



# Proposed Submission Version Local Plan Representation Form

## Introduction

Please read the appended documents and guidance notes before completing this representation form.

- Advice and Guidance on completing this representation form
- Proposed Submission Version Local Plan (full plan)
- Data Protection and Privacy Notice ([https://www.warrington.gov.uk/privacy\\_policy](https://www.warrington.gov.uk/privacy_policy))
- Statement of Representations Procedure

*The guidance notes are taken from "Examining Local Plans Procedural Practice" published by The Planning Inspectorate and will assist you in making your representations effectively.*

More information can be found by visiting [www.warrington.gov.uk/localplan](http://www.warrington.gov.uk/localplan)

**The form is split into 3 parts:**

**Part A Your details** – 3 questions (only complete this part once)

**Part B Representation Form(s)** – 8 questions (fill in a separate form for each representation you wish to make)

**Part C Customer 'About You' questionnaire** – 9 questions (only complete this part once)

**All representations must be received by the Council no later than 5.00pm on Monday 17th June 2019. Please note that late representations will not be accepted.**

Should you encounter any problems completing the representation form please email [localplan@warrington.gov.uk](mailto:localplan@warrington.gov.uk)

## PART A - About You

**1. Please complete the following:** Please note the email address (if provided below) will be sent a full copy of the submitted response and a unique ID number for future reference (pdf attachment)

\*Name of person completing the form:

Email address:

**2. What type of respondent are you?** Please select all that apply.

- A local resident who lives in Warrington
- A person who works in Warrington
- Local Borough, Town or Parish Councillor
- Local Business owner/Manager
- A group or organisation
- Visitor to Warrington
- An agent
- Other (please specify):

**3. Please complete the following:**

Organisation name (if applicable):

Agent name (if applicable):

\*Address 1:

\*Address 2:

\*Postcode:

Telephone number:

## PART B - Representation Form 1

1. To which part (chapter/policy) of the Local Plan does this representation relate?

Chapter 9

2. Does your comment relate to a specific paragraph (s) or policy sub-number (s)? Please select one option.

- A paragraph number(s)
- A policy sub-number(s)
- Both of the above
- None of the above

If a paragraph or policy sub-number then please use the box below to list:

Policies ENV 3 and ENV 4 and the reasoned justification for these policies.

3. Do you consider the Draft Local Plan is: Please select one option in each row.

	Yes	No
Legally Compliant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sound	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Compliant with the Duty to Co-operate	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4. If you have answered 'No' to any of the options in the above question then please give details in the box below of why you consider the Draft Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate.

Please be as precise as possible.

### Relevant Guidance and Policy

The British Geological Survey's (BGS) guidance 'Minerals safeguarding in England: good practice advice' (2006) states that brick clay and other aggregates and construction materials are vital to the construction industry which maintains and enhances the built environment and transport infrastructure. The guidance goes on to state that minerals are finite and they must be protected to give future generations the best possible chance of meeting their own needs.

PLEASE SEE CONTINUATION SHEET 1

5. If you answered 'Yes' to any of the options in question 3 then please give details in the box below the reasons why you support the legal compliance or soundness of the Draft Local Plan or its compliance with the duty to co-operate.

Please be as precise as possible.

This representation does not seek to provide comment on the legal compliance of the Plan or compliance the duty to cooperate. The representation only relates to Peel Land and Property's belief that the Plan is not sound.

(Continue on a separate sheet and attach if necessary)

6. Please set out what modification(s) you consider necessary to make the Draft Local Plan legally compliant or sound, having regard to the test you have identified above where this relates to soundness. (NB please note that any non-compliance with the duty to co-operate is incapable of modification at examination).

You will need to say why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to put forward your suggested revised wording of any policy or text.

Please be as precise as possible.

Peel Land and Property consider that it is necessary to safeguard more sites for clay reserves in order to make the Plan sound. Safeguarding more sites for clay reserves would enable the plan to:

- prevent sites of known, high quality clay reserves being sterilised through increasing land use pressures;
- contribute to a steady and adequate supply of brick clay; and
- increase the level of flexibility embedded within the plan.

PLEASE SEE CONTINUATION SHEET 2

(Continue on a separate sheet and attach if necessary)

**Please note:** your representation should succinctly cover all the information, evidence and supporting information necessary to support / justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he / she identifies for examination.

**7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination? Please select one option.**

No, I do not wish to participate at the oral examination

Yes, I wish to participate at the oral examination (I understand details from Part A will be used for contact purposes)

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Peel Land and Property do consider it necessary for them to participate at the oral part of the examination. This would enable Peel Land and Property to address any clarifications the Inspector may have regarding this representation, to explain their intentions with regard to Rixton New Hall and to ensure the importance of the clay reserves at Rixton New Hall are understood by the Inspector and WBC.

(Continue on a separate sheet and attach if necessary)

**8. If you wish to attach documents to support your representation form then please submit with your response and provide a description of each document in the box below.**

**Comments / file description**

Please see Continuation Sheet 1 in relation to Question 4.  
Please see Continuation Sheet 2 in relation to Question 6.  
Appendix A - Rixton New Hall Site Proforma  
Figure 1 - Proposed Area of Safeguarded Clay Resource, Rixton New Hall.

(Continue on a separate sheet and attach if necessary)

## **CONTINUATION SHEET 1**

The increased pressure on land use means that it must be ensured that mineral resources are not needlessly sterilised by other forms of development.

Paragraph 204(c) of the National Planning Policy Framework (NPPF) states that planning policies should safeguard mineral resources by defining Mineral Safeguarding Areas (MSAs); and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided.

Paragraph 208(c) states that mineral planning authorities should plan for a steady and adequate supply of industrial minerals by maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment. Footnote 68 on page 60 of the NPPF states that the reserve for brick clay must be at least 25 years.

Paragraph 208(d) requires mineral planning authorities to take account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made.

Paragraph 81(d) of the NPPF requires that planning policies must be flexible enough to accommodate needs not anticipated in the plan and to enable a rapid response to changes in economic circumstances.

Planning Practice Guidance on Minerals highlights the differences in geology, physical and chemical properties, and market and supply demand which can have implications on mineral extraction.

### **Policy ENV3**

Policy ENV3 of the Proposed Submission Version Local Plan 2017-2037 (March 2019) (hereafter referred to as 'the Plan') concerns the safeguarding of minerals resources. The policy refers to the Mineral Safeguarding Areas defined on the Policies Map. The policy states that:

*'sand, gravel and shallow coal resources and sandstone and brickclay workings within the Minerals Safeguarding Areas will be protected from permanent sterilisation by other development'.*

The reasoned justification to Policy ENV3, Paragraph 9.3.18, confirms that clay is currently extracted at the West of Moat Lane site and that planning permission exists for clay extraction at another site in the Rixton area (Omrod Farm). Paragraph 9.3.18 goes on to state that the wider clay resource is not identified as a mineral resource by the BGS due to the fact that other outcrops are of variable quality and thickness. The paragraph concludes that, for these reasons, the plan does not seek to safeguard clay as a general resource, but does safeguard the existing clay workings near Rixton.

The reasoned justification refers to the requirements of the NPPF with regard to minerals safeguarding areas. It states that to apply an MSA "based on the geological occurrence of minerals only would cover a significant portion of the main urban area of Warrington north and the Manchester Ship Canal". The reasoned justification then goes on to acknowledge that

much of the minerals resource in the area has been built on and sterilised by urban development.

#### **Policy ENV 4**

This policy deals with primary extraction of minerals and includes a section on non-aggregates and windfall sites. Paragraph 9.4.6 clarifies that national policy requires a stock of permitted reserves of 25 years to be provided for each works using brick clay. The reasoned justification of Policy ENV4 advises that “significant reserves remain at ‘West of Moat Lane’, ‘Omrod Farm’ and Chapel Lane Quarry to provide feedstock to the Cheshire Brickmakers Factory”.

#### **Clay Workings in the administrative area of Warrington Borough Council**

It is understood that there are three sites in the borough with planning permission to extract clay, all of which are operated by Collier Industrial Waste Ltd. These sites are West of Moat Lane, Omrod Farm and Moss Hall Farm. Clay extracted at these sites is restricted for use at the Cheshire Brickmakers Factory, operated by a subsidiary of Collier Industrial Waste Ltd. There is a fourth site at Chapel Lane Quarry, operated by Brock Plc Ltd which is permitted to extract clay under an Interim Development Order although it is not currently being worked<sup>1</sup>. Paragraph 9.4.3 states the permitted reserves at Moss Hall Farm have been worked out and clay is currently extracted at the West of Moat Lane site only.

Which brick clay workings are safeguarded through Policy ENV3 is unclear. This is because none of the sites identified as having planning permission in Paragraph 9.4.3 of the Local Plan are within the Minerals Safeguarding Areas shown on the Local Plan Proposed Submission Version Proposals Map. The reasoned justification to Policy ENV3 states existing clay workings near Rixton will be safeguarded. Peel Land and Property do not consider the safeguarding of the existing clay workings at Rixton sites alone to be an approach which is appropriate or consistent with national policy. The approach to safeguarding sites for clay workings is considered to be inappropriate and inconsistent with national policy for the following reasons:

1. The Section 106 Agreement on the Omrod Farm planning permission (Reference 2009/15597) states at Condition 2 that “No extraction shall take place at the Omrod Farm site before clay extraction has ceased at the Moss Hall Farm and West of Moat Lane sites”. As such, of the four sites with permitted reserves remaining, West of Moat Lane and Chapel Lane Quarry could operate concurrently *or* Omrod Farm and Chapel Lane Quarry could operate concurrently, but only two of the three permitted sites with reserves remaining could operate at any one time.
2. Chapel Lane Quarry is not currently being worked and the long term intention of the operator of that site is unknown. The Waste and Minerals Core Strategy Background Paper states:  
*“In accordance with the Planning and Compensation Act 1991 Cheshire County Council registered this site as an Interim Development Order site in March 1992. The Act allows such sites to cease operation no later than February 2042. The site is*

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<sup>1</sup> Warrington Borough Council Minerals Resource Study and Policy Review March 2017

*operated intermittently for clay extraction mainly for bulk fill purposes by Brock Limited”.*

3. The quantities of clay resource at the three sites where Paragraph 9.4.6 suggests significant reserves remain (West of Moat Lane, Omrod Farm and Chapel Lane Quarry) and the quantity of clay required by the Cheshire Brickmakers Factory is not detailed in the key evidence documents listed in the Plan. As such, it is unknown whether the safeguarded sites do provide the requisite reserve for brick clay (at least 25 years).

For the following reasons the Plan is considered to fail the tests of soundness, specifically the tests of whether the plan is justified (with regard to the approach to clay reserve safeguarding) and the consistency of the plan with national policy:

- There is a lack of clarity as to which sites are safeguarded;
- It is unclear whether or not a 25 year reserve of brick clay can in reality be achieved through the permitted sites, and the extent of permitted reserve that exists;
- Paragraph 2.1.2 states that the Plan “marks a new stage in the town’s development - one of managed growth beyond the existing urban area to reflect projected population and household changes over the plan period”. Objective W1 of the Plan identifies the desire to build 18,900 new homes over the plan period. Brick infrastructure is considered to be critical to supporting these growth ambitions and as such, the level of brick clay required in the plan period is likely to increase from the level of demand previously experienced. It is unclear if this projected level of growth has been accounted for in Warrington Borough Council’s consideration of what a 25 year reserve of brick clay should be;
- It is our understanding that only two of the three permitted sites with permitted reserves remaining could operate at any one time, this does not meet the need stated in the NPPF for brick clay to be provided from a number of different sites; and
- Local Plans should be flexible enough to accommodate potential unforeseen needs that may arise during the plan period and respond rapidly to changes in economic circumstances, this flexibility is not considered to be present in the Plan.

In light of the above, Peel Land and Property assert a need for additional clay reserves to be safeguarded in order for the Plan to have the necessary flexibility to meet national policy requirements concerning MSAs and planning for a steady and adequate supply of industrial minerals.

### **Additional MSA - Rixton New Hall**

Site investigation undertaken by Peel Land and Property at Rixton New Hall has confirmed that there are clay reserves present within the land shown on Figure 1. The clay has been tested and sample bricks fired confirming that the clay is of high quality and a desirable colour for brick making. As such, clay from the site is likely to be in high demand to service a range of building projects. Peel Land and Property believe such reserves should be safeguarded for future extraction. This would address the concerns in respect of the soundness of the Plan and consistency with national policy as set out above.



## **CONTINUATION SHEET 2**

If sites for more clay reserves are allocated this will enable the Plan to meet national policy requirements and the concerns of Peel Land and Property with regard to the soundness of the Plan would be addressed in this regard.

If allocations for clay reserve safeguarding are made, Peel Land and Property put forward their site at Rixton New Hall for consideration. To assist WBC in consideration of this site, a proforma considering the site against relevant constraints is provided as Appendix A.

## APPENDIX A

### Rixton New Hall – Proposed Safeguarded Clay Reserve

#### Site Assessment

The proposed Safeguarded Clay Reserve is located to the east of Warrington. The village of Hollins Green lies to the west of the site. The site is irregularly shaped bounded by Manchester Road to the North, Warburton Bridge Road to the east, Manchester Ship Canal to the south, and farm land to the west.

The site is formed of agricultural land (Grades 2, 3a, 3b and 4) and extends to 61ha in area. The extents of the site are shown on Figure 1. To the west of the site is Woolston No.1 Deposit Ground, to the north is Rixton Clay Pits SSSI, SAC, Local Wildlife Site and Local Nature Reserve. Hollybank Caravan Park is located to the east of the site.

An initial screening of the site has been undertaken using the assessment methodology recommended in Urban Vision's Mineral Resource Study and Policy Review (March 2017) for identifying future locations for minerals development within Warrington. The site is first considered against Category 1 constraints that are considered to be absolute in normal circumstances. The second stage considers constraints where it would normally be preferred for mineral working not to take place, particularly where it can be demonstrated that adequate reserves exist elsewhere. The category 2 constraints proposed are not necessarily absolute constraints but will be considered to inform the assessment of the suitability of an area or not for future minerals development.

<b>Rixton New Hall – Proposed Safeguarded Clay Reserve Assessment Summary – Category 1 Constraints</b>			
<b>Constraint</b>	<b>Present within the Site</b>	<b>Present in vicinity</b>	<b>Comments</b>
Special Protection Area and Candidate Special Protection Area	No	No	-
Special Area of Conservation and Potential Area of Conservation	No	✓	Rixton Clay Pits SAC is located to the north of the site, on the other side of Manchester Road. There is no potential for direct impacts on the designated area. Any future extraction is likely to result in the potential for water based habitat creation similar to that within the SAC and as such is likely to result in beneficial effects associated with expansion of the habitats within the designation.
Areas of Outstanding Natural Beauty	No	No	-
Scheduled Ancient Monuments	No	✓	Rixton Old Hall moated site is located approximately 160m to the west of the site. Any future extraction is unlikely to impact the setting of the SAM due to intervening vegetation.

Representations Made by Axis on behalf of Peel Land and Property  
Warrington Borough Council - Proposed Submission Version Local Plan  
Policies ENV 3 and ENV 4 and Reasoned Justification  
17<sup>th</sup> June 2019

Listed Buildings	No	✓	Grade II listed milestone is located 62m to the west of the site. Any future extraction is unlikely to impact the setting of the listed milestone due to intervening vegetation. Grade II listed Rixton Old Hall is located approximately 160m to the west of the site. Any future extraction is unlikely to impact the setting of the listed building due to intervening vegetation.
National Trust sites	No	No	-
Sites of Special Scientific Interest	No	✓	Rixton Clay Pits SSSI is located to the north of the site, on the other side of Manchester Road so no potential for direct impacts on designated area. Any future extraction is likely to result in the potential for water based habitat creation similar to that within the SSSI and as such is likely to result in beneficial effects associated with expansion of the habitats within the designation.
Grade 1 and 2 agricultural land	✓	✓	According to Magic Post 1988 ALC Classification (England) here is Grade 2 agricultural land within the site, albeit mixed with lower grade land. More extensive areas are located nearby the site.
Country Parks	No	No	-
Conservation Area	No	No	-
Public Open Space	No	No	-
Registered Parks and Gardens	No	No	-
Local nature reserve	No	✓	A Local nature reserve is located to the north of the site, on the other side of Manchester Road. There is no potential for direct impacts on the designated area. Any future extraction is likely to result in the potential for water based habitat creation similar to that within the LNR and as such is likely to result in beneficial effects associated with expansion of the habitats within the designation.
Ground water sources	No	No	Source Protection Zone 3 is located approximately 370m to the west of the site.
Registered Battlefields	No	No	-

In addition to the Category 1 constraints considered above, it is recognised that there are residential properties located adjacent to the site. The site is within a proposed Mineral Safeguarding Area – Sand and Gravel and as such the suitability of the site for safeguarding minerals has been accepted by WBC, with the presence of nearby residential properties.

The only Category 1 constraints identified within the proposed safeguarded clay reserve site at Rixton Old Hall is Grade 2 agricultural land. However, the Mineral Safeguarding Area for Sand and Gravel covers the same area and safeguarding of minerals underlying Grade to land has been accepted by WBC in this respect. The use of Grade 1 and 2 ALC and an absolute constraint is not considered best practice, as any impacts on agricultural production

and farm businesses need to be assessed on their merits. The NPPF state that areas of poorer quality should be preferred to those of higher quality, but minerals must be worked where they are located and as such this is not always possible. Six Category 1 constraints are identified as being within close proximity to the proposed site. Whilst these constraints are located in the vicinity of the proposed site, it is not considered that they would be adversely impacted upon to any significant degree by clay extraction workings. Therefore, there are not considered to be any absolute constraints to the allocation of the site as a safeguarded clay reserve.

<b>Rixton New Hall – Proposed Safeguarded Clay Reserve Assessment Summary – Category 2 Constraints</b>			
<b>Constraint</b>	<b>Present within the Site</b>	<b>Present in vicinity</b>	<b>Comments</b>
Grade 3a agricultural land	✓	✓	The site has areas of Grade 2, 3a, 3b and 4 agricultural land..
Woodlands	No	No	
River valleys	No	No	
Settings of registered Parks and Gardens	No	No	
Local non-statutory designations as set out in the Local Plan	✓	✓	The site is located within a proposed Mineral Safeguarding Area – Sand and Gravel, within a Strategic Green Link area and Green Belt. A Rixton Claypits Local Wildlife Site is located to the north of the site, on the other side of Manchester Road.

For the same reasons set out above for Grade 2 ALC, the presence of Grade 3a land within the site should not preclude allocation and safeguarding of the reserve. The Rixton Claypits Local Wildlife Site is located on the opposite side of Manchester Road and for the reasons set out above for the SAC, SSSI & LNR, any future extraction would potentially extend the habitat of the LNR and have long term beneficial effects in terms of net biodiversity. The presence of Grade 3a agricultural land and the nearby Local Wildlife Site has not precluded the site being allocated as a proposed Mineral Safeguarding Area – Sand and Gravel.

In light of the above, it is concluded that the site has clear potential to be used for clay extraction in the future. The site has already been considered suitable by Warrington Borough Council for mineral extraction, evidenced through the proposed allocation of a Mineral Safeguarding Area (sand and gravel) at the site. Furthermore, Peel Land and Property are aware that the clay at the site is of a high quality and capable of manufacturing high quality bricks that are likely to be highly desirable in current and future markets. As such, it is considered that the site at Rixton New Hall should be allocated as a safeguarded area of clay reserve.



 Rixton New Hall Safeguarded Clay Resource area



Land & Property

Warrington Borough Council  
Proposed Submission Version Local  
Plan 2019 Consultation

Figure 1

Proposed Area of Safeguarded Clay  
Resource, Rixton New Hall,  
Policy ENV 3

Scale  
1:5000@A3

Date  
June 2019