

Mineral Safeguarding Comments on the Prior Extraction Assessment and other supporting information in relation to the Proposed Development at Land South of Holt Road, Wrexham
Planning Application P/2021/0436

Introduction

Wardell-Armstrong have prepared the Prior Extraction Assessment (PEA) to support an outline planning application for 600 dwellings at Land South of Holt Road, Wrexham reference P/2021/0436. This PEA was prepared to support application ref P/2019/0005 which has subsequently been refused and an appeal lodged, with a pending public enquiry. One of the reasons for refusal of ref P/2019/0005 was in relation to the impact of the proposal on sterilising the minerals resource and minerals safeguarding.

Application P/2021/0436 is accompanied with an Environmental Statement which includes a chapter on Minerals Safeguarding. It also includes an addendum to the Prior Extraction Assessment which is referenced as 'Technical Note No.6.' The application is also accompanied by a note provided by Dan Ingram of Barton Wilmore, (now Stantec) dated May 2022 and, also Technical Note No. 8 dated 18th May 2022 authored by Wardell Armstrong. It is noted however that the original Prior Extraction Assessment has not been provided in the supporting documents with application P/2021/0436, and therefore should be requested to be submitted to ensure that the application is complete.

The site is located to the east of Wrexham Town Centre extending to the east along Bryn Estyn Road, bound by Holt Road to the north of the site. The majority of Wrexham Town is underlain by sand and gravel which has been sterilised by non-mineral development. Borrass Quarry (operated by Breedon Aggregate) is located approximately 1km to the north of the application site.

I am mindful that should the LDP be adopted this may result in the appeal associated with refused ref P/2019/0005 may be withdrawn. Therefore, this response is provided solely in relation to the latest pending application referend P/2021/0436.

I appreciate that Wrexham has yet to formally adopt the Local Development Plan (LDP). However, this response has been drafted on the basis that the Inspectors Report is binding, and that there were no issues raised by the Examination Inspector with regards to the Minerals Safeguarding Policies. Therefore, this response has been provided on the assumption that should the LDP be adopted, Policy MW1 would be the relevant policy with regards to assessing the proposal against mineral safeguarding issues, and therefore Policy MW9 of the UDP will no longer be extant.

This is pertinent point, as some elements of my comments that were previously provided in response to application ref P/2019/0005 (that is subject of the appeal) will no longer be relevant once the LDP is adopted.

Policy MW1 is the relevant Policy to consider in relation to minerals safeguarding. It is assumed that Policy MW1 of the Wrexham LDP would remain unchanged once the Plan is adopted.

Emerging Policy MW1 states that non-mineral development will only be permitted in a Mineral Safeguarding Area where it can be shown that:

- i. the mineral does not merit extraction; **or**
- ii. there is an overriding need for the incompatible development; **or**
- iii. prior extraction can be undertaken satisfactorily; **or**
- iv. the development is temporary; **or**
- v. essential mineral industry infrastructure would not be compromised.

The key significant difference between this emerging Policy, and Policy MW9 of the UDP is that the criteria-based policy of MW1 presents five points of criteria in which only one criterion needs to be demonstrated as outlined above with my emphasis on the word '**or**'. This policy style contrasts with Policy MW9 of the UDP which required the applicant of non-mineral development to demonstrate of no exploitable reserves within the site. As stated in my previous comments, I did not feel that the submitted PEA demonstrated that there were no exploitable reserves within the site.

Policy MW9 goes on to say, "*Where non-mineral development which materially prejudices mineral resources is granted planning permission on land holding mineral*

deposits, provision should be made for the prior removal of mineral deposits". UDP Policy MW9 was more of an absolute policy which required the applicant to demonstrate compliance with the entirety, as opposed to an option criteria-based policy provided in Policy MW1 of the LDP which only requires one criteria to be met.

Application P/2019/0003 was supported by a Prior Extraction Assessment where I concluded in my response to you dated 13.02.2019 that: *"The information has not demonstrated that there are no exploitable resources exist within the site. It is considered that, based on the information provided, the mineral does merit extraction"* I continued to conclude that the application had not demonstrated compliance with Policy MW9.

Should the LDP become adopted, based on the Inspectors report, MW1 will be unchanged and will be the policy in which to consider this application against and MW9 will no longer be relevant therefore, this response is made on consideration of the proposal and its compliance with Policy MW1 of the LDP alone.

The applicant's Prior Extraction Assessment, and subsequent addendum (Technical Note No.6) authored by Wardell Armstrong dated 18th October 2020 noted that the need for housing would need to be balanced against the harm arising from the loss of mineral resources in this instance.

The note provided by Dan Ingram of Barton Wilmore, (now Stantec) dated May 2022 outlines the implications of prior extraction should it be required, arguing that prior extraction would threaten delivery of development site and aspirations of the LDP due to the fact that this application site forms part of Key Strategic Site 2 (KSS2) within the LDP. This is noted, as is the point that simultaneous construction of housing and prior extraction would not be appropriate, thus resulting in further delaying the delivery of the construction housing should the application be approved.

The applicant argues that prior extraction, should it be required, would threaten the deliverability of the housing scheme, and therefore, would threaten the delivery of the housing requirements set out in the LDP, and in turn, the deliverability of the Wrexham LDP.

It is noted that Minerals Background Paper 11, which is supporting evidence in the examination of the LDP, states that *“Requiring prior extraction on a site the size of Land East of Cefn Road could have a potentially significant impact in terms of delivery”. It is essential that the non-mineral development itself is acceptable in landscape terms, and that the other problems are not created by any lowering of the land such as drainage and flood risk’.* (Para 3.1.10 of Mineral Background Paper 11).

It is considered therefore that these are all matters for the Local Planning Authority to consider the planning balance with regards to the need for the housing verses the other material planning considerations, taking into account of the delivery of the housing proposed in this application, and the deliverability of the LDPs housing requirement.

The note provided by Dan Ingram of Barton Wilmore, (now Stantec) dated May 2022 argues that separate planning applications would be required for both mineral extraction and subsequent backfilling. Whilst this would be a matter for the local planning authority to take a view on, my view would be that prior extraction can be considered as part of this application so long as the supporting information was provided with the application. My view (which has been consistent throughout my involvement in this scheme) is that backfilling would not be required if the applicant was committed to change the level of the development platform. Therefore, the site would not become a ‘landfill’ as stated by the applicant’s agent. Material would only be required to be imported if the current development platform was to remain as proposed. However, following several discussions with the applicant, it is clear that the applicant is not prepared to lower/change the development platform. If the development platform was changed/lowered, then backfilling would not be necessary. It is agreed that the suggestion of backfilling with sand is not a sustainable option, as the applicant has noted.

One point of clarity should be noted, the final sentence on page 6 of 6 of the note provided by Dan Ingram, refers to the County’s landbank. For the avoidance of doubt, minerals won by prior extraction would not contribute to the landbank, they would be considered to be windfall reserves which is also noted within the supporting text of the emerging LDP at paragraph 6.186.

Technical Note No. 8 by Wardell Armstrong

Technical Note No. 8 dated 18th May 2022 authored by Wardell Armstrong provided to support the application also places the importance of the proposed development platform. This highlights a point of principle for the planning officers in Wrexham, and for the developers of the importance of early engagement when developers are looking to develop sites in mineral safeguarding areas to ensure prior extraction is properly considered at the outset, and not when the development platform has already been agreed and plans drawn/assessments undertaken according to that development platform.

When considered this point with this project, I acknowledge that considering the timescales set out in the Barton Willmore note, changing the development platform at this stage is not a viable option for this project which is frustrating as this was raised with the developer years ago and clearly ignored. Looking to the future we need to have early engagement with developers so that the prior extraction element of policies SP17 and MW1 is not undermined. For your information, we hope to produce a Supplementary Planning Guidance Note in due course on Prior Extraction Assessments as and when the LDP is adopted.

It is acknowledged that Technical Note No.8 provides more details with regards to the market for fine sands, compared to that of the original Prior Extraction Assessment (PEA) which accompanied application ref P/2019/0005 which disregarded the fine sand present beneath the application site and lessened its commercial and economic value due to the lack of gravel content in the resource. The applicant's view is that the sand is too fine, and therefore it is not suitable for the manufacture of concrete. Technical Note No.8 does however expand on the market for fine sand. The applicant has not however provided any supporting evidence that they have undertaken any consultation with local mineral operators to help determine the commercial interests in undertaking prior extraction. This would provide further evidence to support this assertion.

I would advise you to pass on the attached Minerals Safeguarding Guidance Document which has been written by the Minerals Product Association and the Planning Officers' Society. This may assist the applicant to demonstrate compliance with Policy MW1 Criteria i. to determine if the mineral underlying the site does not merit extraction as this has been an area of disagreement throughout the consideration of this proposal.

https://mineralproducts.org/MPA/media/root/Publications/2019/MPA_POS_Minerals_Safeguarding_Guidance_Document.pdf

Technical Note No.6 by Wardell Armstrong dated 18th October 2020

Technical Note No.6 authored by Wardell Armstrong dated 18th October 2020 has also been submitted to accompany application P/2021/0436 as way of an addendum to the original Prior Extraction Assessment. However, it is noted that this original Prior Extraction Assessment has not been provided in the supporting documents with application P/2021/0436. This should be sought by the Local Planning Authority to ensure that the application documents are complete.

Conclusion

If the application is to be assessed against Policy MW1 of the emerging LDP, the developer only needs to demonstrate compliance with one of the criteria of Policy MW1.

The need for the mineral underneath KSS2 has already been considered through the development of the LDP and it has been concluded that the need for the non-mineral development is considered to outweigh the need to protect the resource in its entirety. It is considered therefore that the inclusion of KSS2 within the LDP has already accepted that this sand would be sterilised by any development that comes forward to be proposed on KKS2, and that the need for the development would outweigh the permanent sterilisation of the sand resources beneath the site. As such, it is considered that the application complies with Policy MW1 ii) as it cannot be disputed that there is an overriding need for the proposed development.

Whilst I do not agree with the entire contents and conclusion of the PEA as submitted, and the additional information provided by the applicant, it is considered that the applicant has complied with Policy MW1 as they have provided a Prior Extraction Assessment which is a requirement of Policy MW1. The PEA argues that the site does not contain important sand and gravel resources which contradicts the views of the Welsh Government in their Screening Direction associated with the application that we refused. It is considered that further evidence should be provided to help determine the commercial interests in undertaking prior extraction.

Should planning permission be granted a condition should be imposed for the submission of a Mineral Recovery Plan (MRP) written approval prior to the commencement of development by condition. The MRP should assess and consider the areas of construction where incidental minerals would be recovered as part of construction such as from ground works, sustainable drainage systems, road sub-bases, granular fill, landscaping etc. The developer should recover as much useable mineral and retain on site as possible. The MRP should

- a) an assessment of the potential mineral resource quality throughout the application area;
- b) design, implementation and reporting of further intrusive investigation if required;
- c) An estimate of the total mineral resource volume which may be incidentally extracted during construction ; and,
- d) A methodology for how incidentally extracted mineral resource recovered during construction will be managed, processed (if required) and incorporated into the construction of the proposed development.

Hannah Parish: July 2023