



Adroddiad

Gwrandawriad a gynhaliwyd ar 07/04/2022

Ymweliad â safle a wnaed ar 25/04/22

gan Nicola Gulley MA MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 31/05/2022

Report

Hearing held on 07/04/2022

Site visit made on 25/04/22

by Nicola Gulley MA MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 31/05/2022

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78

APPLICATION BY: LOW CARBON FARMING 2 LIMITED

LOCAL PLANNING AUTHORITY: WREXHAM COUNTY BOROUGH COUNCIL

FOR:

**COMMERCIAL GLASSHOUSE WITH PACKING FACILITIES AND OFFICE SPACE,
ENERGY CENTRE AND ASSOCIATED INFRASTRUCTURE, CARBON DIOXIDE
RECOVERY PLANT, RESERVOIRS, CAR PARKING AND LANDSCAPING.**

AT:

LAND AT SESSWICK WAY, MARCHWIEL, WREXHAM LL13 0TF

REFERENCE: APP/ H6955/A/21/3271810

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LIST OF ABBREVIATIONS

BMV	Best and Most Versatile
'Future Wales'	Future Wales – The National Plan 2040
HRA	Habitat Regulations Assessment
LDP	Local Development Plan
LVIA	Landscape and Visual Impact Assessment
LPA	Local Planning Authority
PPW	Planning Policy Wales
PROW	Public Right of Way
SAC	Special Area of Conservation
NRW	National Resources Wales
TAN	Technical Advice Note
UDP	Unitary Development Plan
WwTW	Wastewater Treatment Works
WIE	Wrexham Industrial Estate

Ref: APP/ H6955/A/21/3271810

Site address: Land west of Sesswick Way Marchwiel Wrexham LL13 0TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Low Carbon Farming 2 Limited against the decision of Wrexham County Borough Council.
- The application ref P/2020/0363 is dated 13 July 2020.
- The development proposed is a commercial glasshouse with packing facility and office space, energy centre and associated infrastructure, carbon dioxide recovery plant, reservoirs, car parking and landscaping.

Summary of Recommendation: That the application be approved.

Background and Preliminary Matters

1. Planning permission for the proposal was refused by the Council on 25 September 2020. The six reasons for refusal cited related to:
 - the location of the development in the countryside outside the defined settlement boundaries;
 - the impact of the proposed development on the wider landscape and visual amenities of the area;
 - highway capacity;
 - impact on the Great Crested Newt population at the site;
 - impact on breeding birds of priority in Wales; and
 - Flood risk.
2. The appeal was recovered by the Welsh Ministers in a letter dated 20 May 2021, because the proposed development raised novel planning issues.
3. Following the submission of additional information by the appellant in relation to highway safety, ecology and flooding and the receipt of consultation responses from the Highways Authority and National Resources Wales (NRW) the Council has withdrawn the reasons for refusal relating to highways, Great Crested Newts, breeding birds and flood risk.
4. Prior to the commencement of the Hearing, a signed and dated S106 agreement, which makes provision for the creation of a management company and identifies mitigation areas for Great Crested Newts, was submitted by the appellant.
5. The appeal site comprises 44 hectares of Best and Most Versatile (BMV) agricultural land.
6. In addition, the location of the appeal site within the catchment of the River Dee, which is a Riverine Special Area of Conservation (SAC), together with the nature of the proposed development, which has potential to generate wastewater, means that the proposal falls to be considered in accordance with the Habitat Regulations 2017 (as amended). As such a Habitats Regulations Assessment (HRA) is included as part of this report.

7. Matters for consideration in this report are therefore: the location of the proposed development outside the defined settlement boundaries; its impact on the visual qualities of the area and wider landscape; the development of BMV land; and the likely significant effect on the SAC.

The Site and Surroundings

8. The appeal site comprises an area of approximately 44 hectares of agricultural land located at the junction of Cefn Road and Sesswick Way and close to the urban fringe of Wrexham and the rural settlement of Marchwiell. The site gently rises from north to south, and is enclosed along the highway boundaries by a combination of mature trees and hedgerows.
9. The area around the appeal site is characterised by a combination of agricultural and industrial uses including the Five Fords Wastewater Treatment Works (WwTW), which lies immediately to the west of the appeal site, and Wrexham Industrial Estate (WIE) and Maelor Abattoir, which lie to the north east / east of the site.
10. Vehicular access to the site is afforded via a private road leading from Cefn Road to the Five Fords WwTW. A public right of way (PROW) runs through the appeal site and connects Marchwiell with Five Fords Bridge.

The Proposal

11. The appeal seeks full planning permission for the construction of commercial glasshouses and ancillary development which includes packing facility, office space, an energy centre and related infrastructure, a carbon dioxide recovery plant, reservoirs, car parking and landscaping. It is anticipated that the development would result in the creation of 150 full-time jobs
12. The proposed development aims to reduce carbon emissions from the growing process for high value fruit, such as tomatoes, through the use of heat and carbon recovered from the adjacent Five Fords WwTW.
13. Key elements of the development include: -
- 2 no commercial greenhouses, which would have an overall height of 8 metres and, jointly, cover a total of 15.2 hectares of land;
 - A packing and welfare building, which measure some 8 metres in height, has a floor area of 0.6 hectares and include a packing area, canteen/toilets, irrigation, storage rooms and site offices;
 - An energy centre which would include ground source heat pumps connected to the nearby WwTW and gas combined heat and power units intended to provide supplementary high temperature water for heating, carbon dioxide and electricity;
 - A carbon dioxide recovery plant, which harvests all waste emissions from the Five Fords WwTW anaerobic digester facility, would be located south-east of the treatment works; and
 - A number of ancillary structures including 6 no. electrical transformers, 8 no. dry air coolers, 2 no. insulated vertical heat store tanks, 5 no. water silos and 2 no. large rainwater reservoirs.
14. The development would be set in a large compound with the ancillary elements of the scheme, specifically the packing and welfare building, energy centre, carbon dioxide recovery plant associated structures and car parking would be located in the northern

section and whilst the glasshouses would be located in the central / southern section of the site.

National and Local Planning Policy

Future Wales – National Plan 2040

15. Future Wales acknowledges the impacts of the climate emergency and provides a strategy for addressing key national priorities including the protection of agricultural land, the need to support and expand the rural economy, achieve decarbonisation and climate-resilience, develop strong ecosystems and improving the health and well-being of communities.

16. Particularly relevant to this application is:

- Policy 5 – Supporting the Rural Economy, which recognises the importance of meeting the employment needs of rural areas including employment arising from, amongst other things, the agricultural and forestry sector. In doing so the Future Wales offers strong support for the development of innovative and emerging technology businesses and sectors that would help rural areas unlock their full potential, broadening the economic base, and creating higher paid jobs.

Planning Policy Wales

17. Planning Policy Wales (PPW), seeks to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by The Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. In doing so, PPW creates a presumption in favour of sustainable development and ensures that all relevant issues are balanced by the decision-taker in making decisions on individual planning applications.

18. PPW, paragraph 3.60 addresses the issue of development in the countryside, and in doing so, explains that: it should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation; Infilling or minor extensions to existing settlements may be acceptable, in particular where it can be demonstrated that the proposal will increase local economic activity; and all new development should be of a scale and design that respects the character of the surrounding area. PPW is clear however, that new building in the open countryside away from existing settlements or areas allocated for development in development plans must be strictly controlled.

19. With regard to agricultural development, PPW, paragraph 5.6.8 makes clear that planning authorities should adopt a constructive approach towards agricultural development proposals, especially those which are designed to meet the needs of changing farming practices or are necessary to achieve compliance with new environmental, hygiene or welfare legislation.

20. In addition PPW paragraphs 3.5.8 and 3.5.9 explain that agricultural land of grades 1, 2 and 3a is BMV and should be conserved as a finite resource for the future. The guidance makes clear that, when considering the search sequence and development management decisions, considerable weight should be given to protecting such land from development, because of its special importance and that grades 1, 2 and 3a agricultural land should only be developed if there is an overriding need for the development and either previously developed land or land in lower agricultural grades are unavailable.

Technical Advice Notes

21. Technical Advice Note 6 – Planning for Sustainable Rural Communities (2006) (TAN 6), paragraph 6.1.1 explains that the Welsh Government's objective: is to ensure a sustainable and profitable future for farming families and businesses through the production and processing of farm products; while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts; and contributing to the vitality and prosperity of rural communities. In addition, paragraph 6.8.1 of the advice note recognises that development of new glasshouses can have significant environmental impacts, but is clear that the horticultural industry should not be held back by over-restrictive approaches to developments which could be sited without detriment to the surrounding area.

Local Policy

22. At local level the Adopted Wrexham Unitary Development Plan (UDP) provides the planning policy framework for the management of new development in the countryside. Of particular relevance are the following:

- Policy PS1, which seeks to direct new housing, employment and commercial services to within defined settlement boundaries;
- Policy PS2, which requires that new development does not materially, detrimentally affect the countryside, landscape / townscape character, open space or the quality of the natural environment;
- Policy PS4 which seeks to ensure that new development maintains the existing settlement pattern and integrates with the existing transportation network in order to reduce travel by private car;
- Policy EC3 which permits new agricultural buildings that do not have a materially detrimental impact on the environment or surrounding landscape, are part of an existing farm complex and appropriately screened. The policy makes clear that isolated buildings will only be permitted in exceptional circumstances where there is an essential agricultural need, and there is no reasonable alternative location for the development; and
- Policy GDP1 which seeks to ensure, amongst other things, that the scale, design and layout, materials and landscaping of new development accords with the character of the site and makes a positive contribution to the appearance of the locality.

23. In addition, the Council has drawn my attention to the requirements of Policies SP2 and EM 4 of the emerging LDP. In combination these policies provide a framework which broadly reflects that contained in UDP Policies EC3 and GDP1.

The Case for the Applicant

24. In summary, the case for the applicant in respect of the outstanding matters is as follows:

Principle of Development

25. It is accepted by the Appellant that the site lies outside of (albeit adjacent to) the settlement boundary and is therefore in the 'open countryside' in planning policy terms. However, the reason for refusal and Officer's Report in respect of the principle of development makes no reference to UDP Policy EC3 which permits the construction of new agricultural buildings outside of settlement boundaries.

26. The Council accepts that the proposals fall within the definition of agriculture as defined by Section 336 of the Town and Country Planning Act 1990, which includes: 'horticulture [and] fruit growing'. Policy EC3 states: "Isolated buildings will only be permitted in exceptional circumstances where there is an essential agricultural need, and no reasonable alternative location for the development". In this respect, an understanding of the proposal is required to appreciate the rationale behind the site's location and reference should be made to Section 2 of the Site Selection Sequential Test Report (August 2020) submitted in support of the application. The development has an essential and symbiotic relationship with the adjacent WwTW because 95% of the heat required by the proposed glasshouse will come from the adjacent existing WwTW. The Site Selection and Sequential Test Report demonstrates that there is an overriding need for the development and no suitable alternative locations for it. Whilst the report was accepted as justification for the site's location within BMV land, it is considered that it equally supports the rationale for the site's location in the context of the requirements of Policy EC3.
27. The amplification text to Policy EC3 at Paragraph 5.4 states
- "The Council is aware of the need for continuing investment in modern farm buildings, slurry stores and equipment. Farm businesses need to change and grow in response to market forces and legislation if they are to survive. Problems can arise due to proposals which are unusually large or in sensitive locations. Where this is the case then planning conditions may be necessary to lessen the impact, although consideration will be given to functional requirements and cost implications."*
28. This is considered of relevance in the context of the Appeal proposals – with the UDP recognising that there is a need for modern farm buildings and that farming practices need to 'change and grow'. As set out in the amplification text, planning conditions may lessen the impact of development, which in the context of the proposal and reason for refusal 2 on landscape, could comprise the implementation and maintenance of the proposed planting, as set out in the Planting Plan submitted in support of the application.
29. It is accordingly considered that the proposals comply with UDP Policy EC3 in respect of the principle of development.
30. Notwithstanding the above, given that the UDP is long out of date and is time expired, the following paragraph of the Welsh Government's Building Better Places: Placemaking and the Covid-19 recovery document is considered of relevance:
- "PPW and the NDF can be used directly in the decision-making process, particularly where an LDP is silent or out-of-date on an issue. The Welsh Government will support decisions taken in this context, particularly in the short-term until an LDP is adopted."*
31. Future Wales 2040 was published in February 2021 (following the Council's refusal of the planning permission) and states that 'we must continue to value and protect our agricultural land and ensure it can feed and support us' and that 'there will be support for the agricultural sector and its supply chains to boost resilience through diversification'.
32. Policy 5 of Future Wales supports the rural economy with the amplification stating:
- "local food and drink processing of agricultural and horticultural products is a growing industry. Planning authorities should support new development and opportunities to improve or develop rural supply chains and distribution networks."*
33. *Diversification is strongly supported to help maintain a sustainable and resilient agricultural and forestry sector, particularly in the face of challenges presented by the UK's exit from the European Union... Rural areas are the base for many innovative technology based companies and there is potential to expand this aspect of the economy.*
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The sector includes research and development, defence and security, animal health and veterinary science, bio-technology and agri-tech, and energy.”

34. There is clear support in Future Wales for agricultural diversification and innovative agri-tech proposals such as that proposed through this appeal.

35. In respect of glasshouse construction, Paragraph 6.8 of TAN 6 goes on to state:

*“Commercial glasshouses normally exceed the area for which permitted development rights are available. Glasshouses can have a significant environmental impact and, wherever practicable, new ones should be sited adjacent or close to existing ones. **It is important however that the horticultural industry is not held back by over-restrictive approaches to developments** which could be sited without detriment to the surrounding area” (emphasis added).*

36. In terms of emerging planning policy, examination on the Wrexham Local Development Plan 2 (LDP2) 2013 to 2028 is underway. The Officer’s Report to the application states:

“...this area south of the WIE was discounted for employment through the LDP processes, in preference to an extension to the north to provide a strategic expansion (KSS3) site of 28ha (LDP Policy SP9).”

37. It should be made clear that the site was not promoted via the emerging LDP for the agri-tech proposals currently being advanced. LDP Background Paper 5: WIE Expansion Selection shows at Plan A that the site (referred to as ‘Area B’) was considered as one of two areas ‘considered to initially offer the best potential for a possible expansion area to WIE’ (paragraph 4.1). This demonstrates that the Council considered that the site had some capacity for industrial development when compared with other land in the surrounding area. The report concludes that the ‘Council considers at this stage that lower quality agricultural land in Area A offers the best potential for accommodating a new extension to WIE’. Since this report was prepared it has been demonstrated that the proposals for the site have an acceptable impact on agricultural land in any event (as demonstrated by the lack of any objection or reason for refusal in this respect).

Landscape

38. The submitted Landscape and Visual Impact Assessment (LIVA) confirms that the proposals accord with Policies GDP1 (a) and PS2 of the adopted UDP and there is no landscape-related reason why planning permission should not be granted.

39. Moreover, the following planning matters are considered of relevance in responding to this reason for refusal:

40. Whilst the site is located in the open countryside in planning policy terms, it is located in proximity of other utilitarian buildings. The site is not located within (or within proximity to) any landscape designations such as Areas of Outstanding National Beauty, Special Landscape Areas, Green Belt or Green Wedge. As confirmed by NRW in their response to the application, given the distances from the site, the proposal is unlikely to have an effect on the AONB.

41. UDP Policy EC3 permits the construction of new agricultural buildings where they are not “materially detrimental in terms of its impact on the environment or surrounding landscape”. The enclosed Landscape and Visual Impact Assessment (LVIA) demonstrates this to be the case.

42. Policy EC3 goes on to state that “the development should form part of an existing farm complex and take advantage of topography and other landscape features for screening”.

The proposals work within the topography of the site and important landscape elements such as the hedgerows will be preserved and tree cover will be enhanced as part of the proposals.

43. Policy EC3 states: “Isolated buildings will only be permitted in exceptional circumstances where there is an essential agricultural need, and no reasonable alternative location for the development”. The site is located adjacent to Five Fords Farm and in a wider landscape context is adjacent to a WwTW to the west and Maelor Abattoir to the east (both of which by their nature have a utilitarian appearance and are of a similar scale), and is to the south-west of WIE (which includes buildings of a greater scale). As previously stated, there is a symbiotic relationship between the WwTW and the proposed development which necessitates the proposed siting of the greenhouses.
44. Within the Council’s EIA Screening Opinion Stage 2 Screening Assessment they recognised the site’s location as being adjacent to existing industrial and utilitarian uses stating that: “Whilst the majority of the site is laid to grass and in agricultural use, it is located east of the WWTW and south of the WIE. The site is not considered to be solely isolated insofar as development lies in close proximity of the site. Landscape mitigation would need to be provided as part of the proposal. However on the basis of the surrounding development, the site location and topography of the land, I do not consider that there are areas of high landscape or scenic value in such close proximity to the site, which would be affected by the proposal, sufficient to warrant an EIA on this basis.”
45. Should the development be approved, the landscaping shown on the Soft works – tree and hedgerow planting plan, 1202-01 Rev D illustrates how an acceptable level of landscape mitigation can be accommodated and it is respectfully suggested that a detailed landscape scheme could form a condition on any permission (if forthcoming).
46. The LVIA submitted in support of the application was undertaken by a suitably qualified expert and provides a robust and proportionate assessment of the proposals. The Assessment’s findings are summarised below:
- The assessment of the effects of the proposals on the larger landscape character area would be a moderate effect in the long-term on the landscape character, due to the intact nature of the landscape however the site relates to the industrial areas in the vicinity.
 - For the site itself, the landscape effects on a limited number of receptors would be moderate due to the change of land use of an arable field. Important landscape elements such the hedgerows will be preserved and tree cover will be enhanced.
 - With regard to the visual effects of the proposed development upon local receptors, the greatest effect is no further than 1km from the site boundaries to the west with immediate views affect to the east, as follows: -
 - Transport
 - Cefn Road: slight;
 - Sesswick Way: slight/moderate, reducing to slight with mitigation planting;
 - Bridge Road South: slight/moderate, reducing to slight with mitigation planting.
 - Properties
 - Glanrafon Cottages: moderate, reducing to slight with mitigation planting;

- Nos 1 and 2 Cefn Road: slight/moderate, reducing to slight with mitigation planting;
 - Little Llywn Onn : slight reducing to effectively no change with mitigation planting;
 - Old Llywn Onn Farm, Hollyhedge, Maelor Abattoir : slight
 - Five Fords WwTW: moderate/slight, reducing to slight/moderate with mitigation planting;
 - Marchwiel and Wrexham: moderate, reducing to slight/moderate with mitigation planting.
 - Footpaths
 - Footpath 1 (PRoW that moves through the site in parts): substantial/moderate reducing to moderate/slight with mitigation planting.
- Cumulative effects were assessed with respect to other developments in the study area. It is judged that there are medium cumulative landscape effects and medium cumulative visual effects with respect to the proposals;
 - The site is within a landscape that exerts a positive character and that is in good landscape condition. However, the landscape is a working rural landscape with large areas of industrial buildings and the sewage works that the proposals will sit comfortably in. The visual effect of changes on site are barely felt beyond 1km to the west. Mitigation in the form of hedgerow and tree planting reinforcement will reduce some changes to visual amenity. The proposals will provide horticultural opportunities in a rural location without having an impact on the wider rural landscape.

47. Notwithstanding all of the above, it is considered that no robust counter evidence has been provided by the Council to substantiate this reason for refusal.

Sustainability

48. When additional heating of glasshouses is required, this has traditionally been provided through the use of natural gas boilers. The proposed development incorporates a new approach to glasshouse heating, dramatically reducing carbon emissions. Heat pumps, which are an electric form of heating, will utilise low grade heat from clean, treated water which is being discharged from the nearby WwTW. The proposals therefore make best and efficient use of resources, thereby helping to decarbonise society and support the circular economy – all of which are Key Planning Principles set out within PPW (under the heading achieving the right development in the right place). The proposals provide a *‘productive and enterprising linkage’* between the proposed operations and the WwTW. They would moreover *‘support the achievement of a more prosperous, low carbon, innovative and resource efficient Wales’* and *‘maximise the use of a local energy source’* (supported in Paras 2.28 and Chapter 5 of PPW respectively).
49. The proposals use screens which cannot be utilised in traditional agricultural practices reducing the need for pesticides, water and have a lower carbon footprint compared with field farming for fresh produce. There is no water wastage as a result of water recirculation and the site would be more productive than field farming.
50. The proposal would make a major contribution towards the production of UK grown food and thus national food security (producing 4,350 tonnes of tomatoes annually which would likely otherwise be imported predominantly from Spain), whilst offsetting 10,875

tonnes of import carbon and sequestering 16,783 tonnes of carbon to enrich the growing environment.

Economic Benefits

51. Section 5.6 of PPW supports the rural economy and states that new economic development sites “*should generally be located within or adjacent to defined settlement boundaries*” (Paragraph 5.6.4). The site accords with this description being located adjacent to the south-west of the settlement boundary which runs along Bedwell Road.

52. Paragraph 5.6.6 of PPW states that LPAs should support new and evolving farming practices:

*“Planning authorities **should adopt a constructive approach towards agricultural development proposals**, especially those which are designed to meet the needs of changing farming practices or are necessary to achieve compliance with new environmental, hygiene or welfare legislation.”* (emphasis added)

53. Paragraph 5.6.10 goes on to support agricultural diversification schemes such as those proposed in this case stating that “*Planning authorities should adopt a positive approach to diversification projects in rural areas*”.

54. TAN 6 also supports a strong rural economy and sustainable agricultural practices, such as those being advanced through this proposal with Paragraph 2.2.1 stating:

“Many rural communities can accommodate development, particularly to meet local needs. New development can help to generate wealth to support local services, ensuring that communities are sustainable in the long term...In particular, planning authorities should support developments that would help to achieve a better balance between housing and employment, encouraging people to live and work in the same locality”.

55. Research in relation to the impact of Brexit undertaken by Grant Thornton on behalf of the Welsh Local Government Association estimates that the Flintshire and Wrexham economic area could lose £300,000,000 annually in trade. This excludes consequential effects upon supply chain companies as the impact of lost trade income “ripples” through them. Against this context, the proposal’s economic benefits weigh heavily in favour of the proposals. Reference should be made to the Economic Benefits Statement submitted in support of the proposal which sets out the following key points:

- The scheme will provide 150 direct jobs to Wrexham in an area with 16.6% youth unemployment;
- 150 ‘clean and green’ jobs will deliver £4,079,000 per annum in salaries to the local economy, or £81,580,000 over the 20-year duration of the project;
- The Wrexham and wider North Wales economy has lost 1,906 jobs in the 8 weeks preceding the report (September 2020) with further redundancies and positions at risk since;
- The construction phase will inject circa £4,000,000 into the local economy; and
- Transition training for those losing their jobs in the local economy is in place.

56. In respect of job creation, Para 2.1.10 of TAN 23 states:

“Economic growth is worthwhile wherever it is located, and in the interests of economic growth the planning system should generally aim to provide land where there is demand for it.” The TAN confirms that agriculture comprises an economic land use and states that “sustainable development is essential to building strong rural economies and vibrant communities”.

57. The tangible benefits outlined above are set in the context of mass redundancies in the local economy, a period of anticipated recession and a political and societal demand for a 'clean and green' post COVID recovery, as set out in Welsh Government's Building Better Places, The Planning System Delivering Resilient and Brighter Futures: Placemaking and the Covid-19 Recovery (July 2020).

The Case for the Council

58. In summary, the case for the Council in respect of the outstanding matters is as follows:

Principle of Development

59. The site lies outside defined settlement limits both within the existing UDP and the emerging LDP. UDP Policy PS1 and LDP Policy PS2 direct new development to the defined settlement limits and employment areas as identified in the plan.

60. This site is in open countryside. UDP Policy PS2 states that 'development must not materially detrimentally affect countryside, landscape/townscape character', etc and Policy PS4 goes on to state that 'development should maintain the existing settlement pattern and character' amongst other criteria.

61. There is therefore a clear conflict between this proposal and location of development policies within the UDP and emerging LDP, which is also reflective of national planning policy.

Agricultural Classification

62. The appellant maintains that the proposed use falls within the definition of agriculture as defined within Section 336 of the Town and Country Planning Act which includes activities such as 'fruit growing'.

63. This definition is accepted by the Council. But it is maintained that the proposal involves considerably more than fruit growing and that the large packing plant, staff facilities, car park, HGV loading area and numerous other large plant and buildings associated with a more akin to an intensive commercial use. They are all integral to the scheme and therefore need to be considered as a whole.

64. Notwithstanding the developments use, the Council considers that agricultural buildings of the scale proposed in this location, would have an unacceptable on visual impact.

Visual Impact

65. A LVIA was submitted as part of the planning application. The assessment of the effects of the proposals on the wider landscape character found that there would be a moderate effect in the long term. The Council disagrees with this.

66. This site is highly prominent and exposed particularly when viewed from the site entrance on Cefn Road and along Sesswick Way. In addition, the land gently rises from north to south. Any development within this open area would be highly conspicuous.

67. A development of the scale proposed would be significantly detrimental to the wider visual amenities of the area. This is demonstrated by the illustrations and photomontages set out in the LVIA (A3 Figures Volume) dated 17th June.

68. It also demonstrates that the mitigation planting is inadequate in reducing the impact and assimilating the development into the landscape.

69. The impact is further compounded by the fact that the most commercial element of the scheme, the pack house, staff facilities, HGV loading area, parking and the two large heat store tanks and energy building lie within the most visually prominent part of the site i.e. at the northern end facing the WIE.
70. The appearance of the site from this vantage point would be more akin to industrial development and is considered would resemble the appearance of factory development on the WIE.
71. To this effect, the proposal is considered would give the impression, visually, of an extension to the industrial estate.
72. The proposed scale and use of materials would also re-inforce the commercial / industrial appearance of the site.
73. Whilst the appellant has identified other sites in England where similar development has been allowed, notably near Bury St Edmunds and Norwich, the Wrexham site is larger and the site context is fundamentally different.
74. The scale of this development is considered to be inappropriate in the context of its surroundings and would erode a significant amount of open countryside, which acts as an open buffer to the south of the WIE.
75. The development does not accord with the character of the site nor makes a positive contribution to the appearance of the nearby locality. Despite the proposed introduction of blinds within the glasshouses, the site would also be highly conspicuous at night, given the level of illumination from lighting within the site. It would therefore be contrary to UDP policy GDP1 (a).

Economic Benefits

76. The proposal would generate up to 150 full time jobs once operational. The appellant, as part of the planning application, had advanced a justification on economic grounds to support the application. Details of the organisational structure, annual salaries, etc had been provided, as well as the indirect benefits to the local economy.
77. However, given the scale of development and its visual impact upon the surrounding area, the economic benefits are not considered to override established planning policies to protect the open countryside.
78. In addition, this area south of the WIE was discounted for employment through the LDP processes, in preference to an extension to the north to provide a strategic expansion (KSS3) site of 28ha (LDP Policy SP9). Equally significant is that the ratio of job creation in comparison with the extent and size of the allocated development is low. It does not justify the extent of the environmental impact this development would have upon the locality.

Conditions

79. In the event that the Welsh Ministers decide to approve the application, I consider that the conditions set out in the attached schedule to be reasonable and necessary and would satisfy the tests set out in Circular 16/14: The Use of Planning Conditions in Development Management.
80. The Council and appellant submitted a list of draft conditions with reasons as part of their written statements. The draft conditions were discussed at the hearing and, subject to some alterations, forms the basis of the Schedule to this report.

81. In order to ensure the veracity of the proposal and to ensure a satisfactory standard of design, conditions are necessary that required the provision of an ecological impact assessment and revised plans relating to the site layout, the layout of the energy centre, the existing topography with cut and fill, the existing and finished site levels and the finished site levels.

Planning Balance and Conclusions

The conclusions are based on the evidence presented at the Hearing, the written representations and the findings of my inspection of the site and its surroundings.

82. The main considerations in this case are: -

- a. The location of the proposed development outside settlement limits, having regard to local and national planning policies;
- b. The impact of the proposed development on the visual qualities of the area and wider landscape;
- c. The appropriateness of the development having regard to BMV agricultural land;
- d. The likely significant effect of the proposed development on the River Dee and Lake Bala SAC; and
- e. Whether other material considerations that would justify granting planning permission with particular regard to the sustainability and economic credentials of the proposal.

The location of the proposed development outside settlement limits, having regard to local and national planning policies

83. The planning policy framework for the location of new development is provided nationally by PPW, TAN 6 and locally by Policies PS1, PS2 and PS4 of the adopted UDP. In combination these policies seek to: strictly control new development in the open countryside, unless it is for the purposes of rural enterprise such as agriculture; and to ensure that the scale of development respects the character of the surrounding area.

84. In this case, the development proposes the construction of 2 no. glasshouses and associated buildings on an area of agricultural land located some distance outside the defined settlement boundaries of Wrexham, Marchwiell and WIE. The proposal therefore constitutes development in the open countryside.

85. The Council and the appellant agree that the proposed development falls within the definition of agriculture, as defined by Section 336 of the Town and Country Planning Act 1990, and would therefore, in principle, be an appropriate form of development in the open countryside. In doing so, the Council maintains its objection to the proposal on the basis of its impact on the visual qualities of the area surrounding the appeal site and the wider landscape.

86. Based on the evidence presented, I agree that the proposed development would constitute agriculture as defined by the Act. This is therefore a matter on which I place considerable weight in the determination of this appeal.

87. Planning policy in respect of the location of new agricultural development in the countryside is provided by UDP Policy EC3. The policy requires that new agricultural buildings, which are unrelated to existing farm complexes, are only permitted where there is an essential agricultural need for the proposal and there is no reasonable alternative location for the development.

88. The appellant explains that the proposal would be an agricultural use and that the location of the proposed development has, in effect, been dictated by the essential and symbiotic relationship between the development and the adjacent Five Fords WwTW. In support of this, the appellant has drawn my attention to the submitted Site Selection and Sequential Test Report, which it is contended demonstrates that: through the application of innovative technology, the proposal would substantially increase the local production of high value produce, and, in doing so, substantially reduce the need for the product to be imported from other countries; and, having regard to the schemes specific locational and developmental needs, the appeal site is the most suitable location for the proposal.
89. The Council recognises the specific needs of the proposal and its relationship with Five Fords WwTW but maintains that there is no essential agricultural need for the development and as such the proposal does not need to be constructed on the appeal site or within the County Borough.
90. Although I note the provisions of Policy EC3, I am mindful that the latest iteration of PPW does not include a requirement for an 'essential' agricultural need to be demonstrated rather, it makes clear that proposals should demonstrate that there is need for the development and that no other reasonable alternative locations are available. In this regard, I am content that the evidence contained in the Site Selection and Sequential Test Report provides a comprehensive assessment which clearly demonstrates that the development would meet an agricultural need, through the local production of high value produce which, as a consequence, would assist in ensuring national food security, and, because of the opportunity presented by the position of the WwTW and the technical requirements of the development, that there is no other suitable alternative location for the proposal. These are matters on which I will place considerable weight.

The impact of the proposed development on the visual qualities of the area or wider landscape

91. The appeal site comprises an area of undeveloped agricultural land located in the open countryside between Wrexham, Marchwiel and WIE. The site is not subject to any local or national landscape designations.
92. In support of the proposal the appellant has submitted a detailed LVIA and an indicative landscaping mitigation plan (ref 1202-01 Rev D) for the site. The findings of the LVIA make clear that the proposal would, subject to appropriate landscaping mitigation: have moderate landscape effects on the appeal site and, in the long-term, on the character of the wider landscape; and have slight visual effects on receptors located up to 1km away from the western boundary, and immediately adjacent to the eastern boundary of the site.
93. The appeal site is located at the junction of Cefn Road and Sesswick Way and screened from the highway by a combination of trees and hedgerows. The ancillary element of the development, which includes the packing and welfare building, energy centre, carbon dioxide recovery plant and associated infrastructure, would be located in the northern part of the site and would be set back from the boundary with Cefn Road by a small area of scrub woodland. As a consequence, when observed from Cefn Road or in the wider landscape, views of the proposed development would be limited and, largely, obscured by the trees. Moreover, I note that as part of the landscape mitigation strategy additional trees would be planted along the northern and western perimeter of the development compound, a measure which in my view would further restrict views of the ancillary

buildings and, by adding verdancy, assist in assimilating the development into the landscape.

94. In addition to restricting the wider view, the planting of additional trees along the northern and western perimeter of the development compound would assist in partially screening views of the proposed development from the PROW that passes through the appeal site. Whilst it is clear that the proposed landscape mitigation would not eliminate all views of the proposal from the PROW, in my view it would reduce the visual impact of the development and contribute towards the verdant appearance of the area.

95. The proposed glasshouses would be located in a central / southern section of the appeal site and orientated so that the shorter elevations of the structure face Sesswick Way. The overall height of the glasshouses, some 8 metres, together with the sparse nature of the existing boundary hedgerows would mean that the development would be clearly visible from a northerly and southerly direction along the highway and from the road junctions with Cefn Road and Bridge Road. However, I am mindful that the siting of the glasshouses, set back from the eastern boundary, when considered in conjunction with the indicative landscaping mitigation plan, which includes the provision of new trees to reinforce the existing hedgerow along the boundary, would, largely, screen the development and in doing so significantly reduce its visual impact when viewed from the public highway and beyond.

96. In terms of the potential impact of the proposed internal and external lighting, I am content that the measure outlined in the submitted Lighting Impact Assessment, which includes those intended to manage light spillage such as blackout blinds and the use of hood on lighting columns, would be sufficient to mitigate the visual impact of the development to an acceptable level during the hours of darkness.

97. With regard to the impact of the proposal on the visual qualities of the area and the landscape buffer, I consider that the siting of the proposed development, set back from the boundaries with the highway network, when viewed in conjunction with the existing and proposed landscaping would ensure the appeal site would, largely, be screened from public view. As a consequence, I do not share the Council's view that the proposal would have an adverse impact on the visual qualities of the area or, visually, erode the landscape buffer to the south of WIE.

98. Having regard to the submitted evidence and my observations at the recent site visit, I consider that the proposal would not, subject to a condition requiring the provision and implementation of a detailed landscape mitigation scheme, have a detrimental impact on the visual qualities of the area or wider landscape. This is a matter on which I place considerable weight.

The appropriateness of the development having regard to BMV agricultural land

99. As I indicated earlier, the appeal site comprises 44 hectares of BMV land, which has been identified as being Grade 3a.

100. PPW paragraphs 3.5.8 and 3.5.9 explain that BMV is a finite resource, that considerable weight should be given to protecting such land from development and land in grades 1, 2 or 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable.

101. As part of the planning application process, the Council consulted the Department for Climate Change (DCC) of the Welsh Government. DCC initially objected to the proposal on the basis that the appellant had failed to apply the sequential test and justify the loss of 44 hectares of BMV agricultural land in accordance with the requirements of PPW. However, DCC subsequently withdrew their objection, indicated that, having considered the proposal in light of the Site Search and Sequential Test Report and the requirements of PPW in respect of the protection of BMV agricultural land, it was content that the development was justified. As such, there is no outstanding objection to the proposed development on the basis of its impact on BMV agricultural land.
102. Whilst I note that the proposed development would result in the loss of 44 hectares of BMV land, I concur with the view of DCC that the findings of the Site selection and Sequential Report demonstrate that the development would meet an agricultural need and that there is no other suitable alternative location for the proposal. This is therefore a matter on which I will place considerable weight.

The likely significant effect of the proposed development on the River Dee and Lake Bala SAC

103. In January 2021 Natural Resources Wales (NRW) published the results of its Compliance Assessment of Welsh River Special Areas of Conservation (SAC) against Phosphorus Targets. The appeal site lies within the catchment of the River Dee and Bala Lake SAC, which is currently failing to meet the phosphates targets.
104. The need for Habitats Regulations Assessment (HRA) is set out within Article 6 of the EC Habitats Directive 1992, which is transposed into British Law by the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Minister, as competent authority with respect to the Regulations, will need to decide whether 'likely significant effects' alone or in-combination with other plans or projects, can be ruled out based on the information provided by the parties. The competent authority may agree to the project only after ascertaining that it will not adversely affect the integrity of the European site.
105. A detailed HRA in respect of the proposed development is set out in Appendix B.
- In summary the assessment found that:
106. The development proposes the construction of 2 no glasshouses and ancillary buildings, on an area of land currently in agricultural use. The proposal includes a provision for a direct connection for foul water from the development to the Five Fords WwTW operated by Dwr Cymru/Welsh Water (DC/WW). This would effectively change the mechanism by which phosphorus would enter the SAC river environment from discharge via nutrient run-off / drainage to the River Clywedog to discharge regulated through the WwTW.
107. DC/WW has confirmed that the increase in phosphorus loading at Five Fords WwTW as a result of the development would be 0.04% on current loads and that this increase could be accommodated within the current Permit limits at the WwTW.
108. In addition, NRW have confirmed that there would be no material change to the location at which the phosphorus load would enter the SAC river environment, as the discharge point of the Five Fords WwTW is at the confluence of the Clywedog and the Dee.
109. It is therefore clear from the evidence presented by DC/WW and NRW that the proposal would not result in an increase in the amount of phosphorus being discharged from the site compared to the current use of the land and that it may actually result in a net reduction in the levels of phosphorus generated. In light of this, it is apparent that the

proposed development would not contribute towards the increased generation of phosphates either alone or in combination with other plans or projects.

110. Accordingly, I have found that the proposal, being the replacement of the existing use with a development which at worst would have no greater impact, would not, either individually or in combination, adversely affect the integrity of the River Dee and Lake Bala SAC. I have therefore recommended that an appropriate assessment is not required.
111. I will afford the findings of the screening stage of the HRA significant weight in the determination of this appeal.

Other material considerations

112. As I outlined earlier in my report, the development aims to reduce carbon emissions from the growing process for high value produce, such as tomatoes, through the use of low grade heat from clean, treated water which is being discharged from the nearby Five Fords WWTW. The appellant contends that the proposed development would have significant sustainability and economic benefits which weigh heavily in favour of the scheme.
113. The sustainability benefits include: the application of a new and innovative approach to the heating of glasshouses, which would dramatically reduce carbon emissions from the growing process; a reduction in the need for and use of pesticides; the elimination of water wastage as part of the growing process through the use of a recirculation system; and the production of 4,350 tonnes of tomatoes annually, which may otherwise be imported, and as a consequence, the offsetting of 10,875 tonnes of import carbon and sequestering 16,783 tonnes of carbon to enrich the growing environment. In addition to these benefits the appellant also suggests that the proposal would make a major contribution towards the production of UK grown food and, as a result, national food security.
114. With regard to the economic benefits of the scheme, the appellant contends that the proposal would, amongst other things, result in: - the creation of 150 new, direct jobs in the Wrexham area which would deliver some £4,079,000 per annum in salaries; and, during the construction phase, will inject circa £4,000,000 into the local economy.
115. The Council makes no specific comments in relation to the sustainability benefits of the proposal. But contends that the potential economic benefits would be limited and a more significant contribution to the local economy would be made were the site to be allocated in the next iteration of the Wrexham LDP. I agree with the Council that the development of the appeal site for Class B1, B2 or B8 purposes is likely to create more new jobs per hectare than the proposal. However, I am mindful that no evidence has been presented which substantiates this claim or demonstrates that the site would be allocated for such purposes in the next LDP.
116. Based on the submitted evidence, it is clear that there are, potentially, significant social, economic, environmental and cultural benefits associated with the proposal and that these benefits would assist in meeting the objectives of national and local policies in seeking to address climate change and ensure Wales has a diverse and resilient economy. That said, I am mindful that these benefits need to be carefully balanced against the potential impact of the development on matters such as the character and

visual qualities of the appeal site and surrounding area. As such, I will attach only moderate weight to the benefits of the proposal in the determination of this appeal.

Conclusions

117. Drawing this together, I conclude that the proposal would constitute an appropriate form of development in the countryside which, subject to conditions, would not have an adverse impact on the visual qualities of the surrounding area or the wider landscape. Furthermore, although not an overriding factor, I consider that the potential sustainability and economic benefits of the proposed development would assist in meeting the objectives of national and local policies in seeking to address climate change and ensuring that Wales has a diverse and resilient economy.
118. In respect of the effect on the River Dee and Lake Bala SAC, I have found that the proposed development would not, either individually or in combination, adversely affect the integrity of the SAC.
119. As such, I consider that the proposed development accords with the objectives of Future Wales, PPW, Tan 6 and Policies PS1, PS2, PS4, EC3 and GP1 of the adopted UDP.

Recommendation

120. For the aforementioned reasons, and taking into account all matters raised, I recommend that the appeal be allowed.

Nicola Gulley

Inspector

APPENDIX A: SCHEDULE OF RECOMMENDED PLANNING CONDITIONS

1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.

Reason: To comply with Section 91(3) of the Town and Country Planning Act, 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans reference: 00165-20-100 02 (Location Plan); 00165-20-133 02 (Blue Line Plan); 00165-20-106 03 (Existing Site Levels Topography); SC/FFG/006 (Ecological Mitigation Site Layout); 114 B (Site Sections); 00165-20-105 01 (Cycle Storage Location); 00165-20-300 01 (Glass and Pack House Elevations); 00165-20-301 01 (Energy Centre and Palisade Elevations); 00165-20-302 01 (DNO and Customer Substation Elevations); 00165-20-303 01 (Transformer and Air Cooler Elevations); 00165-20-304 01 (Water Tank Elevations); 00165-20-305 01 CO2 (Tank Elevations); 00165-20-307 01 (Extraction Pit Elevations); 00165-20-308 01 (Trench Section Detail); 00165-20-309 01 (CO2 Recovery Plant Plan View); 00165-20-310 01 CO2 (Recovery Plant Elevations); 00165-20-311 01 (Full Glasshouse Elevations (North and South)); and 00165-20-312 01 Full (Glasshouse Elevations (East and West)).

Reason: To ensure that the development is carried out in accordance with the approved plans and drawings submitted with the application.

3. Notwithstanding the requirements of condition 2, no development shall commence until detailed plans for the site layout, which shall include an emergency vehicular access and egress point for Five Fords Wastewater Treatment Works, the energy centre layout, the existing topography with cut and fill, the existing and finished site levels and the finished site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plans.

Reason: To ensure a satisfactory standard of design in order to safeguard the visual amenities of the area in accordance with UDP Policies GDP1 and PS2.

4. No development shall take place until details of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory standard of design in order to safeguard the visual amenities of the area in accordance with UDP Policies GDP1 and PS2.

5. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory standard of design in order to safeguard the visual amenities of the area in accordance with UDP Policies GDP1 and PS2.

6. No development shall commence until a scheme to protect the structural condition of the strategic treated effluent sewer and public rising mains crossing the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for any protection measures during construction and occupation phases of the development. The scheme shall demonstrate the distance and relationship of the proposed development with the sewers crossing and include a detailed design, construction method statement and risk assessment outlining the measures taken to secure and protect the structural condition and ongoing access of the sewers. No other development pursuant to this permission shall be carried out until the approved protection measures have been implemented and completed. The approved scheme shall be adhered and retained throughout the lifetime of the development.

Reason: To ensure that the proposed development does not affect the integrity of the public sewerage system in the interests of public health and safety in accordance with UDP Policy GDP1.

7. No development shall commence until a foul water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water flows and thereafter implemented in accordance with the approved details prior to first use of the development.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with UDP Policy GDP1.

8. The rating level of any noise generated by reason of this development shall not exceed the pre-existing background level by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Methods for rating and assessing industrial and commercial sound.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with UDP Policy GDP1.

9. Prior to first use of the development hereby approved, the Recommendations relating to noise attenuation, as set out within the Noise Impact Assessment

"Glasshouse at Five Fords Wrexham" By Hunter Acoustics dated 30-07-2020 Ref 5826/NIA1" shall be implemented and thereafter retained for the lifetime of development.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with UDP Policy GDP1.

10. No development shall take place until a scheme of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting as approved shall be installed in accordance with the scheme, prior to first use of the development and shall thereafter be permanently retained in a fully operational condition. The lighting scheme as required shall build upon the principles outlined in the Lighting Impact Assessment (Pope Consulting, Revision P5, March 2021) and include the following:
- a) Location, height and type of proposed lighting;
 - b) An Isolux diagram for the proposed lighting scheme to a distance that includes sensitive premises;
 - c) Design of columns and any proposed hoods;
 - d) A Detailed program for use of blackout blinds;
 - e) Drawings setting out light spillage in key sensitive areas (bat foraging / commuting routes);
 - f) Details of lighting to be used both during construction and operation; and
 - g) Measures to monitor light spillage once development is operational.

Reason: To protect the amenities of the occupiers of nearby properties in accordance with UDP Policy GDP1.

11. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Reason: In the interests of the amenities of the future occupants of the buildings in accordance with UDP Policy GDP1.

12. Each part of the site subject to the remediation under the scheme(s) approved in accordance with condition 11 shall not be occupied/used until a Validation Report has been completed in respect of that part of the site and submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the future occupants of the buildings in accordance with UDP Policy GDP1.

13. Prior to the operation of the development, a long term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority. The long term monitoring plan shall include:
- a) Details of the methods and triggers for action to be undertaken;
 - b) Timescales for the long term monitoring and curtailment mechanisms e.g. a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for x years);
 - c) Timescales for submission of monitoring reports to the LPA e.g. annually;
 - d) Details of any necessary contingency and remedial actions and timescales for actions;
 - e) Details confirming that the contingency and remedial actions have been carried out.

Reason: To ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on water quality in accordance with UDP Policy GDP1.

14. No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Reason: To ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development, in accordance with UDP Policy GDP1.

15. No development shall take place within the application area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The archaeological programme of work will be undertaken and completed in accordance with the relevant Standards and Guidance laid down by the Chartered Institute for Archaeologists.

Reason: To secure preservation by record of all archaeological remains which will be impacted by the development in accordance with UDP Policy EC11.

16. The vehicular parking and turning areas as shown on approved drawing no. 00165-20-101 07 Site Plan shall be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of vehicles at all times.
- Reason:* To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of highway safety in accordance with UDP Policy GDP1.
17. No development shall commence until a Great Crested Newt Mitigation Strategy, which should include a site layout and a fence layout and trapping strategy, has been submitted to and approved in writing by the Local Planning Authority. The Conservation Mitigation Strategy shall be implemented in accordance with the approved details thereafter.
- Reason:* To ensure that an approved Mitigation Strategy is implemented, which protects species affected by the development in accordance with UDP Policy EC6 and the Habitat Regulations.
18. No development shall commence until an Ecological Impact Assessment, which includes a Breeding Birds Survey, has been submitted to and approved in writing by the Local Planning Authority. The Ecological Impact Assessment shall be implemented out in accordance with the approved details thereafter.
- Reason:* To ensure that an approved Ecological Impact Assessment is implemented, which protects species affected by the development in accordance with UDP Policy EC6 and the Habitat Regulations.
19. No development shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall include consideration of the landscaping scheme required in connection with condition no 4.
- Reason:* To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management, and avoid the introduction, of any invasive non-native species at the site in accordance with UDP Policy EC6.
20. No development shall commence until a Travel Plan has been submitted to and approved by the Local Planning Authority. The approved Travel Plan shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented for the lifetime of the development.
- Reason:* To ensure that the development offers a range of travel choices to reduce the impact of travel and transport on the environment in accordance with UDP Policy GDP1.
21. No development shall take place until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved

in writing by the local planning authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works, pre commencement surveys and the distribution of results.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In order to protect wildlife interests, which are afforded special protection and in accordance with the requirements of UDP Policy EC6.

22. A compliance audit shall be carried out by a qualified ecologist, independently of the appointed principal ecologist, in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. A copy of the completed audit reports should be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect wildlife interests, which are afforded special protection, and in accordance with the requirements of UDP Policy EC6.

23. No development shall commence until a Traffic Management Plan has been submitted to and approved by the Local Planning Authority. The Plan shall thereafter be implemented as approved and make provision for:
- a) The routing of HGVs and vehicles to and from the site;
 - b) Monitoring of the approved arrangements during the life of the site;
 - c) Ensuring that all drivers of vehicles under the control of the Applicant are made aware of the approved arrangements;
 - d) The disciplinary steps that will be exercised in the event of a default;
 - e) Appropriate signage, details to be approved by the Local Highway Authority and erected advising drivers of the vehicle routes agreed with the Local Highway Authority; and
 - f) Wheel cleaning facilities and their use/retention.

Reason: In the interests of maintaining highway efficiency and safety in accordance with UDP Policy GDP1.

APPENDIX B: HABITATS REGULATIONS ASSESSMENT

Background

In January 2021 Natural Resources Wales (NRW) published the results of its Compliance Assessment of Welsh River Special Areas of Conservation (SAC) against Phosphorus Targets. The site lies within the catchment of the River Dee and Bala Lake SAC which is currently failing to meet the phosphates targets. The drainage from the development would flow into the river or its tributaries. The descriptions of the site and the proposal are set out in the substantive decision.

The need for Habitats Regulations Assessment (HRA) is set out within Article 6 of the EC Habitats Directive 1992, which is transposed into British Law by the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Minister, as competent authority with respect to the Regulations, will need to decide whether 'likely significant effects' alone or in combination with other plans or projects, can be ruled out based on the information provided by the parties. The competent authority may agree to the project only after ascertaining that it will not adversely affect the integrity of the European site.

Whilst the Regulations provide strict protection, they are not a prohibition on new development or activities. Instead, they involve a case-by-case examination of the implications for each European protected site, its qualifying features and its conservation objectives. There is no statutory method for undertaking an HRA and the approach can vary on a case-by-case basis. Nonetheless, guidance issued from the European Commission sets out a four-stage assessment process involving Screening; Appropriate Assessment; Assessment of Alternatives and Imperative Reasons of Overriding Public Interest (IROPI). Appropriate Assessment considers the implications of the proposal for the European site in view of its conservation objectives. Steps 3 and 4 are collectively known as derogation. Additional guidance is contained in the HRA: Protecting a European site (February 2021) document which makes clear the any assessment must be based on evidence and only 'real' and not 'hypothetical' risk should be considered; and that where a development is found to be likely to have significant environmental effect, either alone or in combination at screening stage then an appropriate assessment must be undertaken.

The purpose of this HRA is to report on the impacts of the scheme on the River Dee and Bala Lake Special Area of Conservation (SAC), which is a European protected site. Conscious of the requirements of Regulation 63(3) and 63(4) of the Regulations, regard has been had to the representations of Natural Resources Wales (NRW), the Local Planning Authority, the appellant and the general public in carrying out this assessment.

Integrity of the Features of the River Wye SAC River Dee and Bala Lake SAC

The appeal site lies within the catchment of the River Dee and Bala Lake SAC. The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I: tidal rivers, estuaries, mud flats, sand flats, lagoons, including saltwork basins, salt marshes, salt pastures, salt steppes, Inland water bodies, improved grassland and broad-leaved deciduous woodland. In terms of qualifying species the SAC lists: Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation; Atlantic Salmon; Floating water-plantain Luronium natans ; Sea lamprey Petromyzon marinus; Brook lamprey Lampetra planeri; River lamprey Lampetra fluviatilis; Bullhead Cottus gobio; and Otter Lutra lutra.

The Conservation Objectives for the River Dee and Bala Lake SAC include, amongst other considerations, that the ecological status of the water environment should be sufficient to maintain a stable or increasing population of each feature. This will include elements of water quantity and quality, physical habitat and community composition and structure. The issues associated with maintaining the sites integrity include: - water quality and flow; river planform and profile; levels of nutrients and suspended solids; the impact of natural limiting and artificial factors on the range of a feature; abstraction; and diffuse pollution or disturbance to sediments

Screening

The development proposes the construction of 2 no glasshouses and ancillary buildings, on an area of land currently in agricultural use. The proposal includes a provision for a direct connection for foul water from the development to the Five Fords Wastewater Treatment Works (WwTW) operated by Dwr Cymru/Welsh Water (DC/WW). This would effectively change the mechanism by which phosphorus would enter the SAC river environment from discharge via nutrient run-off / drainage to the River Clywedog to discharge regulated through the WwTW.

DC/WW¹ has confirmed that the increase in phosphorus loading at Five Fords WwTW as a result of the development would be 0.04% on current loads and that this increase could be accommodated within the current Permit limits at the WwTW.

In addition, NRW² have confirmed that there would be no material change to the location at which the phosphorus load would enter the SAC river environment, as the discharge point of the Five Fords WwTW is at the confluence of the Clywedog and the Dee.

NRW have indicated that current Permit's levels will be subject to review in the next 12 to 18 months and that phosphate limits at the WwTW may be reduced. It is clear from the correspondence that the review is on-going and no conclusions have been reached in respect of future permit levels. As such, I must proceed on the basis of the current position.

Nothing has been submitted to indicate the existing Permit was issued before NRW revised its guidance regarding phosphate limits.

However, it is clear from the evidence presented by DC/WW and NRW³ that the proposal would not result in an increase in the amount of phosphorus being discharged from the site compared to the current use of the land and that it may actually result in a net reduction in the levels of phosphorus generated. In light of this, it is apparent that the proposed development would not contribute towards the increased generation of phosphates either alone or in combination with other plans or projects.

Conclusion

In screening the proposal, I have taken into account all the available evidence and have adopted the precautionary principle. Having done so, I have found that the proposal, being the replacement of the existing use with a development which at worst would have no greater impact, would not, either individually or in combination, adversely affect the integrity of the River Dee and Lake Bala SAC.

¹ DC/WW emails dated 28/10/21 and 18/05/22

² NRW letter dated 11/05/22

³ NRW letter dated 11/05/22 and DC/WW emails dated 28/10/21 and 18/05/22

Accordingly, I recommend that an appropriate assessment is not required. This conclusion is predicated on the circumstances of the case based on the site's unique context and situation.

Nicola Gulley

INSPECTOR

APPENDIX C: APPEARANCES

FOR THE APPLICANT:

Mark Roberts	Director, Barton Wilmore
Anna Ambroziewicz	Low Carbon Farming Ltd
Eleanor Roberts	Low Carbon Farming Ltd
Stewart Magowen	Civil Engineering Practice
Sarah Carver	SCALES Consultancy Ltd
Jo Wild	Greenlight Environmental Consultancy

FOR THE LOCAL PLANNING AUTHORITY:

Shawn Fleet	Head of Planning, Wrexham County Borough Council
Sharon Holman	Wrexham County Borough Council

INTERESTED PERSONS

John Pritchard	Wrexham County Borough Council
Raymond Jones	Sesswick Community Council
Heather Rowlands	Sesswick Community Council
Mike Elliot	Local Resident

Appendix D: Documents

Documents submitted during and after the hearing:

- Schedule of revised / additional Conditions, dated 14 April 2022