

**CAPEL PARISH COUNCIL**  
**BEARE GREEN, CAPEL AND COLDHARBOUR**

**Mrs Jackie Coke**  
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12<sup>th</sup> January 2015

Mark O'Hare  
Acting Principal Planning Officer  
Planning-Minerals and Waste Development  
Surrey County Council  
County Hall  
Kingston-upon-Thames  
Surrey KT1 2DY

Dear Mr O'Hare

**Town & Country Planning Act 1990**  
**Application by Europa Oil and Gas Ltd.,**  
**Bury Hill Wood, off Coldharbour Lane, Coldharbour**  
**Ref No.MO/2014/1006/SCC. SCC Ref 2014/082**

Capel Parish Council has given detailed consideration to the above application, including an assessment and comparative review of the original E.I.A. and the most recent submission.

In making its recommendation we have also had the opportunity of meeting the applicants and their consultancy team. The discussions with Barton Wilmore were helpful in seeking areas of clarification.

We should also confirm that representations were submitted to PINS on 5<sup>th</sup> December, 2014 in respect of the extant appeal (APP/B3600/A/11/2166561).

The recommendations to PINS in respect of the appeal and, the recommendation to Surrey County Council are consistent in that planning permission should be refused.

The recommendation of the Parish Council is based upon three main areas which are:-

- (i) Financial;
- (ii) Green Belt;
- (iii) The AONB

In addition a number of supplementary matters are reviewed, including the issue of conditions should Surrey County Council resolve to grant permission.

On the last point the applicants have confirmed that the submitted scheme, if granted permission, could not be implemented in isolation.

## 1. **Financial Considerations**

The concern of the Parish Council relates to the ability of Europa Oil to implement and control the development. The Parish Council were informed by Europa Oil of details regarding their liquidity, £4.5 million. Details were also provided of the Company Returns. Based upon the Europa Accounts ending on the 31<sup>st</sup> July, 2014 the following information was provided:-

- (i) The applicants only have a 40% interest in the Holmwood PEDL143 Exploration Licence;
- (ii) The revenue of £4.5 million is a 14% reduction on the previous year's revenue;
- (iii) Compared to the previous year the apparent liquidity was dependent upon a Share Issue;
- (iv) It would appear that they have a retained deficit based upon an accumulated loss on the previous year end of £13.2 million.

Given the significant costs of implementing any form of exploration the Parish Council is concerned as to their ability to meet all of its environmental obligations in the event of planning permission being granted.

You will be aware the applicants have a Lease from the Forestry Commission for the exploration now proposed.

National Planning Guidance requires the owners (Forestry Commission) to undertake all remedial obligations contained within any Conditions or Planning Agreements to restore the land in the event of default.

Given the financial risks which we consider may prevail the Commission would need to be party to any agreement.

As we have identified the applicants only have a 40% (minority) interest, we would seek the assurance that all interested parties would be signatories to any planning agreement.

We raise this spectre of concern as LHAG (the local objectors) have been informed of the intention of solicitors acting on behalf of Europa Oil that they will seek to satisfy certain areas by condition.

The Parish Council considers this prospect to be 'high risk' having regard to (a) the prospect of an application to vary the conditions of any permission which may be granted within 5 years and (b) the prospect of enforceability.

## 2. The Green Belt

The evidence of the Parish Council at the first Inquiry was not challenged by the appellants, Europa Oil and Gas Limited. The subsequent decision of the Inspector detailed in Paragraph 58 was that there were no other considerations which ***“would clearly outweigh the harm to the Green Belt.”***

The position adopted in relation to the Judicial Review and the Court of Appeal has subsequently changed. Firstly the Community Secretary has had further regard to Green Belt considerations. Secondly, following a separate appeal in relation to Redhill Aerodrome Limited, which also considered Green Belt issues, the Court of Appeal supported the decision of that Appeal Inspector who had refused planning permission, in particular, the issue of harm referred to in Paragraph 3 of the Lord Justice Sullivan Judgment in October 2014.

The protection of the Green Belt is one of the core planning principles in the National Planning Policy Framework.

Paragraphs 87 and 88 of the Framework which state that:-

87 *“As with previous Green Belt policy, inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.”*

88 *When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. **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.”*

This emphasis is consistent with the balance addressed by the Planning Inspector at the Europa Oil Appeal in 2012 in Paragraphs 57 and 58 of his decision letter. This now accords with the Court of Appeal Redhill decision.

The position of Capel Parish Council is, therefore, clear and consistent with the evidence it presented to that Inquiry. Its recommendation is that planning permission should be refused by reason of inappropriateness and the harm it would cause to the Green Belt.

Some changes to the Green Belt Policy in the Framework have changed but protection of the Green Belt remains one of the Core Planning principles fundamental to the aim of Green Belt Policy. There have been no changes to what are considered to be the essential characteristics of Green Belts and the five purposes they serve all remain unchanged.

What remains a significant consideration in the view of the Parish Council is that very special circumstances should justify an exception to Green Belt Policy

which were not demonstrated in 2012 and cannot be demonstrated now in respect of the reconsideration and redetermination of the appeal.

3. **The A.O.N.B.**

The area of high landscape and biological value is very popular with visitors.

The site in specific terms is within the AONB where the protection of the natural beauty of the landscape is a priority and while it is acknowledged that an AONB designation does not preclude development in tandem with its Green Belt designation and its unique setting where the corner stone is tranquillity any intrusion must be seen as one to have an adverse and potential irreversible impact upon the locality, this being reinforced in Paragraph 115 of the NPPF which states that ***“great weight should be given to conserving landscape and scenic beauty.”***

The Council has noted a consistent pattern in respect of recent decisions of the Communities Secretary in relation to the importance of, and protection of A.O.N.B's.

The decision may not relate to oil exploration but do show a consistent regard Mr. Pickles has in respect of the great weight and importance to be afforded to such areas of national importance and designation.

**Other Matters**

4. **Highways**

Europa have confirmed that overall the period of development for the exploration would be a maximum of 18 weeks. By virtue of nature conservation considerations this would be in a period April – September. In that period they confirm that a holding location at a transport depot away from Dorking/Coldharbour would be implemented. Furthermore, they would put in place measures to improve what is, at present, poor reception for mobile phones in the Coldharbour area. The Parish Council would wish to see the securing of these safeguards incorporated into a Planning Agreement

Concern has also been expressed in relation to the impact development may have upon the banks either side of Coldharbour Lane. It has been agreed (in principle) that in the event of planning permission being granted a condition survey would be undertaken along the entire length of Coldharbour Lane up to the site to enable protective/ remedial measures to be taken in the event of damage being caused by vehicles serving the proposed development.

The Parish Council would also wish to see these measures being secured by way of a Planning Agreement with movements suspended while remedial works are undertaken.

5. **Light and Noise**

Given the previously environmental condition some impact in relation to noise and light will prevail.

The applicant's proposals demonstrate their intentions to minimise that impact. Nonetheless, they are conditions which would be better absent from the vicinity.

6. **Aquifer**

The Parish Council accept that the exploration proposals are unlikely to have an adverse impact upon the aquifer.

**Recommendation**

The Parish Council has given in depth and comprehensive consideration to the proposals.

It is our recommendation that Planning Permission is refused.

Yours sincerely

Jackie Coke  
Clerk to Capel Parish Council