

P Tindall

1st

Third Defendant

Exhibits "PT1-3"

Dated: December 2012

Claim No: HQ12X04551

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

BETWEEN:

EUROPA OIL AND GAS LIMITED

Claimant

-and-

1. SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT

2. SURREY COUNTY COUNCIL

Defendants

WITNESS STATEMENT OF PETER TINDALL

I, PETER TINDALL, Chairman, Leith Hill Action Group, of Chasemore Cottage, Coldharbour, Surrey RH5 6HF, WILL SAY AS FOLLOWS:

Introduction

1. I make this witness statement in support of the application by the Leith Hill Action Group (“LHAG”) to be added as Third Defendant in these proceedings. I have all necessary authority to do so. The matters set out in this witness statement are matters within my own knowledge, or else they are matters of information and belief in which case the source is given.
2. The Claimant (“Europa”) has indicated in pre-application correspondence that it consents to LHAG being added as Third Defendant. I exhibit herewith marked “PT1” true copies of this correspondence.

LHAG

3. LHAG was formed in February 2009 when residents of the village of Coldharbour in Surrey received a letter from Surrey County Council informing them of Europa’s planning application for an exploratory hydrocarbon drilling operation at Bury Hill Wood. The Group is bound by a written constitution agreed by the committee members. There is no formal membership structure (and therefore no membership dues) although the Group has been supported by a very large number of local residents and others from further afield. Meetings have been held regularly and minutes recorded and distributed to committee members. LHAG’s aim is to preserve the fragile area of Coldharbour Lane, and the wider Leith Hill area, located in the heart of the nationally protected Surrey Hills Area of Outstanding National Beauty.
4. The committee is currently formed of a Chairman (me), supported by Alan Hustings, Coldharbour parish councillor Stuart McLachlan, Gaye Charlton, Max Rosenberg, Patrick Nolan, Charlotte Nolan and south Dorking resident, Janet Housden. LHAG

formed a fundraising committee in January 2012 to raise sufficient funds for its appointed barrister and a number of professional consultants with respect to the public inquiry into Europa's appeal against the refusal of planning permission.

5. LHAG objected to Europa's planning application in the long period between submission of that application on 1 December 2008 and its refusal by Surrey County Council on 30 June 2011. Europa appealed against that refusal in December 2011. The appeal was set down for a public inquiry. On 10 January 2012, LHAG was granted Rule 6 status to participate actively in the public inquiry as a formal party with full status and standing. A true copy of the letter from the Planning Inspectorate confirming as much is attached herewith marked "**PT2**".
6. LHAG was represented at the public inquiry by Stephen Whale of Counsel. LHAG had three witnesses, and I was one of these witnesses. The Secretary of State's appointed Inspector, Mr Keri Williams, dismissed Europa's appeal by way of an Appeal Decision dated 26 September 2012. A true copy is exhibited herewith marked "**PT3**". The "Appearances" page of the decision (page 15) records that Mr Whale represented LHAG, and it also records that I appeared as one of LHAG's witnesses.

My background

7. In terms of my own background, I am a recently retired Chartered Civil Engineer with 40 years experience in highway and pavement related construction. I have a Masters degree in Pavement Technology from the University of Nottingham and a Bachelors degree in Civil Engineering from the University of Middlesex. Until my retirement I was a Fellow of the Institute of Asphalt Technology, a Fellow of the Institution of Highways and Transport and member of the Institution of Civil Engineers.

8. My professional life began as a civil engineer working for the Development Corporation at Stevenage New Town in the Highways and Drainage sections. My career has taken me through all aspects of highway engineering and ultimately to airport pavements. My working life included the two biggest engineering consultancies in the UK both with extensive international operations. For two years I worked on secondment to the maintenance department at Kent County Council which at the time was one of the UK most forward thinking authorities on highway maintenance. I worked on projects which include: Design and sitework on the M25 in Surrey and Essex, Planning and Public Consultation on the Second Severn Crossing and New Tamar crossing schemes, pavement work at the Millennium Dome and a number of investigative projects to identify the causes of pavement failures. My airport projects include Chek Lap Kok airport in Hong Kong and Manchester Second Runway as well as work at a number of BAA airports.

These proceedings

9. Europa issued this claim on 31 October 2012. It served the documentation on LHAG on 2 November 2012. LHAG has had to meet to discuss the costs implications of issuing this application. As I have already explained, it has also engaged in constructive correspondence with Europa's solicitors prior to issuing this application. This explains the timing of this application. I would add that LHAG's letter to Europa's solicitors in advance of this application was copied to Surrey County Council and the Treasury Solicitor's Department (on behalf of the Secretary of State). Surrey County Council has acknowledged receipt; The Treasury Solicitor's Department has not responded.

10. I understand that applications under section 288 of the Town and Country Planning Act 1990 should be issued by way of a Part 8 claim in the Administrative Court within 6 weeks of the Inspector's decision. However, according to the seal on the claim form, Europa erroneously issued its claim in the Action Department of the Queen's Bench Division. I also understand that Europa is seeking to have the claim transferred to the Administrative Court. This application to add LHAG as Third Defendant presupposes that this transfer application will be granted (if it has not already been granted) and LHAG reserves its position as to whether or not there is jurisdiction to entertain Europa's purported section 288 application given these issues as to forum and the timing of the issuing and service of the claim.
11. The Secretary of State will presumably seek to defend Europa's claim, although LHAG does not know that for certain. Surrey County Council has stated that it does not intend to play any part in the proceedings. That is quite normal in these kinds of cases.
12. LHAG, if added as Third Defendant, does intend to defend Europa's claim with a view to upholding the Inspector's decision. LHAG is in a position to make a positive and helpful contribution to these proceedings. Together with Capel Parish Council, its case at the public inquiry was that Europa's proposed development represents inappropriate development within the meaning of Green Belt policy. It will be able to refer the court to the competing submissions on this issue. It will also be able to explain to the court that Europa also conceded that its proposal represents inappropriate development in the Green Belt in its planning statement submitted in support of its application, and that it maintained this position over several years until changing its position close to the inquiry. Mr Hustings of LHAG took detailed notes at the inquiry, and which LHAG will be able to produce for the benefit of the court

including in relation to the oral evidence given (and Europa's witnesses' concessions in the course of that evidence). Mr Whale of Counsel continues to be instructed by LHAG. He has appeared in the High Court in many section 288 applications over the years, and so he is very familiar with the process. He will of course be in a position to make legal submissions in response to Europa's grounds of challenge.

Myself as Defendant

13. If the court is content to add LHAG as Third Defendant, there is no particular reason as far as I am concerned to add me as a Defendant too. If, for whatever reason, the court wishes to add me as a named Defendant (whether as Third Defendant instead of LHAG or as Fourth Defendant in addition to LHAG), I am content for that to occur. The draft Order reflects these permutations.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed:

Dated:

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EXHIBIT "PT1"

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EXHIBIT "PT2"

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EXHIBIT "PT3"
