

GROUNDS FOR APPEAL AGAINST REFUSAL OF APPLICATION P/2013/0660

1. This appeal is in respect of an application made for planning permission in terms of the Planning Acts. The determination of the application should have been made in accordance with the Development Plan, unless material considerations indicate otherwise. Dart submit that a fair and reasonable evaluation of all the relevant issues confirms that there is very considerable policy support for our proposal. Furthermore, there are no material considerations present to rebut this presumption in favour of our development proposal.
2. The Head of Community Wellbeing and Development recommended the permission be **GRANTED** for this development, subject to conditions.
3. No objections were received from the relevant Council Departments or statutory consultees, subject to the inclusion of required planning conditions. Furthermore, although not required by statute here, public consultation was carried out, with views of public and community groups taken into account within the application.
4. The Department of Energy and Climate Change (“DECC”) has issued a licence for Petroleum Exploration Development Licence Area (“PEDL”) 187. Our proposal is in line with the exploratory activities required under PEDL187 and the area selected has ensured minimal impact on receptors.
5. This proposal is for the **temporary** drilling of an exploratory borehole to remove a core of coal for sampling and restoration of the site to its original use following cessation of drilling operations. These drilling operations are anticipated to take approximately 60 days and a maximum of 75 days. The reasons for refusal assume a degree of permanence ((**A**) environmental sustainability; (**B**) effect on countryside; and (**C**) impact of drilling on movement of gas) and do not take appropriate account of the temporary nature of the proposed development. Furthermore, the reasons for refusal displays a clear misunderstanding of the technology behind the proposal.
6. The development proposal complies with the Development Plan, with the following policies being considered relevant:
 - Policy PS2, PS3: Strategic Policy – Broad Locations of Development
 - Policy PS9: Minerals
 - Policy PS11: Strategic Policy – Biodiversity
 - Policy GDP1: General Principals for Development- Development Objectives
 - Policy EC4: Ecology - Hedgerows, Trees and Woodland
 - Policy EC6: Biodiversity Conservation
 - Policy EC11: Archaeology
 - Policy EC13: Surface Water Run-off
 - Policy EC14: Protection of Controlled Waters
 - Policy GDP1 and EC14: Pollution of Groundwater and Surface Water
 - Policy T8: Parking
 - Policy MW8: Restoration of Mineral Working Sites
 - TAN 11: Noise
 - Minerals Planning Guidance 11 reinforced in MTAN2: Coal – Night time noise limits
 - Technical Advice Note 18: Highways and Access

A – ENVIRONMENTAL SUSTAINABILITY

7. The reasons for refusal erroneously refers to the proposal as an “industrial use”.
8. There will be no long term permanent loss of agricultural land. This proposal is within agricultural use and will be restored back to agricultural use following completion of drilling activities.
9. Measures to prevent the pollution of water and release of dust will ensure that surrounding agricultural land will not be adversely affected by the proposed development.
10. With regard to **HGV movements**, prior to determination, we supplied a Swept Path Analysis, Technical Note and Traffic Management Plan to the authority. These clearly demonstrated that the traffic impacts were only temporary and could be accommodated on the local road network.
11. With regard to **noise**, prior to determination, we agreed that we would adhere to the noise limits proposed by the Council’s Environmental Health Officer.
12. With regard to **landscape impacts**, again, it should be noted that the proposed development is short term and temporary. All landscape impacts will be reversed within a matter of weeks and are therefore insignificant. There will be no residual impacts.

B – EFFECT ON COUNTRYSIDE

13. As in 7 above, the reasons for refusal erroneously refers to the proposal as an “industrial use”.
14. Wrexham Unitary Development Plan, Policy PS1 Refers to ...*housing, employment, and community services*. This Policy is not entirely relevant to minerals development. In this regard, the Council’s recommendation that development of this nature would be more appropriately located within a settlement is inappropriate. Furthermore, Policy PS1 was not identified as relevant in the Report of the Head of Community Wellbeing and Development relating to this application.
15. In referring to Policy PS 2 in the reasons for refusal, the Council has not taken into account the fact that any detrimental impacts will be short term temporary and reversible, or that the application had proposed mitigation measures to reduce these impacts. Paragraph 5 of Minerals Planning Policy Wales states: *“Mineral working is different from other forms of development in that: inter alia ... and extraction can only take place where the mineral is found to occur.”*

C – IMPACT OF DRILLING ON MOVEMENT OF GAS

16. The purpose of the proposed development of the temporary vertical borehole was to remove a core of coal to surface for analysis. In line with the “misunderstanding” noted in 5 above, this proposal does not involve the dewatering of the coal as the purpose is to test the properties of the coal and **NOT** to release gas. The proposal is for exploration only, not extraction. No pathways will therefore be created through which methane could move, either laterally or vertically. Nevertheless, gas testing equipment will be on site and monitoring to ensure that gas is not being produced.
17. Upon completion, the borehole will be plugged and abandoned in accordance with the requirements of various regulatory bodies, including DECC and HSE. There is therefore no risk of subsidence or gas release associated with this development.

Conclusion: Mitigation measures to minimise any disturbance or perceived impacts of the development (10, 11, and 12 above) have been proposed. In this regard, the use of planning conditions will ensure that sufficient safeguards are in place. In addition, the proposed activity is well regulated by a number of different bodies who will collectively ensure that the operations do not have a detrimental impact on the environment and human health. None of the reasons for refusal of this application are persuasive. There are no material considerations to rebut the principle in favour in development. The appellant has successfully obtained in excess of 50 planning permissions for similar developments across the UK, 2 of which fall within the Wrexham County Borough Council area. Furthermore, given the Development Plan support, a fair and reasonable evaluation of all the relevant issues confirms that permission should be **GRANTED**, as also determined by the Council's Head of Community Wellbeing and Development.