

Good Practice Guidance Note

LDP policy GN.22 – prior extraction of the mineral resource

1 Introduction to prior extraction

- 1.1 Prior extraction refers to the removal of economic mineral resources that are found at or close to the ground surface (shallow resources) from development sites, prior to the commencement of construction work.
- 1.2 There is no requirement under prior extraction to consider removal of economic mineral resources that lie at a greater depth beneath a development site, through either underground working or deeper surface mining.
- 1.3 Prior extraction of surface resources prevents the unnecessary sterilisation of potentially valuable mineral resources and can also reduce or remove land instability problems in areas that have been subject to previous mineral working. It may also help to resolve any land contamination issues associated with previous uses of the land. These factors are of particular relevance in Pembrokeshire because of the legacy of former mine working which, amongst other things, included shallow working of coal. However, prior extraction will not always be appropriate.

2 Policy context

- 2.1 Minerals Planning Policy Wales (MPPW)¹ introduces the principle of safeguarding access to mineral resources that may be needed by future generations and provides for consideration of the potential for extraction of economic mineral resources prior to other forms of development taking place. This is the basis for LDP policy GN.22 and the mineral safeguarding information included on the associated Proposals Map.
- 2.2 Policy GN.22, its reasoned justification and the associated map layers, set the context for decision making on prior extraction.
- 2.3 When considering possible prior extraction requirements under policy GN.22, it will be necessary to also consider the requirements of other LDP policies, particularly GN.37 (protection and enhancement of biodiversity) and GN.38 (protection and enhancement of the historic environment). Evaluation of a development proposal in this context will be important both in reaching a view on whether the proposal is acceptable and on whether prior extraction is appropriate.

¹ Minerals Planning Policy Wales, paragraph 13, published by the National Assembly for Wales in December 2000

2.4 Minerals Technical Advice Note (Wales) 2 on Coal (MTAN2), paragraph 42, also references the need to consider pre-extraction, where development is proposed on the coal resource.

3 Mapping of the safeguarded mineral resource

3.1 The LDP Proposals Map shows the spatial extent of the safeguarded mineral resource, disaggregated into three components:

- The sand and gravel resource;
- The hard rock resource; and
- The coal resource.

4 Prior extraction – detailed considerations

4.1 The instructions below provide an indication of how the key issues relating to prior extraction should be dealt with when evaluating planning applications.

4.2 In the case of householder applications and applications within existing property curtilages, any mineral resources beneath the sites is already likely to have been sterilized by permanent development and prior extraction is unlikely to be either feasible or appropriate.

4.3 Temporary development proposals, even those that will run for many years, will not permanently sterilize an economic mineral resource and therefore prior extraction is unlikely to be required. However, it may be sensible to use planning conditions or planning obligations to ensure removal of buildings / infrastructure at the end of the consent period and to ensure restoration of the land to its former use at that time. This already happens in some cases, for instance where temporary permissions are granted for renewable energy installations.

4.4 For applications within an area of safeguarded mineral resource, where the application is not for a householder development and is not for a temporary development, prior extraction of the mineral resource should be considered, unless there are overriding considerations that indicate otherwise. These include the following:

- Any need to retain on-site landscape features.
- The potential for damage to designated habitats and / or species.

- The presence of archaeological remains within the site area that it is desirable to retain in conjunction with the development proposal, whether these are formally scheduled or otherwise, and taking into consideration their setting.
- The presence of historic buildings or structures within the site area that it is desirable to retain in conjunction with the development proposal, and taking into consideration their setting.
- Proximity of both the site and transport routes necessary for prior extraction of the mineral resource, to an existing sensitive development. Prior extraction is unlikely to be acceptable if it would have a significant adverse impact on persons living, visiting or working within that sensitive development. This is particularly important where the mineral resource is hard rock, as this material will often require blasting to effect its removal.
- The potential for prior extraction to have an adverse impact on a local water table or a protected water aquifer.

4.5 The matters listed in the paragraph above are, in each case, ones that the case officer dealing with the application should consider in the course of evaluating the merits of the application. In some instances, expert technical advice may need to be sought from specialist organisations, for instance in respect of potential impacts on biodiversity, archaeology and aquifers.

4.6 If, having carried out that initial evaluation, the case officer cannot identify a reason why prior extraction should not take place in conjunction with development, a further aspect must then be considered. This is whether there is any market demand for the mineral resource immediately beneath the site at the time of application. In such cases, it is reasonable to ask the applicant to establish whether there is market demand for the material concerned and to inform the Council of the outcome of those investigations. **Responses from three credible sources will normally be expected to be provided by the applicant as evidence that the matter has been investigated.**

4.7 As market demand for mineral resources changes over time, this is a matter that would need to be re-tested should a re-submission be made at a later date.

5 Further reading

5.1 The Coal Authority and CoalPro have jointly issued an advice note on 'Prior Extraction of Coal Resources during Development Activity' (July 2013). The link to this document is:

<http://coal.decc.gov.uk/assets/coal/whatwedo/12aug13-prior-extraction-guidance-final-july-2013.pdf>

5.2 This document identifies additional considerations where the material to be removed is coal, including:

- The requirement to enter into an 'Incidental Coal Agreement', generally obtained after planning permission has been issued, which is needed because ownership of coal resources is vested in The Coal Authority on behalf of the nation; and
- The willingness of The Coal Authority to provide pre-application advice in appropriate cases.