

**Case Name:** *Finch On Behalf of the Weald Action Group, R (On the Application Of) v Surrey County Council & Ors* [2022] EWCA Civ 187 (17 February 2022)

**Full case:** [Click Here](#)

**Commentary:**

The Court of Appeal has upheld the judgment of the High Court on the question of whether it was unlawful for Surrey County Council not to require the environmental impact assessment ("EIA") for a commercial crude oil extraction project to include an assessment of the impacts of greenhouse gas emissions resulting from the eventual use of the refined products of that oil as fuel.

The High Court had 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 was 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 was concerned with the use of land for development and the effects of that use; it was not directed at the environmental effects which resulted from the use of an end product.

The Court of Appeal agreed that the Council had not acted unlawfully but while the High Court considered that in the circumstances of this case, the assessment of greenhouse gas emissions from the future combustion of refined oil products at the development site was, as a matter of law, incapable of falling within the scope of the EIA for the planning application, the Court of Appeal held that the existence and nature of "indirect" effects would always depend on the particular circumstances of the development under consideration and that establishing what should be included in an environmental statement was for the relevant planning authority. The need for a wider assessment of greenhouse gas emissions may sometimes be appropriate; what needs to be considered is the degree of connection between the development and its putative effects.

In this case, though the project itself was confined to the construction and use of a well site for the commercial extraction of crude oil for onward transport to refineries, the eventual combustion of the refined products of the oil extracted at the site was "inevitable", not merely "likely" or "possible". This being so, the Court of Appeal decided that it was for the Council to establish whether, bearing in mind the intermediate stages which would have to occur before combustion could take place, the greenhouse gas emissions which would be generated in that way were properly to be regarded as "indirect" effects of the proposed development. It was not the court's role in a claim for judicial review to substitute its own view for the planning authority's on a question of this kind.

*Case summary prepared by Safiyah Islam*