



Laura Edwards
 Planning Advisor
 Environment Agency

Growth, Environment & Transport
 Growth and Communities
 Invicta House
 County Hall
 MAIDSTONE
 ME14 1XX

Phone: 03000 413468
 Ask for: Sharon Thompson
 Email: Sharon.thompson@kent.gov.uk
 29th August 2024
 Your Ref: KT/2009/108760/CS-13/EW1-L)1
 Our Ref: KCC/MWLP/ST/EA/CSM10

BY EMAIL KSLPLANNING@environment-agency.gov.uk

Dear Laura

Draft Kent Minerals and Waste Local Plan 2024-2039: Inspector's Matters, Issues and Questions -

Environment Agency Hearing Statement

I am writing with regard to the hearing statement that was submitted to the examination of the Kent Minerals and Waste Local Plan 2024-2039 by the Environment Agency on 16 August 2024. In particular, I am seeking clarification regarding comments made about Policy CSM10 and the Supreme Court decision that concerned the content of an environmental impact assessment (EIA) submitted in support of a planning application for hydrocarbon production in Surrey. The comments are as follows (with emphasis added):

'Section 5.10.2 says: "...a need to establish, through exploratory drilling, whether or not there are sufficient recoverable quantities of unconventional hydrocarbons present..." This sentence is equally true for 'conventional' hydrocarbon extraction as well, so we consider having this wording here unnecessarily emphasises the planning policy toward unconventional methods only. We would recommend deleting "unconventional."

It would be advisable for Kent County Council to confirm they have considered this wording (and their role in examining climate impacts of hydrocarbon extraction permissions) in the light of the recent (June 2024) appeal decision against Surrey County Council's granting of a planning permission at the Horse Hill site (which is for conventional hydrocarbon extraction): R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) The Supreme Court.'

Stephanie Holt-Castle
 Director of Growth and Communities

The comments suggest that, in light of the Supreme Court decision, Kent County Council should:

1. Consider the wording of paragraph 5.10.2, and,
2. Consider its '*role in examining climate impacts of hydrocarbon extraction permissions*'

With regard to the first matter, paragraph 5.10.2 references drilling for exploratory purposes. Exploratory drilling does not generally result in the production of significant quantities of hydrocarbons (if any) and so the downstream emissions which might arise would be of a quantity that could be considered 'de minimis' in terms of impacts including those relating to climate change. Indeed, the Supreme Court case concerned an application for production of hydrocarbons rather than exploration. If any planning application revealed that a significant amount of hydrocarbons would be produced as a result of exploration then the EIA would need to take this into account.

With regard to the second matter, as above, the County Council would ensure that any EIA required to be produced to support a planning application for hydrocarbon production took account of downstream emissions in accordance with the Supreme Court decision. I hope this confirms the Council's position following the Supreme Court decision, but would appreciate confirmation by the Environment Agency that, having raised this matter, it is now reassured that the Council understands its duties. A response by Thursday 5 September is requested as this could then be shared with the Inspector to help her with her examination of the KMWLP. The hearings are scheduled to commence on 10th September.

I should add that on the matter of the use of the term 'unconventional' in paragraph 5.10.2, while this is the first time this issue has been raised, the Council is happy to concede that a modification along the lines suggested in the Environment Agency's hearing statement would be appropriate.

I look forward to hearing from you.

Yours sincerely,

Sharon Thompson
Kent County Council
Head of Planning Applications and Minerals and Waste Policy Team

Stephanie Holt-Castle
Director of Growth and Communities