

Case Name: *Finch, R (On the Application of) v Surrey County Council* [2020] EWHC 3559 (QB) (21 December 2020)

Full case: [Click Here](#)

Commentary:

This was an unsuccessful challenge to the Council's decision to grant planning permission for the retention and expansion of two existing wells and the drilling of four new wells for the production of hydrocarbons over a period of 25 years.

The main issue was whether the developer's obligation under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to provide an environmental statement describing the likely significant effects of a development, both direct and indirect, required an assessment of the greenhouse gas emissions resulting from the use of an end product said to have originated from that development. In this instance, the end product was crude oil from the site which would be used in vehicles.

If this argument had been successful, it would have affected all the various forms of mineral and industrial development which result in end products, the making and consumption of which have downstream environmental effects such as greenhouse gas and other emissions.

However, the court considered that there would be no clear test or criteria by which decision-makers could distinguish between those indirect effects that require assessment from those that do not if the former were to be treated as including matters as indirect as greenhouse gas emissions from the downstream combustion of refined oil products. It would also be unclear whether the environmental statement would have to take into account emissions from the intervening stages such as the stage of refining crude oil obtained from the site in question.

Dismissing the claim, the court found that while it was common ground that an environmental statement should assess both the direct and indirect effects of the development for which planning permission is sought that are likely to be significant, "indirect effects" must still be effects which the development itself has on the environment. It noted that the EIA process is concerned with the use of land for development and the effects of that use; it is not directed at the environmental effects which result from the use of an end product, be it a manufactured article or a commodity such as oil, gas or electricity used as an energy source for conducting other human activities.

Case summary prepared by Safiyah Islam