

**WALSALL SITE ALLOCATION DOCUMENT EXAMINATION**

**MAIN MATTER 5 – MINERALS**

**NOTE OF EVIDENCE GIVEN BY WALSALL COUNCIL**

**Thursday 7 September 2017**

**Officers Giving Evidence on Behalf of the Council**

<b>Name</b>	<b>Title</b>	<b>Reference</b>
Mike Smith	Planning Policy Manager	MS
Dawn Sherwood	Principal Planning Officer	DS
Nienke Pengelly	Senior Consultant, Amec Foster Wheeler	NP

**Note: A summary of abbreviations/ acronyms used is provided in Table 1 at the end**

**Question 1**

Is the Minerals requirement set out in the SAD (Policies M1 to M10) justified by appropriate available evidence, having regard to national guidance, and local context, including the meeting the requirements of the BCCS (Black Country Core Strategy)?

**Council Response – Justification for Policies M1 – M10**

DS gave the following statements on behalf of the Council:

1. The Walsall Site Allocation Document (SAD) (Core Document SM1) is **in general conformity with the Black Country Core Strategy 2011 (BCCS)** (Core Document PC1) in its approach towards minerals safeguarding and the identification of areas for potential future mineral working in Walsall.
2. The SAD **expands on BCCS minerals policies MIN1 – MIN5** where appropriate, by providing further local detail in respect of Minerals Safeguarding Areas (MSAs), Mineral Infrastructure, Permitted Mineral Extraction Sites and Areas of Search. The only **departure from the BCCS minerals policies in the SAD is the approach towards the Area of Search for fireclay extraction at Yorks Bridge**. The nature of this departure and the justification were explained (see paragraphs 15 – 21 below).

3. The SAD **has been prepared having regard to national policy guidance and good practice guidance on minerals** (see National Planning Policy Framework (NPPF) paragraphs 142 – 149 and 163, and National Planning Practice Guidance (NPPG) on Minerals). While the current national policy guidance on minerals post-dates the BCCS, the BCCS minerals policies are in general conformity with its key requirements.<sup>1</sup> As well as being consistent with national policy guidance, **the SAD has to reflect local circumstances**, in particular, with regard to minerals safeguarding and the constraints of existing mineral permissions.
4. As the MSA (Minerals Safeguarding Area) shown on the SAD Policies Map covers nearly the whole of Walsall’s administrative area (see Core Documents SM1: Map 9.5, SM2, and SM3: MMSAD52), it is not practicable to safeguard all of the mineral resources within it to the exclusion of all other considerations. In a single-tier authority area like Walsall, local plans have to provide for the full range of other land uses as well as providing for future mineral production. Hence, the BCCS only requires consideration of ‘prior extraction’ of minerals on sites within the MSA that are above the specified size thresholds (see Core Document PC1: Policy MIN1).
5. The **approach towards minerals safeguarding in the Submission Plan is consistent with the approach in the BCCS**. Objections to SAD Policy M1 by the MPA (Mineral Products Association) and the Coal Authority on the grounds of inconsistency with the BCCS and national policy guidance have been addressed through the Pre-Submission Modifications that were the subject of consultation (see Core Documents SM1: Policy M1, SM3: MMSAD37, MMSAD39, MMSAD52 and OMSAD52, CE13: UR441 and UR681, and CE7: UR681).
6. However, it is recognised that non-mineral development should not be allowed where it could compromise future mineral extraction. In response to objections from the Mineral Products Association (MPA) and Parkhill Estates (see Core Documents CE13: UR441 and UR2597, and CE7: UR2597), other Pre-Submission Modifications that were consulted on include the deletion or modification of site allocations in the Publication Plan that were adjacent to potential mineral working sites/ areas.
7. The sites affected are as follows:
  - a. **Housing Site HO58: Walsall Road, Walsall Wood** - to be deleted from the Plan because housing development could compromise future mineral working within Permitted Minerals Site MP9: Highfields North (see Core Documents SM1: Policy HC1, SM2, and SM3: MMSAD5);

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<sup>1</sup> National Planning Policy Framework (NPPF) Conformity – BCCS Checklist, Black Country Authorities

- b. **Industrial Sites IN6.1 and IN6.2: Hall Lane, Walsall Wood** - Site IN.2 to be deleted from the Plan and designation of Site IN6.1 to be changed from 'Local Quality Consider for Release' to 'Retained Local Quality Industry' because housing development could compromise future mineral extraction within Permitted Minerals Site MP9: Highfields North (see Core Documents SM1: Policies IND3 and IND4, SM2, and SM3: MMSAD10 and MMSAD11); and
  - c. **Industrial Site IN8: Birch Lane, Stonnall** - designation to be changed from 'Local Quality Consider for Release' (Policy IND4) to 'Retained Local Quality Industry' (Policy IND3) because housing development could compromise future sand and gravel extraction within Area of Search MXA1: Birch Lane (see Core Documents SM1: Policies IND3 and IND4, SM2, and SM3: MMSAD10 and MMSAD11).
8. The SAD also seeks to **protect designated environmental assets** from harmful effects of mineral working where possible in line with existing local and national environmental policy in the BCCS, Walsall Unitary Development Plan (UDP) and NPPF (see Core Documents PC1: Policies ENV1 – ENV5, PC3: Policies ENV23 – ENV30, SM1: Policies EN1 – EN4 and NPPF paragraphs 7, 17, 117, 126 and 129). Potential impacts of mineral working on environmental assets have been taken into account in the drafting of the minerals policies.
9. However, some designated nature conservation sites in Walsall are subject to existing mineral permissions. It has to be recognised that in such cases, **there is a limit to the extent that environmental assets can be protected through the SAD**. The most significant example is Site MP9: Highfields North, which is partly within the Jockey Fields Site of Special Scientific Interest (SSSI). The Council has engaged extensively with Natural England on the policy for this site, with the objective of giving maximum possible protection to the SSSI (see paragraphs 11 – 14 below).
10. The SAD **policies for individual sites are more detailed than other policies in the plan** but this is **justified because of their particular circumstances**, and the need to reflect the existing permissions, constraints and environmental assets present in each case. The SAD policies are therefore tailored to the situation for each site, providing guidance on determination of future applications for expansion of permitted working areas, periodic review of working conditions, new or amended working plans and new or amended restoration programmes, as appropriate.
11. The unusual geological complexity of Walsall, meaning that the Council has to plan for the potential future production of several types of minerals within a relatively small unitary authority area, was also noted (see Core Documents SEM.5: Figures 2 –

4 and SEM.11: Figures 3.4 – 3.5). DS and MS referred to a Minerals Technical Appendix on Mineral Resources in Walsall which could be submitted if required.

### **Council Response - Justification for Policies M8 and M9: Specific Sites**

#### **Policy M8 - Site MP9: Highfields North**

11. DS confirmed that the Council had agreed Pre-Submission Modifications to Policy M8 of the SAD with Natural England (see Core Documents SM1: Policy M8 g) xv. and Policy Justification page 258, SM3: MMSAD41, MMSAD42 and MMSAD44, and CE7: UR3628). This followed objections to the Publication Plan relating to the impacts of the policy on the Jockey Fields SSSI (see Core Document CE13: UR2272).
12. DS welcomed the comments by Natural England at the hearing, that in their opinion, the policy as modified is 'sound' and meets the Council's statutory obligations towards the Jockey Fields SSSI. **DS and MS confirmed that the Council was willing to consider further changes to the first sentence of bullet point g) xv. of Policy M8 proposed by Natural England, to improve clarity and succinctness.**
13. DS noted that there is still an outstanding objection from the land owner, Parkhill Estates, concerning the wording of the policy for the Highfields North site (see Core Documents CE12: UR2597 and CE7: UR2597), which in their view will render extraction "*completely unviable.*" Their objection to the proximity of a site allocation for housing in the Publication Plan is considered to have been met through Pre-Submission Modifications (see paragraph 7 a. and b. above).
14. DS explained that the site may be difficult to work irrespective of the SSSI designation and this was confirmed by NP. As a result of geological faulting, brick clays are interbedded with other minerals in this area, meaning that the site would be more challenging to work than the sites in the Stubbers Green area to the south of the A461 Walsall Road/ Lichfield Road (see Core Document SEM.11: Figure 3.4 and Section 7.4). However, DS and NP felt that if demand for brick clay increases in the future, a site that may not be economically viable to work now could become viable.

#### **Policy M9 - Yorks Bridge**

15. DS acknowledged that the treatment of Yorks Bridge in the Plan represents a departure from BCCS minerals policy. The BCCS identifies an indicative Area of Search for fireclay extraction at Yorks Bridge (see Core Document PC1: Policy M4 (MA6) and Minerals Key Diagram).

16. The Submitted SAD (including the Pre-Submission Modifications) does not define an Area of Search at Yorks Bridge, but addresses the potential future need for fireclay extraction in the following ways:

- a. **Policy M9 g) and h)** identifies the information to be provided with an application for fireclay and coal extraction on the Yorks Bridge site promoted by Potters Clay & Coal Company Ltd and Little Wyrley Estate (see Core Documents SM1: pages 277-279, and SM3: MMSAD48 and MMSAD49).
- b. **Map 9.3** shows the Yorks Bridge site to which the above policy relates (see Core Documents SM1: page 280, and SM3: MMSAD50). It also shows the Permitted Minerals Sites MP3: Birch Coppice and MP5: Land at Brownhills Common which are subject to a 'dormant' mineral permission (see Core Document SEM.18: Permission EB233).
- c. **Map 9.4** shows an indicative minerals safeguarding area (MSA) for fireclay extraction (see Core Documents SM1: page 290 and SM3: OMSAD52). The indicative MSA shown on the map includes the Yorks Bridge site shown on Map 9.3, as well as the two Permitted Minerals Sites and adjacent areas of Walsall with potentially winnable fireclay resources.

17. DS explained that the minerals safeguarding area (MSA) for fireclay has been defined using the best available evidence, and this was confirmed by NP.<sup>2</sup> This is considered preferable to identifying an Area of Search at Yorks Bridge. The departure from the BCCS is justified because of the uncertainty about delivery of a mineral extraction scheme at Yorks Bridge within the plan period (see Core Documents SM1: Policy M9, Policy Justification pages 282 – 286, SM3: MMSAD51 and SEM.11: Chapter 10). The Yorks Bridge site is therefore shown on Map 9.3 for information only, and is not identified as a site allocation on the SAD Policies Map.

18. In the representation on the Publication Plan by Resource UK on behalf of Potters Clay & Coal Company Ltd, it is stated that:

*"...my client still intends to work fireclays in Brownhills at some point in the future, and...whilst this may not be within the Plan period it may be that preparations for an application could start prior to 2026"* (see Core Document CE13: UR219).

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<sup>2</sup> The indicative MSA was defined through technical work carried out in 2016 following the completion of the Walsall SAD and AAP Minerals Study in 2015 (Core Document SEM.11). Maps showing the extent of the indicative MSA and the evidence used to define it are not currently on the Core Documents List but are included in the aforementioned Minerals Technical Appendix. These maps can be submitted if required.

Subsequent to this, further information was provided to the Council including a map showing the site at Yorks Bridge being promoted for fireclay extraction by Potters Clay & Coal Company Ltd and Little Wyrley Estates. This is the site shown on Map 9.3 of the Submission Plan (see Paragraph 16 b. above and the Appendix to this Note).

19. In the Council's view, the information provided on behalf of Potters Clay & Coal Company Ltd does not demonstrate that mineral extraction at Yorks Bridge is deliverable within the Plan period. There are a number of constraints that would affect the bringing forward of a scheme, including the need to demonstrate that mineral extraction would not harm the Cannock Extension Canal SAC (Special Area of Conservation) contrary to Regulation 61 of The Conservation of Habitats and Species Regulations 2010 (as amended) (Habitats Regulations).<sup>3</sup>
20. It was noted that the effects of the SAD on the Cannock Extension Canal SAC would be discussed in detail under Main Matter 8: Environmental Policies. In the meantime, it was confirmed that the effects of Policy M9 have already been evaluated at an appropriate level in the Walsall Council Site Allocation Document & Town Centre Area Action Plan Habitats Regulations Assessment (HRA) (October 2016) (see Core Document SA2: Section 3.3). It was also confirmed that the relevant parts of Policy M9 in the Submitted Plan (including Pre-Submission Modifications) has been agreed with Natural England (see Core Documents PM1: Policy M9 h) xi. and Policy Justification page 284, and PM3: MMSAD49 and MMSAD51).
21. While the Council does not consider it appropriate to identify an Area of Search for fireclay extraction at Yorks Bridge for the reasons explained, it accepts the need for guidance on fireclay extraction in the SAD as it is a mineral of 'local and national importance' for which provision should be made (NPPF paragraph 143 and Annex 2). The approach in the Submission Plan outlined at paragraph 16 above is considered to address this requirement.

## **Question 2**

Does the SAD/BCCS adequately safeguard Mineral Infrastructure within the Borough and will it be effective?

## **Council Response**

DS gave the following statements on behalf of the Council:

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<sup>3</sup> Statutory Instrument (SI) 2010 No. 490, see also 2011 and 2012 Amendment Regulations (SI 2011 No. 625 and SI 2012 No. 1927). Copies of the Citation and Objectives for the Cannock Extension Canal SAC by Natural England can be submitted on request.

22. In accordance with national policy guidance (NPPF paragraph and NPPG for Minerals paragraph 006) **the SAD safeguards all permitted Mineral Infrastructure Sites in Walsall** including some sites not identified in the BCCS because they are either non-strategic (very small) or were omitted from the BCCS in error (PC1: BCCS, Policy MIN1, Minerals Key Diagram, Appendix 7).
23. The Mineral Infrastructure Sites identified in Policy M2 and on the Policies Map comprise secondary and recycled aggregates production sites (including two non-operational sites MI1: Former Bace Groundworks Site and MI2: Branton Hill Quarry), RMX plants, a coating plant and Walsall's only rail linked aggregates site, the depot at Fairground Way (Site MI3).
24. Minerals Infrastructure Sites in Walsall are already subject to BCCS Policy MIN1 (see Core Document PB1). This policy requires development proposals that would result in the loss of a site to demonstrate that it has no realistic potential for re-use or no longer meets the requirements of the minerals industry. **SAD Policy M2 does not depart from the BCCS policy but expands on it** by identifying the evidence the Council will expect applicants to provide. It also provides guidance for applicants seeking to upgrade, expand or modify an existing site.
25. In their representations on the Publication plan **Staffordshire County Council has suggested that having 'buffers' around Mineral Infrastructure Sites might offer them better protection** (See Core Document CE12: UR719). The application of separation distances or 'buffer zones' is suggested in relation to mineral extraction areas in the National Planning Practice Guidance (NPPG) on Minerals, but not in relation to mineral infrastructure (see NPPG paragraphs 006 and 018).
26. The Council has considered whether buffers would offer better protection to sites, but has concluded that they would not be effective in Walsall. While they may be appropriate in a rural area where sites are isolated from other development, in Walsall this situation does not apply. One site (MI2: Branton Hill Recycling Relocation Site) is at a quarry, and the others are brownfield sites within industrial areas which are proposed to be retained in industrial use. Therefore, none of the Mineral Infrastructure Sites identified in the SAD is likely to be affected by development of housing or other inappropriate land uses on adjacent land.
27. While it is recognised that some employment land uses may not be ideal next to a Mineral Infrastructure Site, and sub-section f) of SAD Policy M2 addresses potential land use conflicts as far as possible, there is a limit to the protection the SAD can give. For example, it may not prevent development on adjacent industrial sites where the land use is already lawful or compliant with a valid planning permission

for development falling within Classes B1 (b)/ (c), B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

28. It was noted that there is a need for a **minor change to the reference to Site MI3 in Policy M2** as there has been a change of operator following Publication – the site is now operated by Breedon Group (formerly Hope Construction Materials). The Council suggests changing the name of the site from ‘Hope Construction Depot’ to ‘Walsall Cement & Aggregates Depot.’ In the Council’s view this would need to be published as a Further Proposed Change but not as a Main Modification.

### Question 3

Does the SAD/BCCS adequately address and take account of the Coal Mining Legacy within the Borough?

### Council Response

DS and MS gave the following statements on behalf of the Council:

29. The Coal Authority has objected to the SAD at Publication and Pre-Submission Modifications stages on the grounds that the Plan has not adequately dealt with this issue, and that Modifications are needed to Policy M1 to address this (See Core Documents CE12: UR681 and CE7: UR681).
30. The Council does not agree that this is necessary, because **there is already a UDP policy in place which requires appropriate action to be taken in areas affected by historic coal mining** (see Core Document PC3: Policy ENV14). This policy also addresses the wider ground condition problems affecting brownfield sites in Walsall, such as former limestone mining, other former mineral extraction/ landfill sites, and ground contamination from previous industrial activities.
31. As it is not uncommon for sites to be affected by a variety of ‘legacy’ problems, remediation has to be tackled on a site-by-site basis. In the Council’s view the application of UDP Policy ENV14 in combination with national policy guidance (NPPF paragraph) provides a ‘sound’ basis for ensuring that sites are appropriately remediated, and there is no need to amend or update the policy through the SAD.
32. However, **it is not the case that mining and industrial legacy constraints have not been taken into account during the preparation of the Plan.** Each of the site allocations in the SAD has been checked for constraints, and where they exist they are identified in the relevant policies (see Core Documents SM1: Chapter 2, 2.3 and Table 2.1, Policies HC1, HC4, IND1 – IND5, W2 – W3 and M2, SM5: SAD Technical Appendices - Assets and Constraints Maps Updated and SEM.16A and SEM16.B).



33. The **potential effects of mining and industrial ‘legacy’ on the viability of housing, industrial and waste management development has also been evaluated** through the SAD Viability & Deliverability Study (see Core Document SED.1: Part 3, Appendix 1 and Appendix 3). Monitoring also shows that development is being delivered on sites affected by mining and industrial legacy (see Core Document SED.3). In the Council’s experience, most developers understand that sites in Walsall may be affected by these types of issues, and are able to put into place appropriate strategies to remediate sites before they are developed.
34. The Council acknowledges that the cost of remediation may affect the viability of development and influence a developer’s preferred land use in some cases (for example on sites discussed under Main Matter 4 where changes of use to housing are being sought on the grounds that it is more economically viable/ profitable than industry). However, a higher standard of remediation is likely to be needed to support a housing development than an employment development, which may mean that housing is less viable than industry in some situations.
35. There is also financial support in place to help with remediation of brownfield sites in the Black Country, including sites for employment use. The West Midlands Combined Authority (WMCA) has set up a Land Remediation Fund (LRF) under its Devolution Agreement to distribute £200 million of grant funding for up to 10 years, specifically for remediation activity. In March 2017, the WMCA Board approved £53 million from this fund to be made available to the Black Country Local Enterprise Partnership (LEP) from 2017/18, to help deliver Phase 1 of the Black Country Strategic Brownfield Land Programme (see Core Document SED.4). It is understood that the LEP will be seeking approval of a further £97 million of LRF funding to deliver Phase 2.

**Table 1: Summary of Abbreviations/ Acronyms Used in this Note**

<b>Abbreviation/ Acronym</b>	<b>Full Wording</b>	<b>Core Document (where relevant)</b>
BCCS	Black Country Core Strategy	PC1
HRA	Habitats Regulations Assessment	SA2
LEP	Local Enterprise Partnership	-
LRF	Land Remediation Fund	-
MPA	Mineral Products Association	-
MSA	Minerals Safeguarding Area	-

NPPF	National Planning Policy Framework	-
NPPG	National Planning Practice Guidance	-
SAC	Special Area of Conservation	-
SAD	Walsall Site Allocation Document	SM1
SI	Statutory Instrument	-
SSSI	Site of Special Scientific Interest	N/A
UDP	Unitary Development Plan	PC3
WMCA	West Midlands Combined Authority	-

## **EXAM5 Appendix**

**Further Information provided by Potters Clay & Coal Company Ltd (UR219)  
following Submission Representation**

**June 2016**

**(Not available as Word Document - see separate PDF)**

From: [REDACTED]

Sent: 17 June 2016 15:33

To: [REDACTED]

Cc: [REDACTED]  
[REDACTED]

**Subject: RE: Walsall Site Allocation Document Representations**

Attachments: 6996\_01a Wardell 2004007 lr.pdf; 6996\_01b Wardell 2004007 lr.pdf; 6996\_02a Wardell 2004007 lr.pdf; 6996\_02b Wardell 2004007 lr.pdf; PH Yorks Bridge report coal areas.jpg; WA Exec Summ 1.jpg; WA Exec Summ 2.jpg; WA Yorks Bridge geological sequence.jpg; Yorks Bridge response June 2016.docx

Dear [REDACTED]

Please find attached my joint response on behalf of my client, Potclays Ltd., and the Little Wyrley Estate regarding your questions below.

Also attached is a geological map showing coal outcrops, a plan showing the British Coal proposed site in 2004, a geological sequence, a report detailing the extraction areas for each coal seam (and therefore its underlying fireclay) for a restricted site in Walsall and the Executive Summary from a report by Wardell Armstrong.

If you have any further question do not hesitate to contact me again, but please note that I will be away from the office from 23rd June until 4th July.

Best regards,

[REDACTED]

Director, Resource UK

International Clay Technology Association (ICTa) North Staffordshire Branch Past Chairman

Mob: [REDACTED]

Tel/Fax: [REDACTED]

Email: [REDACTED]

Web: [www.resource-uk.co.uk](http://www.resource-uk.co.uk)

Registered Office: Resource UK (RMR) Ltd., 12 Trafford Close, Leek, Staffordshire ST13 5BG

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From: [REDACTED]

Sent: Tuesday, June 7, 2016 3:36 PM

To: [REDACTED]

Cc: [REDACTED]

**Subject: RE: Walsall Site Allocation Document Representations**

Dear [REDACTED]

Thank you for your representations on the Site Allocation Document, which we have now had the opportunity to review. I would be grateful if you could clarify the following points.

**1) Yorks Bridge – Extent of Winnable Fireclay Resources**

In your email below you have stated that ‘the same seams worked at Birch Coppice also occur at Brownhills Common and York’s Bridge’ and that ‘geological evidence indicates that the eastern half of the site is likely to be more economically viable as the fireclays are closer to surface.’ However, Council officers are not aware of any evidence that demonstrates the existence of potentially winnable fireclay resources in this location. For example, the maps of Yorks Bridge that were tabled at the Black Country Core Strategy Examination did not give any indication of the extent of fireclay resources present within the site. The mineral resource mapping and geological mapping published by the Coal Authority and British Geological Survey also does not give any indication of the extent of potentially winnable fireclay resources in this area. It would therefore be helpful if you could provide us with details of the evidence underpinning your statement on the extent of potentially winnable fireclay resources at Yorks Bridge (for example, from boreholes or other survey information), which could be used as the basis for defining the boundary of an Area of Search or fireclay resource area in the SAD.

**2) Birch Coppice Stockpile**

In your email below you have stated that ‘the existing stockpiles are expected to last for approximately 15 years,’ assuming an average annual depletion rate of 2,000 tonnes per annum, depending on sales demand. For monitoring purposes, it would be helpful if you could confirm the baseline date for the estimated life remaining, for example, does this relate to the position at April 2016? We would also appreciate clarification on the reasons for the apparent inconsistency between the information provided in your email, and the information provided by your client to Council officers in December 2007. The information provided previously suggested that the remaining stockpile at the end of 2007 would have been sufficient to provide around 10 years’ supply of fireclay to Swan Works, assuming an annual depletion rate of 2,000 TPA, in which case, there should be less than 2 year’s supply remaining within the stockpile @ April 2016. This is significantly different to your estimate of a current 15 year supply, so it would be helpful if you could explain the reasons for this difference.

**3) Yorks Bridge – Viability, Deliverability and Habitats Regulations Assessment**

In your email below you have stated that your client 'still intends to work fireclays in Brownhills at some point in the future,' although you are unable to confirm whether or not working would begin within the plan period. We would appreciate it if you could give some indication of how such a proposal would be expected to be delivered, given your client's limited requirements for fireclay, and the apparent lack of interest from any other party in working the fireclay at Yorks Bridge at the present time. It would also help us to respond to representations from Natural England if you could confirm whether any evaluation has been carried out of the potential impact of coal and clay working at Yorks Bridge on the Cannock Extension Canal SAC.

**4) Proposal to Exchange 'Dormant' Permission at Brownhills Common for New Permission at Yorks Bridge**

In your email below you have stated that your client is 'willing to exchange the existing permission for Brownhills Common (MP5) for an alternative area at York's Bridge.' While your client was the applicant of the 'dormant' permission for clay and coal extraction at Birch Coppice and Brownhills Common (EB233), it is the Council's understanding that they do not have any freehold or mineral interest in the Brownhills Common site or in the land at Yorks Bridge. It would be helpful if you could confirm that this is the case, and if so, how your client would propose to go about securing such an agreement with the Council. In particular, it would be helpful if you could provide evidence that such an agreement would be acceptable in principle to other interests who would also have to be party to it.

**5) Application BC48813P - Application for Working Conditions to be applied to Birch Coppice and Brownhills Common**

As there is no mention of this in your email, it would be helpful if you could confirm whether your client intends to progress this 'stalled' application during the plan period if it is not feasible to bring forward an application for clay extraction at Yorks Bridge.

A response by **30 June** would be much appreciated. Please note that unless you advise us otherwise, we will regard your response to this email as supplementary to your representation on the SAD, in which case it will be made public.

[REDACTED]

Principal Regeneration Officer  
Planning Policy Team  
Regeneration and Development  
Economy & Environment  
Walsall Council  
Civic Centre, Darwall Street, Walsall. WS1 1TP  
Email: [REDACTED]  
Telephone: [REDACTED]  
<http://www.walsall.gov.uk/>

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From: [REDACTED]

Sent: 03 May 2016 10:37

To: [REDACTED]

Cc: [REDACTED]

**Subject: Walsall Site Allocation Document Representations**

Dear Sir or Madam,

I am the agent for the Potter's Clay and Coal Company Ltd., and wish to make representations on their behalf.

The Potter's Clay and Coal Company Ltd does not object in principle to the Publication Draft Plan. However, the Council is referred to the Black Country Core Strategy Public Inquiry at which the exceptionally high quality of Brownhills fireclays for ceramics, particularly studio pottery and hobby craft, was demonstrated. Whilst not repeating the evidence here, it is considered sufficient to note three critical points:

- 1 - The same seams worked at Birch Coppice also occur at Brownhills Common and York's Bridge.
- 2 – The Company recognises the environmental and nature conservation value of Brownhills Common and is therefore willing to exchange the existing permission for Brownhills Common (MP5) for an alternative area at York's Bridge.
- 3 - The fireclays extracted from the former Birch Coppice site are still being supplied to a very large number of clients both in the UK and world-wide from the Company's Swan Works, which is adjacent to the site.

The current rate of usage from the Birch Coppice stockpiles is confirmed to be in the region of 2,000te per annum, but this is in the context of a global market for the company which has seen an increase in sales in recent years. Therefore the existing stockpiles are expected to last for approximately 15 years, depending on sales demand.

It is accepted that a partner will be required to bring forward a new extraction site, and that this is likely to be a coal operator or brick manufacturer. Given the decline in the price of coal coupled with the forthcoming closure of many coal fired power stations, along with the economic recession which

has resulted in the closure of many brickworks since 2008, it has proved impossible to find a partner during the current Plan period. For this reason the Company would prefer York's Bridge to remain designated as an Area of Search for fireclay. I can confirm that the geological evidence indicates that the eastern half of the site is likely to be more economically viable as the fireclays are closer to surface, thereby reducing the amount of overburden to be removed. A designated Area of Search in the eastern part of York's Bridge would also reduce the potential effects on environmentally designated sites associated with the canal. However, the 'enabling' inclusion in Policy M9 is welcomed.

I therefore wish to make it clear that my client still intends to work fireclays in Brownhills at some point in the future, and that whilst this may not be within the Plan period it may be that preparations for an application could start prior to 2026.

Best regards,

██████████

Director, Resource UK

International Clay Technology Association (ICTa) North Staffordshire Branch Past Chairman

Mob: ██████████

Tel/Fax: ██████████

Email: ████████████████████

Web: [www.resource-uk.co.uk](http://www.resource-uk.co.uk)

Registered Office: Resource UK (RMR) Ltd., 12 Trafford Close, Leek, Staffordshire ST13 5BG

Registered in England Company No ██████████

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## **1) Yorks Bridge – Extent of Winnable Fireclay Resources**

In your email below you have stated that ‘the same seams worked at Birch Coppice also occur at Brownhills Common and York’s Bridge’ and that ‘geological evidence indicates that the eastern half of the site is likely to be more economically viable as the fireclays are closer to surface.’ However, Council officers are not aware of any evidence that demonstrates the existence of potentially winnable fireclay resources in this location. For example, the maps of Yorks Bridge that were tabled at the Black Country Core Strategy Examination did not give any indication of the extent of fireclay resources present within the site. The mineral resource mapping and geological mapping published by the Coal Authority and British Geological Survey also does not give any indication of the extent of potentially winnable fireclay resources in this area. It would therefore be helpful if you could provide us with details of the evidence underpinning your statement on the extent of potentially winnable fireclay resources at Yorks Bridge (for example, from boreholes or other survey information), which could be used as the basis for defining the boundary of an Area of Search or fireclay resource area in the SAD.

### **Response**

I attach some extracts from a Wardell Armstrong report date September 2004. There are two maps which unfortunately have been scanned in two halves due to their size. One is a geological map which clearly shows the Upper and Lower Stinking coals outcropping close to the eastern boundary of the site. The strata dip at a shallow angle to the north west. These seams are underlain by the seams worked at Birch Coppice which included the Yard, Bass, Cinder, Bench and Shallow coals. All of these coal seams have an underlying fireclay which is compared as equivalent to the Caughley opencast site in Shropshire and supplies probably the best quality fireclays in the country at the present time.

The other map indicates the location of a proposed opencast coal and clay site put forward by British Coal shortly before it was wound up in 2004; the proposal was therefore never taken forward. However, this does serve to indicate that winnable coal and clay reserves exist at Yorks Bridge. Wardell Armstrong’s advice, which has been accepted by the Little Wyrley Estate and my client is that a smaller, clay led site on the eastern side of the British Coal area would be more likely to be acceptable in planning terms; this is the area lying on the Walsall side of its boundary with Staffordshire, which bisects the site from north to south.

A geological sequence is included which shows that the thickest fireclays are associated with the Stinking Coals and are therefore closest to the surface at Yorks Bridge. The other table is from a confidential report from a third party mining contractor and shows the extractable area of each seam. Combining the information from these two tables gives a fireclay reserve of some 575,000te, 80% of which is associated with the three most accessible coal seams, in addition to almost 400,000te of coal.

Hand written borehole logs indicate that coal seams occur within 10m of the surface in some areas.

Our proposal is for an Area of Search for fireclay to consist of the Yorks Bridge site EAST of the Walsall/Staffordshire boundary.

## **2) Birch Coppice Stockpile**

In your email below you have stated that 'the existing stockpiles are expected to last for approximately 15 years,' assuming an average annual depletion rate of 2,000 tonnes per annum, depending on sales demand. For monitoring purposes, it would be helpful if you could confirm the baseline date for the estimated life remaining, for example, does this relate to the position at April 2016? We would also appreciate clarification on the reasons for the apparent inconsistency between the information provided in your email, and the information provided by your client to Council officers in December 2007. The information provided previously suggested that the remaining stockpile at the end of 2007 would have been sufficient to provide around 10 years' supply of fireclay to Swan Works, assuming an annual depletion rate of 2,000 TPA, in which case, there should be less than 2 year's supply remaining within the stockpile @ April 2016. This is significantly different to your estimate of a current 15 year supply, so it would be helpful if you could explain the reasons for this difference.

### **Response**

I have discussed this with my client as the operator of the site. I am advised that the main factor is that the base of the stockpile has been reached at a deeper level than expected, probably due to settlement of the ground over the 40 or so years since the site was backfilled and the stockpiles constructed. The base has been reached on the east side of the stockpile and it is known that it is deeper towards the west. Therefore the reserves have been revised upwards.

## **3) Yorks Bridge – Viability, Deliverability and Habitats Regulations Assessment**

In your email below you have stated that your client 'still intends to work fireclays in Brownhills at some point in the future,' although you are unable to confirm whether or not working would begin within the plan period. We would appreciate it if you could give some indication of how such a proposal would be expected to be delivered, given your client's limited requirements for fireclay, and the apparent lack of interest from any other party in working the fireclay at Yorks Bridge at the present time. It would also help us to respond to representations from Natural England if you could confirm whether any evaluation has been carried out of the potential impact of coal and clay working at Yorks Bridge on the Cannock Extension Canal SAC.

### **Response**

Whilst my client's annual usage is currently low, the use in the initial years is much greater. This is because lower grade clays can be sold to different markets; lower grade fireclays can be used for brick manufacture, superficial clays can be used as 'puddle clay' for lining ponds and landfill sites, and shale and sandstone may be used for bulk fill if a market is available at the time.

The apparent lack of interest is due to the financial balance which has seen the price of coal fall to very low levels; at Birch Coppice it was the coal which paid for the cost of obtaining planning permission and working the site. It appears unlikely that the price of coal will rise significantly in the foreseeable future, but as opencast sites close the sources of fireclay become less and so the price is rising significantly and is likely to continue to do so. Traditionally a site such as this would be worked by a coal operator. This is currently unattractive and whilst brick companies are interested in purchasing fireclay they are not in a position, following the economic recession of recent years, to seek planning consent for and work a new site unless it has substantially greater reserves than are expected at Yorks Bridge. This is in no small part due to the cost of carrying out an Environmental Impact Assessment.

Regarding the Cannock Extension Canal SAC, the potential effects from a proposed clay working in Walsall are greatly diminished compared with the previously considered larger scale scheme. The impacts are therefore likely to be within acceptable limits given the distance, which will reduce considerably the visual, noise and dust impacts. The site design would take the SAC into account such that appropriate screening would be included to minimise any adverse impacts.

#### **4) Proposal to Exchange 'Dormant' Permission at Brownhills Common for New Permission at Yorks Bridge**

In your email below you have stated that your client is 'willing to exchange the existing permission for Brownhills Common (MP5) for an alternative area at York's Bridge.' While your client was the applicant of the 'dormant' permission for clay and coal extraction at Birch Coppice and Brownhills Common (EB233), it is the Council's understanding that they do not have any freehold or mineral interest in the Brownhills Common site or in the land at Yorks Bridge. It would be helpful if you could confirm that this is the case, and if so, how your client would propose to go about securing such an agreement with the Council. In particular, it would be helpful if you could provide evidence that such an agreement would be acceptable in principle to other interests who would also have to be party to it.

#### **Response**

The Council's understanding on these matters is entirely incorrect. My client does own the freehold mineral interest for some clay seams in both Brownhills Common and part of Yorks Bridge. The remainder of the minerals plus the surface of both sites is owned by the Little Wyrley Estate with whom my client has an agreement; indeed you will note that the representations regarding these sites and minerals were made on behalf of my client and Little Wyrley Estate jointly at the Black Country Core Strategy Examination. The Estate has today confirmed to me that they are very much interested in securing the rights to any mineral working under their land and would be more than willing to work with my client to market the Estate's minerals alongside those belonging to my client. I also have confirmation from the estate's Agent, Fisher German LLP that the issue of ownership referred to in Wardell Armstrong's Executive Summary has been investigated, and the Estate does own the freehold of the minerals underlying their land with the exception of any seams owned by the Potter's Clay and Coal Company.

I can therefore confirm that there is a very long standing agreement between my client and the Little Wyrley Estate who between them own all of the surface and minerals at Brownhills Common and Yorks Bridge with the exception of any minerals owned by the Coal Authority.

**5) Application BC48813P - Application for Working Conditions to be applied to Birch Coppice and Brownhills Common**

As there is no mention of this in your email, it would be helpful if you could confirm whether your client intends to progress this 'stalled' application during the plan period if it is not feasible to bring forward an application for clay extraction at Yorks Bridge.

**Response**

This application was stalled by mutual agreement with Walsall Council due to the cost of conducting an Environmental Impact Assessment and the fact that it would be premature to conduct such a survey until such time as the prospect of working a site was imminent. My client is of the opinion that due to the nature conservation value of Brownhills Common it would be preferable to all parties to exchange the existing planning permission on that site for an equivalent area at Yorks Bridge when an application is brought forward. My client sees the future of the two sites as linked and is happy for matters to remain as they are at the current time.

## EXECUTIVE SUMMARY

The site is underlain by a variable thickness (typically 5 to 15m) of superficial deposits, beneath which are strata of the lower coal measures. The superficial deposits comprise predominantly glacial clay with some lenses of glacial sand or gravel. It may be possible to selectively excavate some of the sand or gravel for use as an aggregate, although the sand is likely to be of relatively poor quality. We do not yet know if it would be financially viable to process the sand and gravel to recover the higher value fractions. The glacial clay is unlikely to be of economic value.

The Lower Coal Measures contain a series of coal seams, most of which have an underlying seam of fireclay associated with them. The coal is of reasonable quality and there are many old mineshafts in the area, indicating that some of the coal seams have been worked to a greater or lesser extent. The fireclays are the same as those that have been worked at nearby Birch Coppice and probably similar to those currently being worked at Caughley quarry near Ironbridge.

The site straddles the administrative boundary between Walsall and Staffordshire and so it is subject to 2 planning regimes. There are valid planning policy reasons for refusing a mineral extraction scheme on the Staffordshire side of the site. However, on the Walsall side of the site, the planning policies are more supportive, although it seems virtually certain that a new permission for mineral extraction on this site would require the permanent revocation of the 1954 Brownhills Common planning consent.

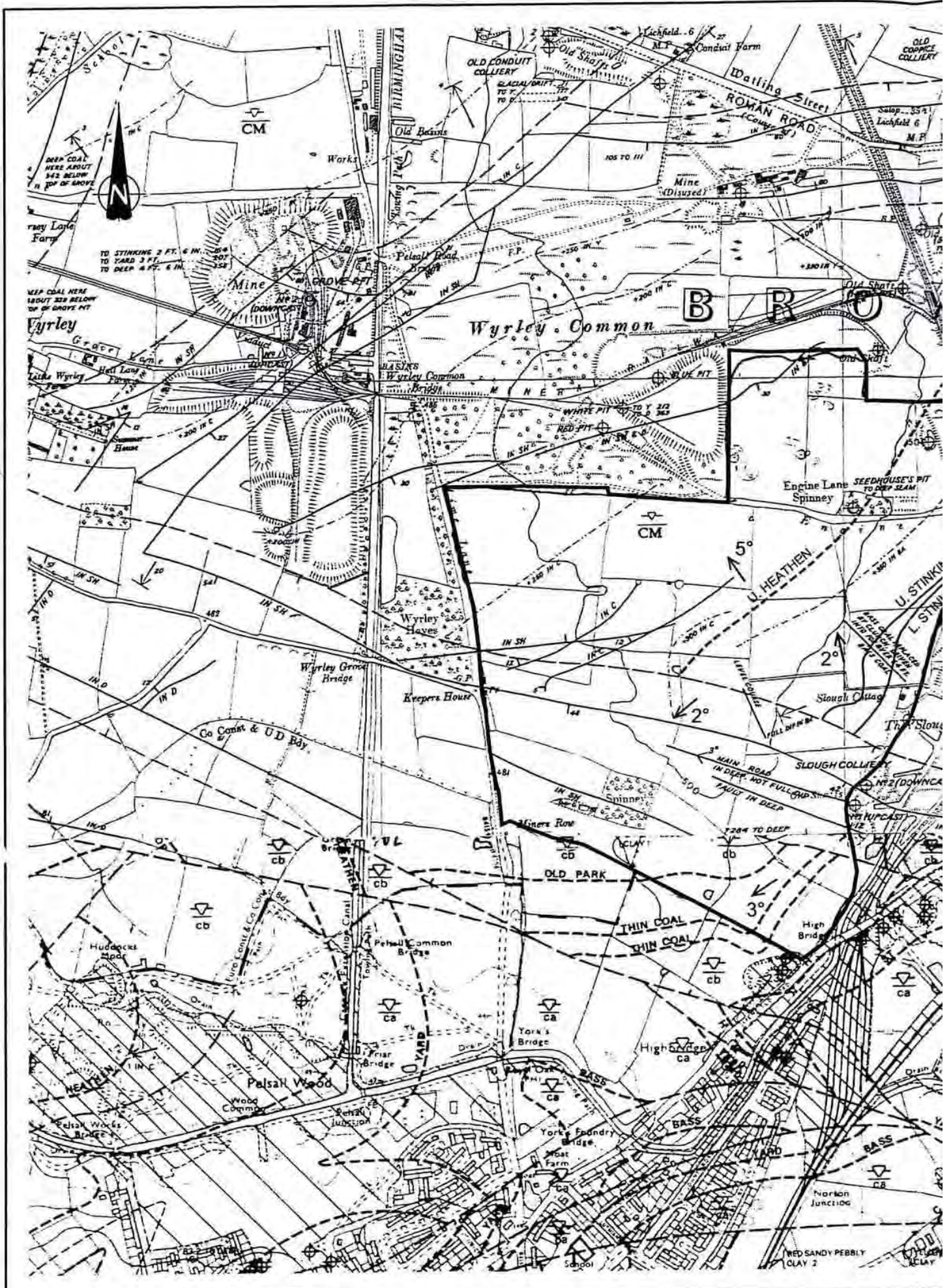
In our opinion, a modest scale clay-led extraction scheme with incidental coal extraction would have a significantly better chance of being granted planning consent than a larger scale coal-led scheme.

In our view it is unlikely that sufficient mineral can be extracted from the site in the foreseeable future to create a landfill void that would be large enough to be financially viable.

There are 2 potential legal problems relating to this site. The first relates to mineral ownership. The site may be former copyhold land (an ancient form of land ownership) in which case there is a possibility that the Lord of the Manor may have an interest in the minerals. The second relates to the borehole data supplied to the Estate by British Coal, and the use the Estate can make of that information. We recommend that legal advice is taken on this subject.

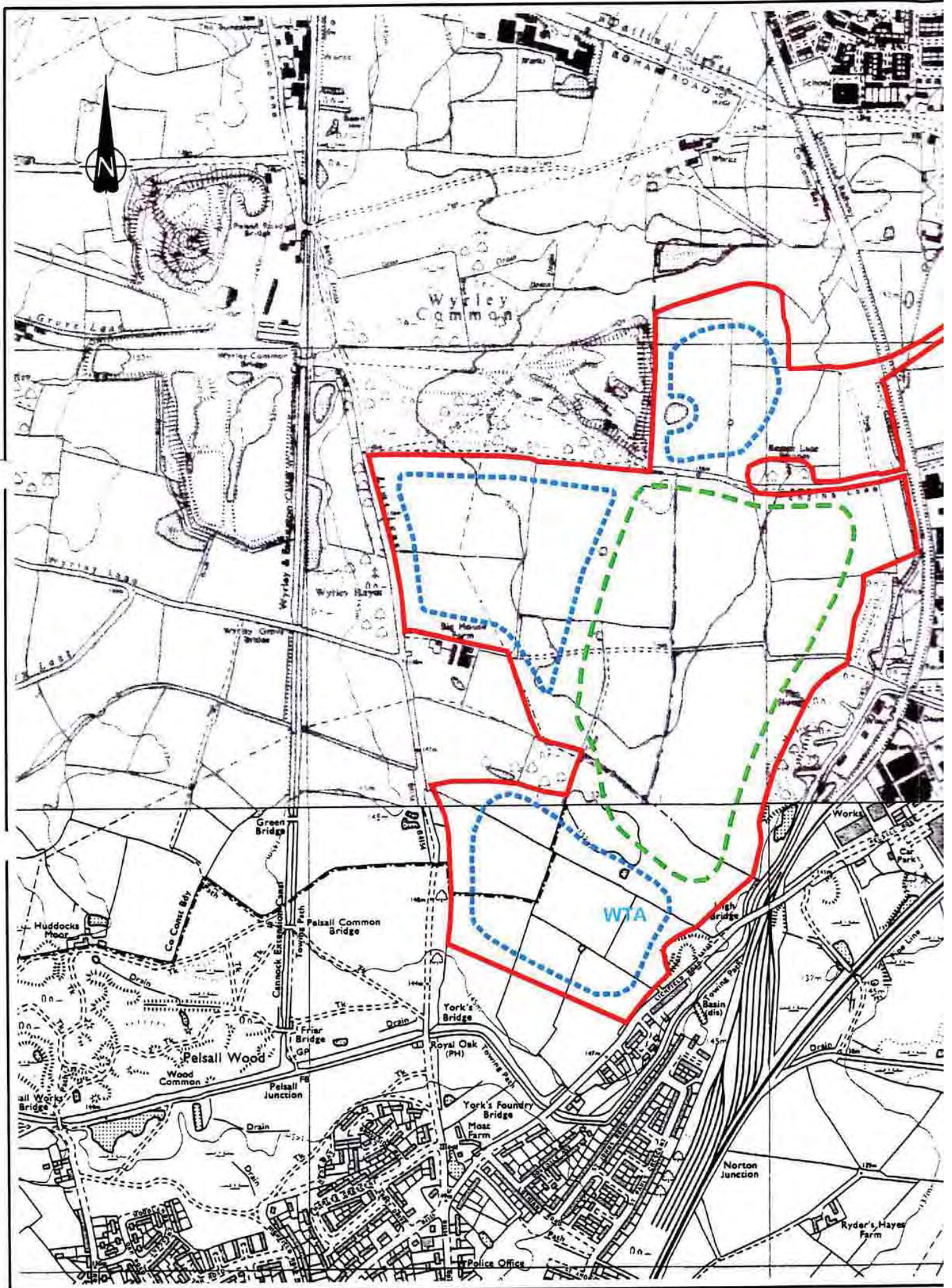
We have not looked in detail at the financial viability of a mineral extraction scheme. However, the planning prospects in the eastern part of the site ie in Walsall, are

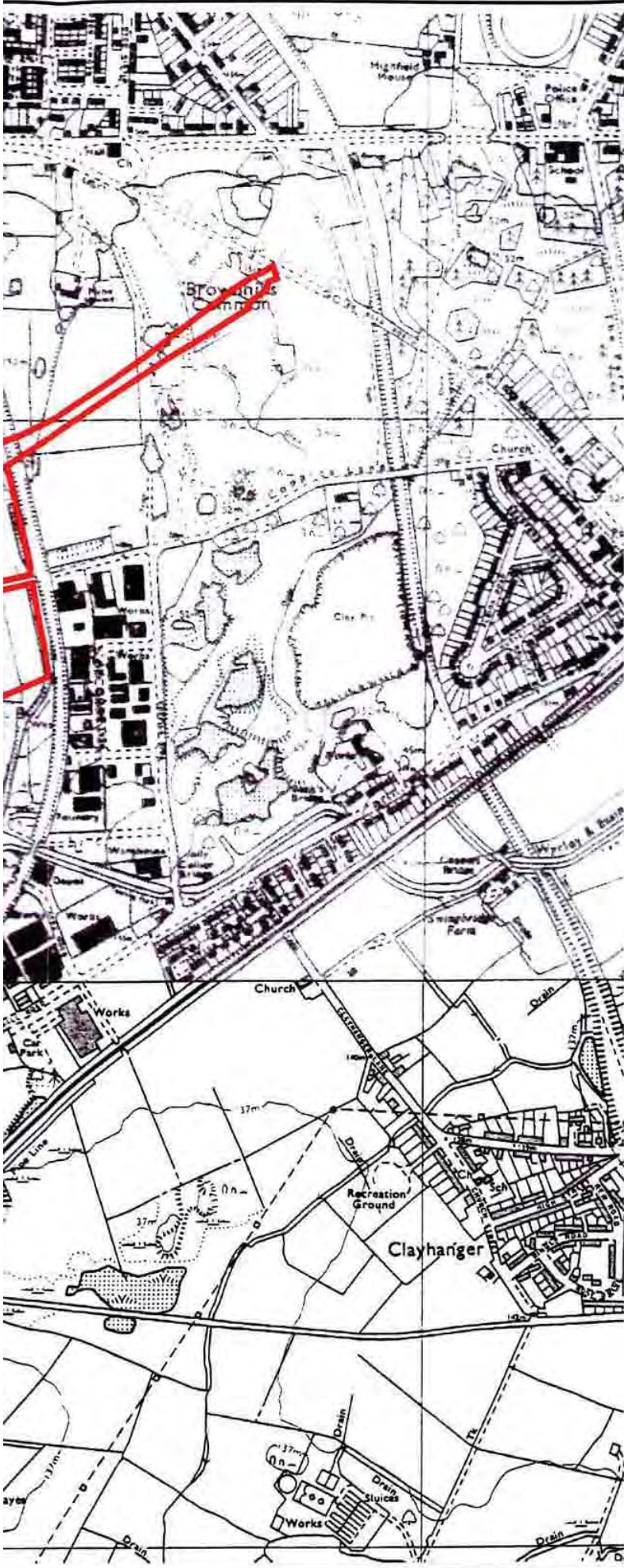
sufficiently promising that we have recommended undertaking an outline design of a mineral extraction scheme which can then be tested for financial viability.











**REFERENCE**

- BRITISH COAL SITE BOUNDARY
- - - BRITISH COAL EXCAVATION BOUNDARY
- - - - - BRITISH COAL OVERBURDEN DUMPS
- WTA WATER TREATMENT AREA

REVISION	DETAILS	DATE	DRAWN	CHK'D	APP'D
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CLIENT  
**LITTLE WYRLEY ESTATE**

PROJECT  
**YORK'S BRIDGE**

DRAWING TITLE  
**APPROXIMATE BRITISH COAL PROPOSAL**

DRG No NL06996/02	SCALE 1:10,000	DATE SEPTEMBER 2004
DRAWN BY HRK	CHECKED BY SDB	APPROVED BY SDB

- |   |                   |                                    |                   |
|---|-------------------|------------------------------------|-------------------|
| <input type="checkbox"/> NEWCASTLE-UNDER-LYME (HEAD OFFICE) | TEL 01782 612626  | <input type="checkbox"/> CARDIFF   | TEL 029 2038 2495 |
| <input type="checkbox"/> NEWCASTLE UPON TYNE                | TEL 0191 232 0643 | <input type="checkbox"/> LEIGH     | TEL 01642 260101  |
| <input checked="" type="checkbox"/> WEST BROMMCH            | TEL 0121 580 0909 | <input type="checkbox"/> SHEFFIELD | TEL 0114 245 8244 |
| <input type="checkbox"/> LONDON                             | TEL 020 7287 2872 |                                    |                   |

**Wardell Armstrong**  
Engineering & Environmental Solutions

### Solid geology

- 3.4 The Solid geology at the site comprises a sequence of Lower Carboniferous clay and coal seams all dipping in a general trend towards the northwest and displaced by a fault running across the south of the site. The sequence of coals and clays are shown in table 1 below in descending order.

<b>Seam name</b>	<b>Approximate thickness</b>	<b>Comments and suitability</b>
Heathen coal	Unknown	
Upper Stinking coal	0.4m	
Upper Stinking fireclay	1.1m	Tiles and studio clay
Lower Stinking coal	0.2m	
Lower Stinking fireclay	0.8m	Bricks and studio clay
Yard coal	0.7m	
Yard fireclay	0.6m	Ball clay substitute and studio clay
Bass coal	1.5m	May be in 2 leaves
Bass fireclay	0.7m	Tiles and studio clay
Cinder coal	0.8m	
Cinder fireclay	0.3m	Ball clay substitute and studio clay
Shallow coal	Unknown	

- 3.5 A number of disused mine shafts are located along the eastern side of the site associated with previous workings of the coal. Although the British Coal estimates did take into account losses due to old workings the presence of such workings should be noted as they introduce an element of uncertainty into tonnage estimates.

**YORKS BRIDGE SEQ  
SOUTHERN BLOCK  
Jul-08**

SEAM	GROSS AREA	OWS W/O	FAULTS ETC	NET AREA	IN SITU THICK	RECV THICK	REC VOL	REC TONNES
Heathen	127500	37.00	10.00	67575.00	0.47	0.43	29057.25	38646.14
Stinking	119600	12.00	10.00	93288.00	0.61	0.57	53174.16	70721.63
Yard	118450	17.00	10.00	86468.50	0.73	0.69	59663.27	79352.14
Bass	116725	43.00	10.00	54860.75	1.47	1.39	76256.44	101421.1
Cinder	115000	33.00	10.00	65550.00	1.28	1.20	78660.00	104617.8

recoverable tonnes     **394758.8 t**

recoverable volume     **296811.12 m3**

dig volume             11800000.00     m3

vol ratio                     **38.76     m3/m3**