



**DRAFT MINERAL SAFEGUARDING
SUPPLEMENTARY PLANNING
GUIDANCE**

MAY 2016

Regeneration Investment and Housing

Newport City Council

Civic Centre

Newport

South Wales

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1. INTRODUCTION AND POLICY BACKGROUND

- 1.1 This Supplementary Planning Guidance provides information to assist with the consideration of planning applications on minerals safeguarding areas for hard rock, sand & gravel within Newport Council.
- 1.2 The safeguarding areas for hard rock and sand & gravel have been designated by Local Authorities in Wales based on the British Geological Survey (BGS) Aggregates Safeguarding Map of Wales, funded by the Welsh Government. The information from the maps have been taken to form the safeguarding areas outlined on the LDP proposals maps.
- 1.3 These safeguarding maps were developed at the national level and as such they are mostly inferred from available geological information.
- 1.4 The safeguarding map for Wales provides a sound basis for the safeguarding areas however it should be acknowledged that the specific mineral may be absent, overlain by significant levels of overburden or not be of sufficient quality. Therefore the applicant could evidence that the mineral doesn't actually merit safeguarding.
- 1.5 At the national level Minerals Planning Policy Wales (MPPW) introduces the principle of safeguarding access to mineral resources that may be needed by future generations and requires that mineral resources are safeguarded or extracted prior to development proceeding unless it can be shown that the mineral resource cannot be practicably or viably extracted area the need for the development outweighs other considerations including the mineral consideration.
- 1.6 Locating development away from safeguarding mineral areas and outside relevant buffer zones is the key means to protect the long term future of the mineral sources. Some development proposals may contain non-sensitive elements¹. Schemes should be designed to place these non-sensitive elements within buffer zones thereby protecting the mineral resource from sterilisation. Sensitive aspects of developments should be located outside of identified buffer zones.
- 1.7 In some cases a different site should be sought for the development. This approach is justified on the basis that non-mineral developments are able to be undertaken in other areas whereas minerals can only be worked where they are found. In exceptional cases the application can be refused. The policy seeks to ensure that prior extraction has been considered and undertaken where necessary. This is the basis for LDP policy M1 and the mineral safeguarding information included on the associated LDP Proposals Map.
- 1.8 Policy M1, its reasoned justification and the associated map layers, set the context for decision making within areas of mineral safeguarding. The Local Development Plan Proposals Map shows the spatial extent of the safeguarded mineral resource.

¹ A definition of sensitive development is set out in MTAN 1, available at www.wales.gov.uk

1.9 The Local Development Plan Policy

M1 Safeguarding of Mineral Resource

DEVELOPMENT THAT WOULD BE INCOMPATIBLE WITH SAFEGUARDING HARDROCK OR SAND AND GRAVEL RESOURCES WITHIN THE MINERAL RESOURCE AREAS AS SHOWN ON THE PROPOSALS MAP WILL NOT BE PERMITTED UNLESS:

- i) THE DEVELOPER CAN DEMONSTRATE THAT WORKING THE RESOURCE IS ECONOMICALLY OR PHYSICALLY IMPRACTICAL OR WOULD BE ENVIRONMENTALLY UNACCEPTABLE; OR**
- ii) THE MINERAL RESOURCE WILL BE EXTRACTED SATISFACTORILY BEFORE THE DEVELOPMENT IS UNDERTAKEN; OR**
- iii) THE DEVELOPMENT IS OF A TEMPORARY NATURE AND CAN BE COMPLETED AND THE SITE RETURNED TO A STATE THAT DOES NOT INHIBIT EXTRACTION WITHIN THE TIMESCALE THAT THE MINERAL IS LIKELY TO BE NEEDED; OR**
- iv) THERE IS AN OVERRIDING NEED FOR THE PROPOSED DEVELOPMENT; OR**
- v) THE DEVELOPMENT CONSTITUTES HOUSEHOLDER DEVELOPMENT OR WOULD CONSTITUTE LIMITED INFILLING WITHIN AN EXISTING BUILT UP AREA.**

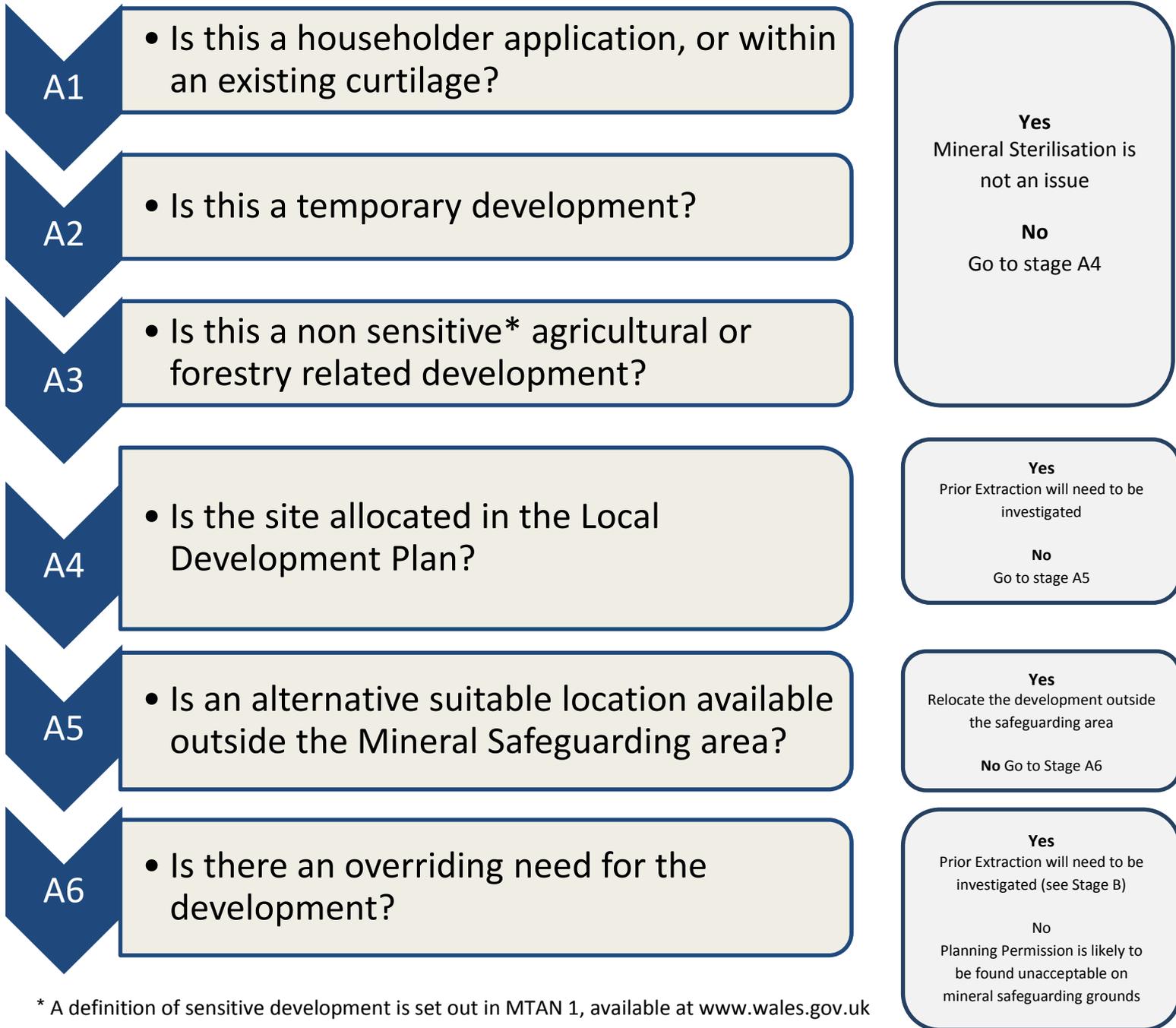
1.10 This guidance sets out the issues which need to be addressed when applications are submitted within, or affecting, a mineral safeguarding zones. The flow chart in chapter 2 sets out this process.

2. DETAILED CONSIDERATIONS

- 2.1 A series of stages will need to be adhered to in order to establish whether there a development can take place within a mineral safeguarding area. There is a presumption against development in mineral safeguarding areas to ensure the finite resource is safeguarded for the future. The policy seeks to ensure that where development is proposed within a mineral safeguarding area that sufficient consideration is given to safeguarding the mineral.
- 2.2 A staged process is charted below and this provides an indication of the process and questions which should aid the decision maker and applicant. A proportionate approach will be taken when considering the following questions, which will result in the level of information being required being dependent on the details of the proposed development. For example, one type of mineral may require further investigation than others e.g. a rare mineral or high quality resource. The location and scale of the proposal in regard to the safeguarding area is also an important consideration. For example, a small scale development located in the centre of a mineral safeguarding area may have a greater impact on the mineral resource due to extensive buffer zones. Where insufficient information has been provided, the Authority will seek the necessary information; if this is not provided the application is likely to be refused on the grounds of lack of proper justification.
- 2.3 The first stage to consider is that of mineral sterilisation. The process will allow the thorough investigation as to the impact of the proposed development on the mineral safeguarded resource. This process will either indicate that the proposal is such that mineral sterilisation is not an issue or indicate that prior extraction may be required. It is accepted that the process of prior-extraction will result in the loss of some minerals and therefore other factors such as need are also a clear consideration in this process. In the case of prior extraction a second stage has been outlined on page 9 indicating relevant considerations.

STAGE A: MINERAL STERILISATION

A full explanation of each stage follows the flow chart



* A definition of sensitive development is set out in MTAN 1, available at www.wales.gov.uk

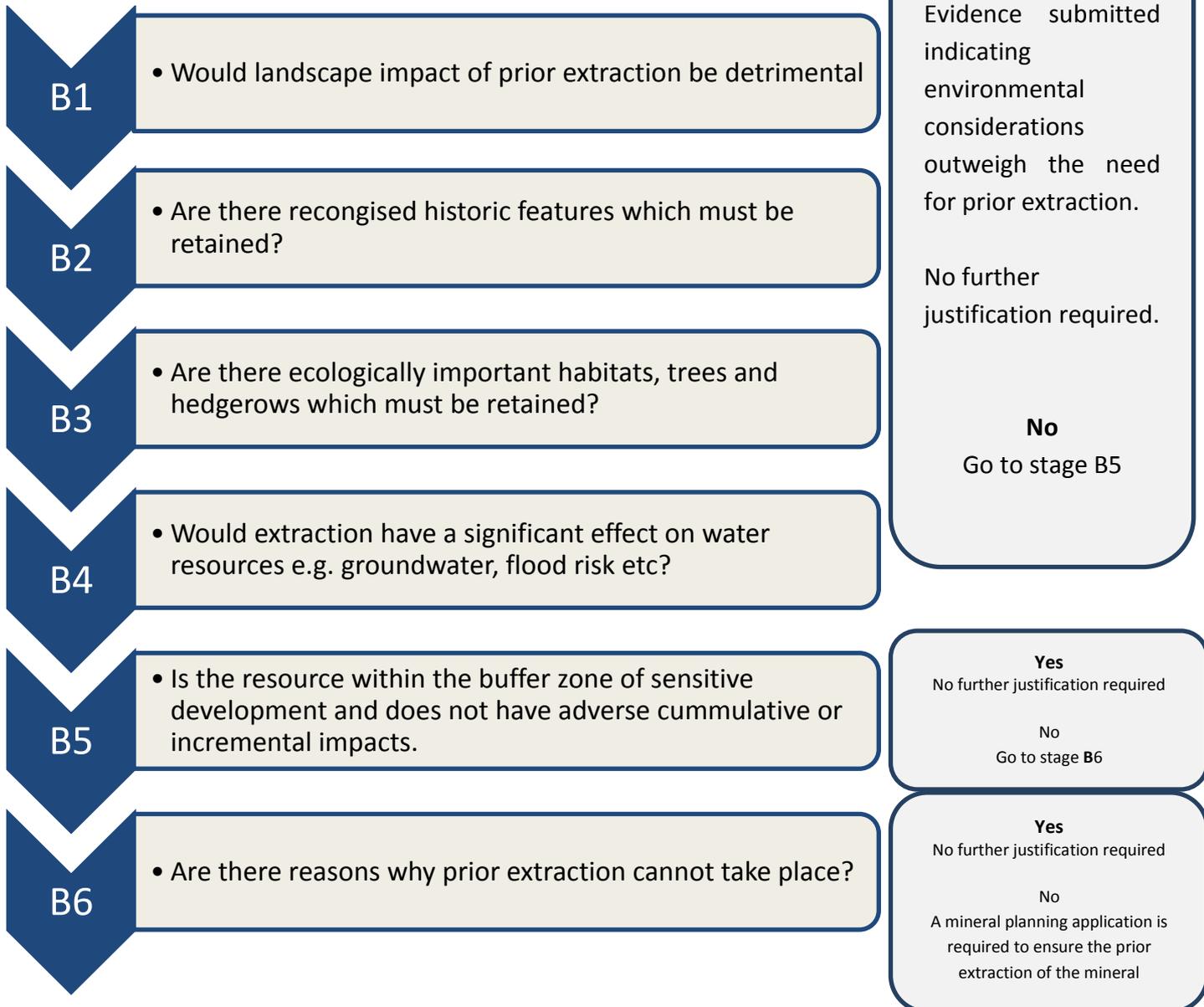
A1	Any mineral resource beneath such sites or within a residential curtilage is already likely to have been sterilised by permanent development and therefore mineral sterilisation is not an issue.
A2	Temporary development proposals will not permanently sterilise a mineral resource however it may be sensible to use planning conditions or obligations to ensure the removal of the temporary development at the end of the consent period and ensure restoration of the land to its former condition. If this is achieved then mineral sterilisation is not an issue. In order to analysis this impact it is appropriate to assess the ability of the regional landbank provision to meet needs over the lifetime of the development.
A3	<p>A significant amount of agricultural and forestry development is 'permitted development' under the provisions of Part 6 and Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. Agricultural and forestry related developments that require planning permission e.g. sheds and lagoons, which are not considered temporary may result in the sterilisation of economic mineral resources but they may be able to evidence an overriding need or it may result in an unviable scheme that on balance outweigh the impact on the resource.</p> <p>It is worth noting that agricultural or forestry dwellings would amount to sensitive development² which would not only sterilise the resource at the site itself but would also sterilise resource within a potential buffer zone around the dwelling. Cumulative and incremental sterilisation through eating into the buffer zone will need to be considered. Replacement buildings can be screened out.</p>
A4	Need has already been established for allocations within the Local Development Plan and the issues of safeguarding has already been considered. Prior extraction still needs to be considered, see Stage B for full details.
A5	As far as possible proposals should avoid development on mineral safeguarding areas. Applications will need to demonstrate why this is the only suitable location for the proposal, and must make a case for the development to be located within a mineral safeguarding area. This consideration may be linked to need but if an alternative solution outside of the mineral safeguarding area is available then the development should be relocated.
A6	<p>The developer will be required to establish the overriding need for new development within a mineral safeguarding area. This development will sterilise the resource beneath the site or in the case of new sensitive development the effect would be extending the buffer zone into the mineral safeguarding area. However, permission can be granted if overriding need is established, subject to the application meeting other planning considerations. Need can include the needs of the community, affordable housing and the functional need for an existing business or enterprise expansion.</p> <p>If there is no need established then permission is likely to be found unacceptable on mineral safeguarding grounds.</p> <p>Applications that are considered acceptable under this part of the policy must go on to consider whether prior extraction of the resource is possible, see Stage B for further details. If the applicant has satisfied that the mineral doesn't merit safeguarding then there is no need for prior extraction.</p>

² A definition of sensitive development is set out in MTAN 1, available at www.wales.gov.uk

- 2.4 If the recommendation from Stage A is to investigate prior extraction then the following flow chart and supporting questions will aid the investigation and analysis. They are not in a particular order but will aid analysis. 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. In line with National Planning Policy, prior extraction is a consideration due to the finite status of mineral resources to ensure sustainable management for the future.
- 2.5 Prior extraction may require additional expertise to be utilised in order for the works to be undertaken. It is therefore advisable to engage with the mineral industry and the Coal Authority. The work may also require further assessments such as EIA, further information on EIA can be found on the Councils website. There may be benefits to the applicant in undertaking these works e.g. revenue from the sale of minerals.
- 2.6 What is accepted with prior extraction is that some minerals will be lost because it is unlikely the deposit will be removed in its entirety. Therefore if the need for the mineral outweighs the need for the proposed development then it may still be appropriate to refuse permission on this basis.
- 2.7 There are practical reasons why prior extraction may not be feasible and this may be evidenced before the detailed consideration of the following criteria are required.

STAGE B: PRIOR EXTRACTION

A full explanation of each stage follows the flow chart



B1	<p>The landscape character of the site and its landscape context will be a relevant consideration. The applicant must provide relevant information to the Authority in relation to the landscape impact of prior extraction, including the impact on the change to topography. On the basis of the information available to it, the Authority will consider whether landscape considerations outweigh the need for prior extraction. If the evidence does not outweigh the impact then go to stage B5.</p>
B2	<p>Historic assets and their settings will be a relevant consideration when considering prior extraction. Prior extraction can destroy these features and their settings even on a temporary basis so the applicant must provide relevant information in relation to the impact, evidencing no adverse impacts will ensue. The Authority will consider whether historic environment considerations outweigh the need for prior extraction. If the evidence does not outweigh the impact then go to stage B5.</p>
B3	<p>The ecological and biodiversity features of the site will also be an important consideration. Prior extraction can destroy these features so the application must provide relevant information as to the impact, evidencing no adverse impacts, avoidance or providing mitigation and/or compensation where appropriate in line with TAN5: Nature Conservation and Planning. The Authority will consider whether ecological considerations outweigh the need for prior extraction as well as the impact on the proposed non mineral development. If the evidence does not outweigh the impact then go to stage B5.</p>
B4	<p>There may be potential for prior extraction to have an adverse impact on water sources including the local water table or a protected groundwater aquifer. The application must provide relevant information to the Authority in relation to the impact, evidencing no adverse impact. This is a technical matter which the application is advised to contact NRW, Welsh Water and or the Drainage section of the Local Authority for advice. The Authority will consider whether water quality/quantity considerations outweigh the need for prior extraction. If the evidence does not outweigh the impact then go to stage B5.</p>
B5	<p>The safeguarding areas designated on the LDP proposals plan are split into Hard rock and Sand & Gravel areas, each have differing buffer zones as detailed below.</p> <p>HARDROCK: Hard rock usually required blasting to extract it and national planning guidance states that blasting should not take place within a 200m buffer zone around existing sensitive development. The applicant will be required to demonstrate that the resources cannot be extracted because of existing sensitive uses and the mineral working will have a significant adverse impact on persons within that sensitive development. If this can be evidenced then no further justification is required. If it cannot be evidenced then go to Stage B6.</p> <p>SAND & GRAVEL: The buffer zone for sand and gravel resource working is 100m from sensitive</p>

development, where no blasting is required. The application will be required to demonstrate that the resources cannot be extracted because of existing sensitive developments within the buffer zone and the resources is already sterilised. If this can be evidenced then no further justification is required. If it cannot be evidenced then go to Stage B6.

B6

Prior extraction may not be appropriate for any number of reasons. It could not be technically feasible, delay development beyond a reasonable timescale, the quality and quantity of the mineral is poor, or there is no market for the material taking into account the timescale of the development. 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, it is reasonable to consider the impact of phases development which may be able to store materials prior to exporting off site. Responses from three credible sources will normally be expected to be provided by the applicant as evidence that the matter has been investigated.

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.

The developers will be required to demonstrate why it is not practical or desirable to extract the material. They will also be required to demonstrate why it would not be possible to modify the proposal to avoid sterilisation and there is no significant incremental sterilisation of resources in combination with other developments in the vicinity of the application site.

Where there are no justified reasons why prior extraction cannot take place a modification to the application or submission of a separate planning application is required to assess the working of the mineral. The Authority will determine a planning application for prior extraction of the mineral before built permanent development can take place.

2.8 If the process results in the need for prior extraction at the site the following factors should be taken into account:

- 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.
- 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. However, prior extraction will not always be appropriate.

- When considering possible prior extraction requirements under policy M1, it will be necessary to also consider the requirements of other relevant LDP policies. 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.

3. USEFUL CONTACTS

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