



LDC Supporting Statement

Prepared on behalf of Clover Industrial Investments Ltd

in support of an

Application for Lawful Development Certificate

for an

Existing Use relating to the industrial use of the site for B1 offices, B2 general industrial, B8 storage and distribution, D1 training and sui generis uses; so as to cumulatively be classified as previously developed land and a brownfield site

to Wrexham County Borough Council

at Maelor Works, Cross Lanes, Wrexham, LL13 0UW

February 2024

Ref. J10-PS-CII-RevB

Certificate of Lawful Existing Use or Development (CLEUD)

INTRODUCTION

This statement supports an application for a Lawful Development Certificate for the existing use of land and premises at Maelor Works.

The Certificate seeks confirmation that the lawful use of the buildings and of the land has, since sometime Before/since 1991, been used for a variety of uses (principally those within Use Classes B1, B2, B8 and D1, but also sui generis uses) and that these uses are not restricted by planning condition; so as to cumulatively comprise a previously developed brownfield site.

The submission is based entirely on factual information about the history and planning status of the land and premises and sets out the grounds on which this Certificate is sought and introduces evidence to demonstrate that the uses are lawful and the entire site is classified as previously developed land (i.e. brownfield).

The applicant considers that the material provided in support of this application proves, on the balance of probability, that a CLEUD ought to be reasonably issued.

THE SITE

The site area comprises some 12.4 ha (30.75 acres) of mixed industrial land that is considered to comprise PDL (previously developed land) that is located south of the Wrexham Industrial Estate in the ward of Marchwiell and close to the communities of Cross Lanes, Bowling Bank and Pentre Maelor. The site is accessed by the Maelor Gas Works Access Road, which joins the B5130 near to the village of Cross Lanes.

The site was originally part of the former ROF built in 1939; post-war this site became the location for the Maelor Gas Works that fully 1954. It became a location for utility energy generation, storage and distribution and these functions remain with Flogas (propane distribution centre) and Wales & West Utilities located here amongst a host of industrial buildings, large areas of hard standing and rough cleared ground.

Bordering the site in two parts is Maelor Gas Works, (Wales & West Utilities Ltd), an above ground installation that takes gas from the National Transmission System. The pumping station distributes it via underground infrastructure across the North Wales region and a new connection to the proposed Wrexham gas power plant.

The western area of the site consists of an above ground installation, pipe work and valves surrounded by palisade fencing. The main compound to the north-east also has an above ground installation, collection of buildings and pumping equipment all enclosed with high security fencing and electric fencing. These two sites are connected by an Intermediate Pressure gas pipeline that bisects the application site.

HISTORY OF THE SITE

The site was formerly part of the Royal Ordnance Factory (ROF), Marchwiel, Wrexham, which was specifically built for the production of cordite towards the end of 1939 to support the Ministry of Supply during WW2. The site was used as an “extension” to the main works located to the north. Prior to 1939 the site was occupied by two farms.

Following the closure of ROF Marchwiel at the end of the war, the site was used as a small-scale gasworks and in 1949 the site, known as the Maelor Works, was acquired by the Wales Gas Board and it supplied gas to the newly created Wrexham Industrial Estate, which replaced large parts of the former ordnance factory. A number of remnant ROF buildings remained on site.

After three years of construction, in 1953, the site has become further developed and opened as the Maelor Gas Works, operated by the Welsh Gas Board (then British Gas) and run as a carbonizing plant fueled by coal. This involved demolishing some of the ROF buildings and the erection of a number of new buildings including offices, laboratories, gas holders, condensers, carburetted water gas house, compressor power-house and washers.

The plant ran until 1968 when, following a period of about 3 years, it had been converted from coal to an oil-run gas plant.

However, this was short-lived and by 1971 the oil gas plant was being dismantled.

Whilst details of the decommissioning and demolition of the main production areas are not available, a large proportion of the plant and machinery associated with the Gas Works was removed down to ground level, with many below ground tanks and foundations left in-situ. Some new buildings were constructed on site and the site was used by Transco as its regional office, with training, workshops, manufacturing and distribution operations functioning out of it.

A number of pollution incidents appear to have occurred during the 1990’s and it is believed these were the precursor to remediation works being undertaken from 1996 through to 2017.

Land ownership at the site was under the control of the National Grid Transco, but due to the privatisation and fragmentation of the gas supply industry, this meant that whilst they were the primary site owner, the site also offered accommodation for various uses and operations which involved a number of organisations, with parts of the site coming under leasehold occupation by third parties for a variety of gas and electricity related activities.

The site continued to accommodate other uses including training, administrative and management offices, storage and distribution, along with light manufacturing.

These continue to exist and one tenant (Flogas) has used part of the site for containerised gas storage and distribution, whilst areas outside of the primary ownership have been occupied by Wales & West Utilities for their gas plant operations.

In around 2017 the central area of the site was subject of excavation and demolition works associated with the (voluntary) remediation of the former gas works used by National Grid Property Holdings. This is because following the cessation of the gas manufacturing processes, the site was only partially cleared to ground level and redeveloped and there was a need to deal with land, surface water and groundwater contamination issues.

The site was sold by National Grid to the applicant in January 2020 and the various uses have continued to operate from the site.

PLANNING HISTORY

The site has very limited planning history and the only records available online include:

- *P/2014/0658 : Remediation works to deal with land, surface water and ground water contamination, demolition of buildings and installation of new private water drinking pipeline.: APPROVED 20 February 2015. (refer to **CD39**)*
- *P/2016/0882 : Approval of Reserved Matters in connection with P/2014/0658 : APPROVED 27 January 2017. (refer to **CD40**)*

The lack of any planning history is perhaps not too unusual given its former use and development as a utility Installation under Parliamentary Acts providing statutory providers with development powers.

DOCUMENTARY EVIDENCE

Provided in support of the LDC the following items are included as part of this submission.

They include:

- a series of historic maps showing Ordnance Survey mapping dating from 1973 to 2000;
- site layout building use maps showing where buildings are (and have been) located upon the site with
- uses/descriptions annotated upon them;
- satellite aerial photography dating back to 1983 through to 2002;
- building use plan with individual building plans
- witness statements
- the 1953 opening brochure
- planning history records from 2014 to 2017
- various Phase 2 site investigation reports from 1996 to 2020
- an Historic Environment DBA undertaken in 2020

These are presented in the table below and each has been given a Core Document reference number for ease of identification.

Drawing / Document Ref.	Description	Core Document
2007-000D	Site location plan	CD1
2007 Historic Maps	Historic mapping : 1873 to 2000	CD2
2007 Opening Brochure	Gasworks opening brochure : October 1953	CD3
2007 Historical Structures	Worley Parsons : September 2011	CD4
2007 Building Use Map	Worley Parsons : September 2011	CD5
2007 Building Use Map	IKM : July 2014	CD6
2007 Building Use Map	Capita : January 2015	CD7
2007-025B	Satellite aerial 1983	CD8
2007-032A	Satellite aerial 2000	CD9
2007-048	Satellite aerial 2007	CD10
2007-047	Satellite aerial 2009	CD11
2007-046	Satellite aerial 2018	CD12
2007-034	Satellite aerial 2020	CD13
2007-045	Satellite aerial 2022	CD14
2007-049A	Land Use Building plan : key to areas	CD15
2007-031	Accommodation Schedule	CD16
2007-029	Buildings : area A	CD17
2007-028	Buildings : area B	CD18
2007-041	Buildings : area C	CD19
2007-027	Buildings : area D	CD20
2007-038	Buildings : area E	CD21
2007-030	Buildings : area F	CD22
2007-026	Buildings : area G	CD23
2007-043	Buildings : area H	CD24
2007-040	Buildings : area I	CD25
2007-039	Buildings : area J	CD26
2007-037	Buildings : area K	CD27
2007-042	Buildings : area L	CD28
2007-035	Buildings : area M	CD29
2007-044	Buildings : area N	CD30
2007-036	Buildings : area O	CD31
Affidavit – statutory declaration	Neil Davies : February 2024	CD32
Affidavit – statutory declaration	Ian Collier : February 2024	CD33

Environmental Assessment	Komex Clarke Bond : February 1996	CD34
Report : Site Investigation	Worley Parsons : January 2012	CD35
Report : Site Investigation	IKM : July 2014	CD36
Report : Phase 1	Sutcliffe : June 2020	CD37
Report : Historic Environment DBA	Wessex Archaeology : June 2020	CD38
Planning history record	P/2014/0658	CD39
Planning history record	P/2016/0882	CD40
Decision Notice	P/2014/0658	CD41
Decision Notice	P/2016/0882	CD42
Affidavit – statutory declaration	Carl Lewis : February 2024	CD43

THE EVIDENCE

It is important to distinguish between the determination of a CLEUD and other planning related applications.

Unlike the latter, which may be open to subjective opinion, the determination of a CLEUD application must be based upon factual evidence alone, submitted under oath and relevant Planning Law. The onus of proof is held to be with the applicant in the submission of sufficient evidence.

Three witnesses have signed sworn affidavits (statutory declarations) (**CD32**, **CD33** and **CD43**).

- worked for Transco at/from the site between 1997 and 2015
- worked here between 1992 and 2015 for British Gas (later to become Transco).
- has worked for Wales & West Utilities since 1991 through to the present day.

They have each (respectively) confirmed/verified that the land and buildings over this period included a host of industrial and associated uses as referred to by the accommodation schedule (**CD16**); reflective of the satellite aerial images (**CD8** to **CD14**), the overall building use map (**CD15**); the individual building plans (**CD17** to **CD31**) as identified by the accommodation schedule (**CD16**) and the decisions (**CD41** and **CD42**).

Carl Lewis has been employed by Wales and West Utilities since 1991 and has worked at the site since that date up until the present. He has also confirmed that the land and buildings over the entire period included a host of industrial and associated uses which have continued to the present day.

In addition, the various SI reports (**CD34** to **CD37**) provide additional photographic, mapping and descriptive evidence dating back from 1996 which is based upon and provides additional documentary evidence; many of the maps/plans provided (**CD1** to **CD14**) confirm the site uses and substantiate the facts provided.

LAWFULNESS CONSIDERATIONS

The main considerations in determining this application are:

- the planning unit;
- the lawful use of the land and;
- the lawfulness of the use.

The Planning Unit

The commentary to the Town and Country Planning Act 1990 identifies the planning unit as a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change, to ensure consistency in applying the formula of material change of use.

The concept of the planning unit is not defined in the Town and Country Planning Act but was addressed in the case of *Burdle v Secretary of State for the Environment* [1972] which has thus become an accepted definition. *Burdle* is referred to in the commentary to the Town and Country Planning Act and identifies three situations which are broadly summarised as follows:

1. where the whole unit of occupation is being used for a single main purpose to which secondary activities are incidental or ancillary. In such a case, the whole unit of occupation should be considered as a single planning unit; as once the case here when the site was used exclusively as a Gas Works through to 1971.
2. where the occupier carries on two or more activities but those activities are not confined within separate and physically distinct areas of land. In such a case the whole unit of occupation should again be considered as a single planning unit with a mixed use being carried on across the whole of that unit; as has been the case here as shown by **CD15** and the individual building parcels (**CD17** to **CD31**) since the early 1990's.
3. Where the occupier carries on two or more activities but where each of the separate activities is confined to a separate and physically distinct area of land. In such a case, each of these separate and physically distinct areas should be regarded as a separate planning unit in its own right.

The Lawful Use

Prior to the time the Gas Works closed the entire site would have been operated as a Gas Works and come under B2 industrial.

However, when National Grid too over (and by the early 1990's) the site included a variety of uses, activities and operations – blended further by 3rd party tenancies.

Since the early 1990's the uses taking place from within the unit of occupation (as edged red on the site location plan (**CD1**) reflect those that are identified on the land use map (**CD15**) and the associated/complementary plans (**CD17** to **CD31**) as listed in the accommodation schedule (**CD16**).

The uses/activities include :

- B1 offices
- B2 industrial
- B8 storage and distribution
- D1 training
- Sui generis (motor repairs)

Having regard to the tests in Burdle, the red edge site should be considered as a single planning unit formed in the early 1990's with a mixed range of uses being carried on across the whole of that unit in a largely blended manner.

The Lawfulness of the Use

The use of Maelor Works as/for mixed industrial use has taken place since the early 1990's. The planning unit, as it stands at present, was formed around this time when other third parties came to use it and when the Transco business used the site for a variety of operations and functions. Since this time the site has been used as a mixed planning unit for a variety of industrial and associated uses. The uses have been continuous from before 1996 to 2022 (26+ years) and there have been no intervening uses.

The planning permissions granted in 2015 and 2017 (**CD39** and **CD40**) confirmed that the site was multi-tenanted with open storage, distribution and office uses in place. There are no records available for before 2014.

In summary, the site has been used for a mixed industrial and associated commercial uses since the current planning unit was formed in the early 1990's.

CONCLUSION

The applicant is conscious that the relevant test of proof for an application for a Certificate of Lawfulness is "the balance of probability". In this case, there can be no doubt that the subject site has been used for a variety of industrial and associated uses for at least the last 10 years, and that the land and buildings identified in the application form part of the planning unit.

Confirmation is sought by way of a Lawful Use Certificate to the effect that the land and buildings identified in the application can be used for B1 office, B2 general manufacturing, B8 storage and distribution, D1 training and sui generis uses and that there are no planning conditions which relate to the use of these.

The evidence that has been provided ought to be sufficient to allow the decision-maker to reach the same conclusion. The applicant invites the Council to confirm issuing a positive determination of the LDC application.