

Mr. David Maxwell
Surrey County Council
County Planning Department
County Hall Penrhyn Road
Kingston upon Thames
Surrey
KT1 2DY

Our ref: ZG-118
Your ref: 2019/0072
Date: 10th June 2019

Dear Mr. Maxwell,

TOWN AND COUNTRY PLANNING ACT 1990 - COUNTY MATTER APPLICATION

SITE: Land South of Dunsfold Road and East of High Loxley Road, Dunsfold, Surrey.

PROPOSAL: 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 sidetrack 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.

APPLICANT: UKOG (234) Ltd.

Clarification Statement in response to the Written Statement of Secretary of State for the Ministry of Housing, Communities and Local Government 23rd May 2019

On 23rd May 2019, James Brokenshire, Secretary of State for the Ministry of Housing, Communities and Local Government issued a planning policy update by way of a written statement to the House of Commons. It stated that in accordance with the judgement handed down by Justice Dove on the 6th March 2019 in the case of *Stephenson v Secretary of State for Ministry of Housing, Communities and Local Government*¹, paragraph 209(a) of the National Planning Policy Framework (NPPF) had been quashed. NPPF 209(a) states:

Minerals planning authorities should:

- a) *recognise the benefits of on-shore oil and gas development, including unconventional hydrocarbons, for the security of energy supplies and supporting the transition to a low-carbon economy; and put in place policies to facilitate their exploration and extraction;*

The NPPF is a material planning consideration in the determination of planning applications for hydrocarbon development. The planning balance performed within the **Loxley Well Site Planning Statement and Environmental Report** (the PSER) (dated 19th April 2019) refers to NPPF 209(a) within *Chapter 5: The Influence of Other Material Considerations*, under paragraph 5.2.1 *The NPPF*. When considering the influence of *NPPF Chapter 17: Facilitating the sustainable use of minerals*, the PSER states that for on-shore oil and gas development, minerals planning authorities should:

- a) recognise the benefits for the “security of energy supplies” and “supporting the transition to a low-carbon economy”.

¹ [2019] EWHC 519 (Admin).

This reference is then carried forward into *Chapter 6: Final Planning Balance*, and the *Executive Summary* within bullet point 1 of the penultimate paragraphs in each case.

The planning balance performed within the PSER records a high degree of consistency with the policy objectives of NPPF 209(a) (namely the “security of energy supplies” and the “transition to a low carbon economy”).

Given that the written ministerial statement post-dates the submission of the planning application it is necessary to revisit the planning balance. Accordingly, the purpose of this clarification statement is to:

Part 1: Assess the relevance of the policy objectives now that NPPF 209(a) has been quashed;

Part 2: Attribute weight to the policy objectives as material planning considerations;

Part 3: Assess the consistency achieved with the policy objectives; and

Part 4: Re-performing the planning balance.

No new environmental information is being presented. This clarification statement represents the Applicants response to the change in national planning policy and should be read in conjunction with the submitted PSER. Please do not hesitate to contact me if you have any concerns or queries with this clarification statement.


Nigel Moore B. A (Hons), B. Pl, MRTPI

Environmental Impact Assessment Project Manager

1. THE RELEVANCE OF NPPF 209(A) POLICY OBJECTIVES

1.1 SECURITY OF ENERGY SUPPLIES

The policy objective remains relevant to the following planning and energy policy framework.

1.1.1 European Energy Policy²

The policy objective is embedded within:

- **European Union (EU) 2020 Climate and Energy Package (2007);**
- **European Commission (EC) Security and Solidarity Action Plan (2008); and**
- **EU Energy Security Strategy (2014)**

The EU incorporate energy security and climate change into a single 2007 strategy emphasising the need for *'smart, sustainable and inclusive growth'*³. The delivery of secure energy at affordable prices whilst moving towards a low carbon economy is addressed within the 2008 EC action plan. It focuses on improving energy supplies by, amongst other things, improving Europe's ability to respond to supply disruption and making better use of the EU's indigenous resources (which includes the sustainable use of fossil fuels).

The current Energy Security Strategy establishes that the EU imports more than half of the energy it consumes. Its import dependency for crude oil is more than 90% at an annual cost of €300 billion. The strategy records that global energy markets are becoming tighter with emerging Asian countries and the Middle East accounting for most of the growth in global demand.

The EU remains vulnerable to external energy shocks and the strategy represents the EC's *'hard-headed'* response. It aims to secure energy supplies in the short-term, promote resilience against potential disruption and reduce the dependency of the EU on particular fuels and energy suppliers⁴.

1.1.2 National Energy Policy⁵

The policy objective is embedded within:

- **The Energy Act 2011; and**
- **The Energy Security Strategy 2012**

The Energy Act has three principal objectives one of which is to maintain energy security. It confers a duty upon the Government and the UK energy industry to report and closely monitor energy markets allowing for timely interventions to mitigate supply side shocks.

The Security Strategy records that energy is vital to our quality of life, comfort and prosperity. It is a *'key priorities'* for the Government being *'too great for us to take it for granted'*⁶.

Security will come from a broad, diverse and flexible energy system supported by the right infrastructure and it is *'central to ensuring that the UK remains an attractive place to live and do business'*⁷. The policy goals include *'maximising economic production of our oil... reserves to provide reliable energy supplies which are not exposed to international energy supply risks'*⁸. One of the *'key messages'* is the Government consider *'oil will continue to be a major part of our energy mix for the next few decades'*⁹.

² Addressed in the Loxley Well Site Planning Statement and Environmental Report at para 5.1.

³ European Commission, Energy, Climate Change & Environment - europa.eu/clima/policies/strategies/2020.

⁴ Communication from the Commission to the European Parliament and the Council, European Energy Security Strategy 28th May 2014, paragraph 2.

⁵ Addressed in the Loxley Well Site Planning Statement and Environmental Report at para 5.1.

⁶ The Energy Security Strategy 2012: Ministerial Forward, para 1-2, page 1.

⁷ The Energy Security Strategy 2012: Ministerial Forward, para 10, page 1.

⁸ The Energy Security Strategy 2012: Ministerial Forward, page 6.

⁹ The Energy Security Strategy 2012: page 55.

1.1.3 National Planning Policy¹⁰

The policy objective is embedded within the **Overarching National Policy Statement for Energy** which forms part of the framework of national planning policy¹¹ being a material consideration in decision-making¹². It is ‘critical’ the UK continues to have secure and reliable supplies¹³ derived from a ‘diverse mix of technologies and fuels’ so that we do not rely on any one technology or fuel¹⁴.

1.1.4 Other Government Statements¹⁵

National Planning Practice Guidance¹⁶ states that mineral planning authorities should take account of government energy policy as set out in the **Annual Energy Statement (AES)**. The policy objective is embedded within AES 2010 which states that energy security is heavily dependent on international developments which is a vulnerability for the UK given that oil imports are set to rise to 45-60% by 2020. Within this context, the UK’s indigenous supplies of oil ‘remain important’¹⁷. Of the 32 actions designed to, amongst other things, deliver secure energy, action 11 is relevant to oil production¹⁸:

‘we will seek to ensure that access to UK oil and gas infrastructure is available to all companies. This will help the exploitation of smaller and more difficult oil and gas fields, allowing us to make the most of our natural resources.’

AES 2012 states the UK Government continues to develop a fiscal regime that encourages ‘investment in indigenous oil and gas production for the economy and security of supply’¹⁹. AES 2013 sets out three Governments priorities in delivering the UK’s energy policies; one of which is to unlock “investment in the UK’s energy infrastructure that will support economic growth”²⁰. It confirms that oil and gas will remain “key elements of the energy system for years to come” and that the Government is committed to “maximising indigenous resources”²¹. AES 2014 states energy is a ‘vital’ part of our daily life and that the provision of ‘energy security’ is one of the UK Government’s primary objectives. Taking account of the UK’s position as a ‘net-importer of energy’ the Government states this ‘changes the way we need to view and tackle our energy security’²².

1.2 TRANSITION TO A LOW CARBON ECONOMY

1.2.1 National Planning Policy

The policy objective remains relevant to the **Overarching National Policy Statement for Energy** which states that the UK ‘is reliant on fossil fuels, and they are likely to play a significant role for some time to come’ finding that ‘our transport is almost wholly dependent on oil’. Accordingly, ‘some fossil fuels will still be needed during the transition to a low carbon economy’²³.

1.2.2 Gas Generation Strategy

As the UK seeks to achieve its carbon emissions reduction targets, existing and ageing power plants will close. Gas, as a flexible source of generation which emits half the CO₂ of coal, will be needed to

¹⁰ Addressed in the Loxley Well Site Planning Statement and Environmental Report at para 5.2.

¹¹ National Planning Policy Framework (February 2019) paragraph 12, page 7.

¹² Overarching National Policy Statement for Energy (EN-1) (July 2011) paragraph 1.2.1, page 1.

¹³ Overarching National Policy Statement for Energy (EN-1) (July 2011) paragraph 2.2.20, page 12.

¹⁴ Overarching National Policy Statement for Energy (EN-1) (July 2011) paragraph 2.2.20, bullet 2, page 13.

¹⁵ Addressed in the Loxley Well Site Planning Statement and Environmental Report at para 5.3.

¹⁶ National Planning Practice Guidance: Minerals - paragraph: 124 Reference ID: 27-124-20140306

¹⁷ Annual Energy Statement 2010: Department of Energy & Climate Change, para 4, page 9.

¹⁸ Annual Energy Statement 2010: Department of Energy & Climate Change, page 10.

¹⁹ Annual Energy Statement 2012: Department of Energy & Climate Change, para 1.8, page 7.

²⁰ Annual Energy Statement 2013: Department of Energy & Climate Change, para 1.6, page 6.

²¹ Annual Energy Statement 2013: Department of Energy & Climate Change, para 3.69, page 39.

²² Annual Energy Statement 2014: Department of Energy & Climate Change, paragraph 9-10, page 12.

²³ Overarching National Policy Statement for Energy (EN-1) (July 2011) paragraph 2.2.23, page 13.

help balance the relatively inflexible and intermittent low-carbon energy derived from renewable sources. Gas will provide ‘*crucial*’ capacity to keep the lights on and the economy working¹²¹.

Gas plays a ‘*critical role*’ beyond power generation¹²². In 2017, gas along with petroleum were the primary fuels consumed, with the majority used for heat in the domestic, commercial and industrial sectors. **Figure 1**, shows that in 2017 the aggregate primary fuel consumption was not met by indigenous production; this continues the trend since 2004 when the UK became a net importer of fuel. The Government expects gas to play a major role in our electricity mix over the coming decades, alongside low-carbon technologies, as we decarbonise our electricity system¹²³.

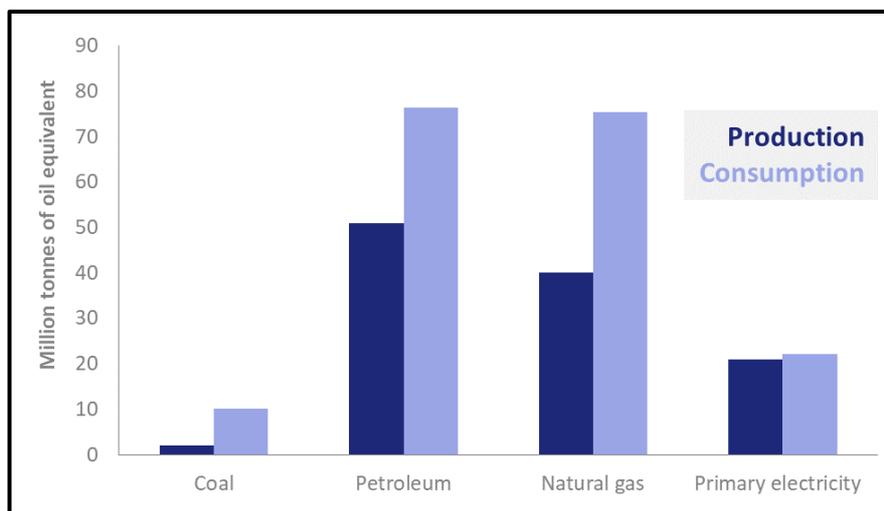


Figure 1: Production and Consumption of Primary Fuels 2017²⁴

The decline in UK gas production has increased the importance of imported gas. This can bring greater resilience through a greater diversity of gas supply sources but it can also bring new risks associated with the influence of geopolitical events, different gas prices by regional market and trade disputes²⁵.

An important component of the Government’s energy security policy is to ensure that the UK is not over-dependent on any individual fuel source, either in our overall energy mix or for power generation. Over-reliance on gas, or any energy source, could put the UK at risk of more severe impacts from any disruption to supply. Such risks are likely to become greater for gas as we become more reliant on imports while our domestic production declines.

Diversity of primary energy fuels, energy sources and supply routes are therefore ‘*key*’²⁶ given the uncertainty around future energy and gas market developments. Exploiting indigenous sources of gas supply provides the diversity called for by the strategy.

2. THE WEIGHT ATTRIBUTED TO THE POLICY OBJECTIVES

The policy objectives are material considerations of international and national energy and planning importance. Accordingly, the Applicant attributes them great weight in the planning balance.

3. THE CONSISTENCY ACHIEVED WITH THE POLICY OBJECTIVES

Security of energy supplies is ‘*too great for us to take it for granted*’²⁷. In response, national energy policy promotes a ‘*diverse mix of technologies and fuels*’²⁸. The proposed development will broaden

²⁴ Digest of UK Energy Statistics (DUKES) (2018): Department for Business, Energy and Industrial Strategy, Chart 1.2, page 13.

²⁵ Gas Generation Strategy: Department of Energy & Climate Change, Chapter 4, paragraph 4.7, page 45.

²⁶ Gas Generation Strategy: Department of Energy & Climate Change, Chapter 4, paragraph 4.13, page 47.

²⁷ The Energy Security Strategy 2012: Ministerial Forward, para 1-2, page 1.

²⁸ Overarching National Policy Statement for Energy (EN-1) (July 2011) paragraph 2.2.20, bullet 2, page 13.

the energy base, provide resilience against the vulnerability of import dependency, energy supply shocks and price fluctuations.

Sustainable growth is predicated upon energy security and the transition to a low-carbon future. This has brought forward new investment in renewable technologies and new energy generating solutions; but not to the exclusion of new investment in oil and gas. As at 2018, oil and gas are the dominant source of energy supply in the UK²⁹ with our transport networks being almost wholly dependent.³⁰ This means that oil and gas are likely to play a significant role in UK industry for some time to come; acting as a bridging technology providing economic stability and energy security while we manage the transition to a low carbon future.

The proposed development achieves a high degree of consistency with the policy objectives, a benefit that weighs significantly in favour of consent.

4. RE-PERFORMING THE PLANNING BALANCE

The bulk of the NPPF remains unchanged. Policies associated with hydrocarbon development are set out in Chapter 17: Facilitating the Sustainable Use of Minerals, with the most relevant policies being:

- **Paragraph 203:** hydrocarbon development is *'essential'* if there is to be a sufficient supply of minerals providing the infrastructure, buildings, energy and goods that the country needs; and
- **Paragraph 205:** *'great weight should be given to the benefits of mineral extraction, including to the economy'*.

The proposed development draws strong support from the NPPF and the raft of other international and national energy and planning policies. It represents precisely the kind of investment envisaged by the Government if the UK is to make the *'best use'* of its mineral resources³¹, reduce the vulnerability of being a net-importer of energy and deliver the sustainable growth called for by the NPPF. Compliance with the NPPF of February 2019 is particularly significant given that the framework represents the freshest thinking of the Government with regard to mineral development.

Taking account of these findings, this Update finds that the planning balance as performed within the **Loxley Well Site Planning Statement and Environmental Report** remains unchanged. The proposed development remains *'sustainable development'*³² engaging the NPPF's *'presumption in favour of sustainable development'*³³. Accordingly, planning permission should be consented without delay.

²⁹ Digest of Energy Statistics (DUKES) (2018), Table 1.C: Fossil Fuel and low carbon dependencies 2015-2017.

³⁰ Overarching National Policy Statement for Energy (EN-1) (July 2011) paragraph 2.2.23, page 13.

³¹ National Planning Policy Framework (February 2019) paragraph 203, page 58.

³² National Planning Policy Framework (February 2019) paragraph 7, page 5.

³³ National Planning Policy Framework (February 2019) paragraph 10, page 5.