the appellants' assessment of alternatives this site was rejected primarily because of the difficulty of achieving access, which would require the removal of an existing grassed traffic island, and the effects on landscape character and residential amenity.

53. As I set out above, the Council no longer contends that the Holmwood Prospect could be explored from a location outside the AONB. The evidence of LHAG refers to perceived shortcomings in the appellants' approach to assessing alternatives but does not identify any feasible and preferable alternatives. On the basis of the evidence submitted I conclude that it is unlikely to be feasible to explore the Holmwood Prospect from outside the AONB. Nor has it been shown that there is any feasible and preferable site within the AONB. The proposal would meet the requirement in MCS policy MC12 in respect of the assessment of other sites and the use of directional drilling.

*Other matters*

54. A range of other matters have been raised by local residents and others. They include economic harm to local businesses resulting from the effect of the proposed traffic management measures on customers and others needing to visit their premises and the effect of noise on a local livery/horse breeding business.

55. No quantified, independent assessment of the effect on local businesses is submitted. While some effect is likely, having regard to my conclusions on the effect on local residents and on road users and to the temporary nature of the development, it has not been demonstrated that the effect is likely to be significant. The site is well separated from Coldharbour Conservation Area and Leith Hill Tower and there would not be material harm to them. Nor do I consider that the development would create a precedent for harmful, short-term development in the AONB. The Council would not be precluded from properly assessing the planning merits of such proposals and determining planning applications accordingly.

56. I appreciate that there is local concern about the effect on highway safety, having regard to constraints in the local highway network and the existing motor vehicle, cyclist and pedestrian movements in the area, including to and from local schools and on Knoll Road and Coldharbour Lane. However, while the development would generate a significant level of traffic, including HGV movements, a TMS and temporary road closures would provide scope for careful control of those movements so that material harm to highway safety is unlikely. Nor has it been shown that the development would result in significant problems elsewhere on the local highway network. The ES included an assessment of the potential effect on ecology. There was no objection to the development from Natural England and, as I set out above, the evidence of LHAG on ecology was withdrawn. Having regard to the temporary nature of the development and the scope for conditions to mitigate its effects, these other matters do not add materially to my conclusions.

*The overall balance*

57. I have concluded that the development would amount to inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and there would also be harm to Green Belt openness and through encroachment into the countryside. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt. I attach substantial weight to the harm through inappropriateness. In the particular circumstances of this case, where the development would be temporary and reversible, I consider that moderate weight should be given to the harm to Green Belt openness and by encroachment into the countryside. I have also

found material harm to the AONB, with regard to visual impact and the effect on its character, including the quality of tranquillity. I take into account the great weight given in the Framework to conserving landscape and scenic beauty in an AONB, which is also reflected in other relevant policies. However, having regard to the temporary and limited extent of this harm, I consider that only moderate weight should attach to it in the particular circumstances of this case. Other matters, including the effect of traffic movements on local residents and highway users, do not weigh materially against the development.

58. As I set out above, the exploration of energy and mineral resources is, in principle, consistent with national policies. In this case, the absence of another site from which the Holmwood prospect could be explored adds to the weight to be attached to the need for the development. On the other hand, that weight is tempered by the uncertainty of whether hydrocarbons would be discovered and the relatively small scale of the estimated resource. Nevertheless, I attach considerable weight to the need for the development in the context of the absence of any alternative site. I have taken into account the temporary and reversible nature of the development as mitigating factors in weighing the harm, rather than as distinct "other considerations" to weigh in the Green Belt balance in the appellants' favour. My overall conclusion is that there are not other considerations which would clearly outweigh the harm to the Green Belt and the other harm I have found. In the light of that conclusion, very special circumstances to justify the granting of planning permission do not exist and the development would conflict with MCS policy MC3. The development would not be in the public interest as referred to in policy MC2. Planning permission should not be granted.

### **Conclusion**

59. Having regard to the above and to all other matters raised I conclude that the appeal should not succeed.

### **Formal Decision**

60. I dismiss the appeal

*K Williams*

INSPECTOR

## APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: Mr R Walton, of Counsel.

He called:

Ms L Brown, BA, DipLA, CMLI	Associate Landscape Architect, Atkins.
Mr P M White, MA, MSc, MRTPI	Director, Atkins.

FOR THE APPELLANTS: Mr A Newcombe of Queens Counsel and Mr M Westmorland Smith, of Counsel.

They called:

Mr S Kosky, BA(Hons), DipTp, MRTPI	Planning Director, Barton Willmore LLP.
Mr R Elliot, BA(Hons), BSc (Hons), CEng, MICE, MStructE	R Elliot Associates.
Mr L Toyne, BA, DipLA, DipTp, CMLI	Landscape Planning Associate, Barton Willmore LLP.
Mr I Burdis,	AGR Petroleum Services.
Mr A Stuart, BSc(Hons), M Eng	Consultant Petroleum Engineer.

FOR THE LEITH HILL ACTION GROUP: Mr S Whale, of Counsel.

He called:

Mr P Johnson, BSc (Hons), MICE	Managing Director, Oilfield Production Consultants (OPC) Ltd.
Mr P Tindall, BA, MA	Chairman, Leith Hill Action Group.

FOR CAPEL PARISH COUNCIL: Mr P Garber. He gave evidence himself and called:

Mr D Boswell, BSc, CEng, MICE, FConSE	Consultant to the parish council.
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FOR THE SURREY HILLS BOARD:

Mr C Smith BA(TCP), MRTPI, DMS	Planning Adviser to the Board.
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INTERESTED PERSONS:

Mr R Hardiman	Local Resident
Mr C Robertson	Development Control Manager, Mole Valley District Council (MVDC).
Mrs Nelson	Local resident.
Mr Abrehart	Local resident.
Mr Ede	Local resident.
Mr Cormack	Local resident.
Councillor Cooksey	Councillor, Surrey County Council and Mole Valley District Council.
Mr Simpson	Local resident.

Mr Hopper  
Councillor Watson  
Councillor Mir

Local resident.  
Councillor, Surrey County Council.  
Councillor, Mole Valley District Council, board  
member, Surrey Hills AONB.

### **DOCUMENTS SUBMITTED AT THE INQUIRY (IN ADDITION TO THE INQUIRY CORE DOCUMENTS)**

- 1 Copy of Surrey County Council (SCC) 10 July 2012 letter to the Inspectorate concerning reason for refusal no.3.
- 2 Appellant's opening submissions, with attached extract from Encyclopaedia of Planning Law and Practice.
- 3 LHAG opening submissions.
- 4 Mr Hardiman's submission of objection.
- 5 Matrix of draft conditions.
- 6 Draft highways conditions.
- 7 Note of comments of parties involved in a meeting to discuss conditions held on 19 July 2012.
- 8 Note of revisions to Mr White's evidence.
- 9 Constitution of the Surrey Hills Board.
- 10 Capel Parish Council letter of 16 July 2012 and the parish council's planning statement.
- 11 Earlier version of Mr Johnson's proof.
- 12 Surrey Wildlife Trust letter, 15 December 2010.
- 13 Email from Mr Bradley to Mr Greenhaugh, 11 March 2009.
- 14 Letter from Ms C Smith to Ms P Sparrow, 15 February 2010.
- 15 Statement of Mr C Robertson, Development Control Manager, Mole Valley District Council.
- 16 Letter from Peter Brett Associates LLP to Surrey County Council, 9 December 2009.
- 17 Submission by Councillor Stephen Cooksey.
- 18 Statement by Mr Hopper, local resident.
- 19 Note concerning Decline Curve Analysis.
- 20 Letter from Mr Moreno, with attached correspondence.
- 21 Mr Hardiman's observations on draft conditions.
- 22 Updated version of the appellant's foliage survey.
- 23 Revised site layout, drawing 1.7C.
- 24 Drawing 5.11A.
- 25 Drawing 5.10C.
- 26 Closing submissions by Mr Hardiman.
- 27 Closing submissions by LHAG.
- 28 Closing submissions by the Council.
- 29 Closing submissions by the Appellants.

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- 30 Review of illustrative views in SCC landscape evidence - visibility of appeal site/proposed development and percentage of drilling rig visible agreed between landscape witnesses of SCC and the appellants.
- 31 Appellants' comments on Mr Hardiman's suggested conditions.
- 32 Council's comments on Mr Hardiman's suggested conditions.