

## **Planning Design & Access Statement**

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### **Phase 2 - Cold Store Extension**

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Tomlinson's Dairies Limited  
Five Crosses Industrial Estate  
Minera  
Wrexham  
LL11 3RD

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HRL Ref: H0070-19-PDAS  
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## **1. INTRODUCTION**

- 1.1 Tomlinson's Dairies Limited (TDL) principally operates from the Five Crosses Industrial Estate in Minera, Wrexham and is currently the largest processor of liquid milk in Wales, with a throughput of approximately 95 million litres of milk per annum.
- 1.2 Tomlinson's Dairies Limited has recently been selected by J Sainsbury to process 100 million litres of milk and cream for sale in their stores in Wales and parts of England from July 2017. This will generate a further 60 full time jobs at the Five Crosses site, together with many more jobs in the wider rural economy.
- 1.3 Whilst the existing Five Crosses Dairy has sufficient capacity to process the additional milk, delivery is constrained principally due to insufficient cold storage capacity, insufficient storage for the increased number of poly bottles that will be blow moulded on site and inadequate car parking.
- 1.4 In order to help facilitate the required increase in output and the associated increase in employment, Tomlinson's Dairies Limited needs to increase the size of its cold storage facilities through the extension of the existing main dairy building, provide additional poly bottle production and storage facilities through the extension of the existing blow moulding building and to re-organise and extend on-site car parking.
- 1.5 Given that the dairy has to continue operating throughout the development process, the development will be arranged into three Phases, with each Phase being the subject of a separate planning application. The development comprised within each Phase will broadly be as follows:

### Phase 1

- Extension of the main dairy building to provide approximately 36% of the required additional cold storage capacity and additional first floor office accommodation; and
- Extension of the hardstanding to the east of the main dairy to facilitate the circulation and manoeuvring of goods vehicles and the interim provision of additional car parking.

### Phase 2

- Extension of the main dairy building to provide the remaining 64% of the required additional capacity;
- Replacement of existing raw milk silos;
- Re-positioning of the main surface water attenuation pool;
- Removal of the majority of the earth mound to the east of the main dairy

building;

- Repositioning of the main parking area for goods vehicles;
- Formation of a new staff car park with car-only access off Gwernygaseg Road; and
- Establishment of extensive structural landscaping for the dairy site as a whole.

### Phase 3

- Extension of the existing blow moulding building to facilitate increased production and to provide storage for the additional poly bottles; and
- Establishment of additional structural landscaping.

- 1.6 Whilst forming an integral part of a holistic proposal, this planning application and the associated submission deal specifically with the Phase 2 developments.
- 1.7 A planning application has already been submitted to Wrexham CBC for the developments proposed within Phase 1, whilst the developments proposed within Phase 3 will be the subject of a separate planning application.
- 1.8 The planning application for the Phase 2 developments is being made by PN & J A Tomlinson of Tomlinson's Dairies Limited who are the freehold owners of the site.
- 1.9 This Planning, Design & Access Statement (PDAS) has been prepared by Haston Reynolds Ltd (HRL) in support of the full planning application for the Phase 2 developments. The PDAS is intended to provide:
- Background to the dairy farming industry in Wales;
  - Background to the dairy processing industry in Wales;
  - Background to Tomlinson's Dairies Limited;
  - An explanation of the need for the proposed development;
  - A description of the proposed Phase 1 cold store extension development;
  - Details of the consultations undertaken to date;
  - An overview of the relevant planning policy context; and
  - An assessment of the proposed development in the light of that policy context and other material considerations
- 1.10 Details of the proposed Phase 2 development are shown on the drawings submitted with the planning application which include:

H0070-19-A3-PL-01 Location Plan

H0070-19-A3-PL-02 Site Plan

H0070-19-A1-PL-03 Topographical Survey (with Phase 1 Cold Store shown))

H0070-19-A1-PL-04 Proposed Site Layout

H0070-19-A1-PL-05 Proposed Basement Floor Plan

H0070-19-A1-PL-06 Proposed Ground Floor Layout  
H0700-19-A1-PL-07 Proposed First Floor Layout  
H0070-19-A1-PL-08 Proposed Elevations  
H0070-19-A1-PL-10 Proposed Silo Elevations  
H0070-19-A1-PL-11 Proposed Car Park Layout  
H0070-19-A1-PL-12 Proposed Access Layout  
H0070-16-A1-PL-08 Existing Elevations  
H0070-16-A1-SU-01 Existing Topographical Survey (without Phase 1 Cold Store)

1.11 A suite of specialist reports have been prepared to assist in the assessment of the proposed development and the preparation of this Statement, namely:

- Landscape and Visual Impact Assessment prepared by Allan Moss Associates Ltd;
- Transport Statement prepared by Jeremy Hurlstone Partnership Limited;
- Environmental Noise Assessment prepared by AIRO;
- Ecological Assessment prepared by ECUS Ltd;
- Welsh Language and Community Impact Statement prepared by Haston Reynolds Ltd;
- Flood Risk Assessment prepared by ABA Consulting Ltd; and
- Tree Survey and Report prepared by Chris Wait Associates.

## **2. BACKGROUND TO THE DAIRY FARMING INDUSTRY IN WALES**

- 2.1 The dairy industry is one of the main agricultural sectors in the Welsh economy with the main areas of production, commonly referred to as ‘milk fields’, focussed in the north east (Wrexham, Conwy, Denbighshire and Flintshire) and the south west (Carmarthenshire, Ceredigion and Pembrokeshire).
- 2.2 AHDB Dairy<sup>1</sup> / DairyCo statistics show that the number of dairy producers (dairy farms) within England and Wales fell from 16,977 in June 2003 to just 9,559 producers by June 2016, equivalent to a 44% reduction over the period.
- 2.3 Within Wales the number of dairy producers fell from 2,909 in June 2003 producers to 1,753 producers by June 2016, equivalent to a 40% reduction over the same period. Between June 2015 and June 2016 the number of dairy producers in Wales reduced by a less dramatic, but still significant, 2.4%.
- 2.4 However, despite the reduction in the number of producers, the number of dairy cows in Wales has been much more stable with 268,000 cows in 2003 and 238,386 cows in June 2005 compared to 246,331 in June 2015. This reflects consolidation within the sector with a shift towards fewer larger dairy farms.
- 2.5 Data from the UK Rural Payments Agency indicates that milk output from dairy farms in Wales was approximately 1,400 million litres in 2009/2010, rising to 1,580 million litres in 2011/2012, then falling to 1,527 million litres in 2012/2013 and then reaching 1,800 million litres in 2014/2015. The trend over recent years has however been one of increasing milk production.
- 2.6 It is anticipated that milk production in Wales will increase by around a further 400 million litres per annum to approximately 2 billion litres per annum by 2020<sup>2</sup>.
- 2.7 Whilst low milk prices may test this aspiration, research for AHDB Dairy indicate that factors such as the level of optimism and family succession have a stronger influence on a farmer’s investment decisions than short term factors affecting profitability.
- 2.8 Key factors in the continued success of the Welsh dairy sector will be a higher milk price coupled with reduced price volatility. Increased demand for milk by the Welsh dairy processing sector will be a key driver in that respect.

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<sup>1</sup> AHDB Dairy is a division of the Agriculture and Horticulture Development Board and is a levy-funded, not-for-profit organisation funded entirely by milk producers

<sup>2</sup> A Review of the Dairy Sector in Wales by Andy Richardson (February 2015) and South West Wales Dairy Processing Feasibility Study Report by Brookdale Consulting (November 2015)

### **3. BACKGROUND TO THE DAIRY PROCESSING INDUSTRY IN WALES**

3.1 The Welsh Government, together with DairyCo, commissioned a Scoping Study of the Welsh Dairy Processing Sector through the *'Improving the Welsh Dairy Supply Chain'* project. The study was undertaken by Promar International and their final report was published in 2011. The study provided a wide range of information on the status of Welsh dairy sector at that time.

3.2 A further study was undertaken in 2013 by Promar International on behalf of the Welsh Government and DairyCo and was published in April 2014. *'The Welsh Dairy Processing Sector – 2014'* report updated and built upon the previous 2011 study and provides a very useful and more up to date snap shot of the status of the Welsh dairy sector.

3.3 Some of the key findings of the 2014 report, inter alia, included:

- Welsh milk production averaged almost 1,500 million litres over the previous five years;
- Around 55% (835 million litres) of the total milk produced on Welsh farms was processed in dairy plants located in Wales, whilst 45% (690 million litres) was transported to England for processing;
- In the 2011 study it was estimated that 13% (190 million litres) of Welsh milk was exported to England for processing and then re-exported back to Wales for consumption as fresh Welsh milk. In 2013, it was estimated that that amount had reduced to 9% (140 million litres);
- Around 40 million litres of milk from English farms was processed in Wales;
- Of the approximately 875 million litres of milk processed in Wales (milk produced on Welsh and English farms), nearly 90% was processed into cheese;
- Only around 8% (70 million litres) of the milk processed in Wales was liquid milk and around 3% (30 million litres) was processed into other products such as yoghurts and ice cream;
- Having allowed for some high profile departures from the industry, there were estimated to be around 1,200 people employed in the dairy processing sector in Wales in 2013;
- In 2013, there were 45 FSA 'approved' establishments processing cows' milk in

Wales. Only seven of these processed liquid milk and cream;

- Although the Welsh dairy processing industry is able to produce a wide range of products, the industry continues to lack a milk powder processing capability or a truly large scale liquid milk processor;
- In the future, Welsh dairy plants will require even more investment to keep them competitive; and
- Competition from buyers for milk in Wales increased significantly in the previous three years, with most Wales-based processors expected to require more milk in the future.

3.4 In terms of processor scale, it is important to note that whilst of modest size in a UK context, Tomlinson's Dairies is the currently largest processor of liquid milk in Wales.

3.5 The study outlined how the industry considered the Welsh Government could continue to work effectively with the industry, including:

- Focussing on the competitive advantages of Wales;
- Encouraging collaboration;
- Increasing demand for dairy products that help to build provenance of Welsh milk;
- Understanding milk processor needs and requirements; and
- Ensuring that CAP reform<sup>3</sup> supports Welsh dairy farmers.

3.6 One of the issues broached within the 2014 study was whether a large dairy processing facility should be established in Wales. The study noted that processors such as Dairy Crest had struggled to identify a viable model for producing local milk in Wales and that they were unable to reconcile the volumes and prices that buyers were willing to pay for locally processed Welsh milk. However the study also recognised that processors such as Tomlinson's Dairies Limited had created a stable positioning in the market by processing their own milk for local distribution as well as that of other processors.

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<sup>3</sup> This is now more likely to concern assurances as to continuity of support for Welsh dairy farmers from the UK and Welsh Governments.

- 3.7 The study noted that almost all of the processors agreed that demand or competition for milk (including milk produced in Wales) had increased and that they were open to sourcing more milk from Wales, but that this milk would not necessarily be processed in Wales. For example, Muller Wiseman had three processing facilities in England that were capable of handling milk from Wales.
- 3.8 Clearly, the ability to process more milk in Wales, whether produced in Wales or in England, provides a range of social and economic benefits as well environmental benefits subject to the location of milk fields/producers and outlets. The ability to process milk in Wales that has been produced on Welsh farms also has significant benefits from cultural identity and branding perspectives.
- 3.9 Following on from the Promar International studies the Welsh Government commissioned a report entitled '*A Review of the Dairy Sector in Wales*', the final version of which was published in February 2015. The purpose of the Review was to make recommendations for a package of measures that would deliver competitiveness, resilience and economic growth and create additional jobs in the industry. It also aimed to provide a strategic direction for the dairy sector and the associated supply chain in Wales that will help inform the Welsh Government's Agricultural Strategy for Wales.
- 3.10 The conclusion of the review process was that without strong leadership, the industry lacks direction, cohesiveness and the development of those who influence and support others to achieve the industry's shared tasks. The Review goes on to explain that: '*At the same time there is a real imperative for action to address the needs of a diverse Welsh dairy industry*'. The report goes on to identify key actions that the Government and industry should take now.
- 3.11 The SWOT analysis contained within the Review identified a range of strengths, weaknesses, opportunities and threats for the whole dairy sector, including producers and processors.
- 3.12 Strengths of particular relevance to the processing sector include:
- a large market on the doorstep; and
  - dense milk fields in the south west and north of Wales.
- 3.13 Weaknesses of particular relevance to processing sector include:
- a lack of processing capacity in Wales;
  - small population cannot support the dairy industry alone (hence Wales being a net exporter of milk and milk products); and

- dependent upon the English market.

3.14 Opportunities of particular relevance to processing sector include:

- fantastic location for milk production and processing investment;
- competitive raw material and efficient processing;
- increasing world demand;
- development of the Welsh brand;
- export market; and
- feasibility study for milk processing in South Wales.

3.15 Threats of particular relevance to processing sector include:

- failure of a major milk buyer could have a big impact;
- costs to access the English market; and
- challenge of moving niche to large scale – small manufacturers find it difficult to expand.

3.16 The Review included a recommendation that the Welsh Government should, as a priority:

*‘Complete a feasibility study by December 2015 to evaluate the potential of a market driven dairy processing facility in South West Wales to provide a secure added value market for the anticipated additional 400 million litres of annual Welsh milk produced by 2020.’*

3.17 In light of that recommendation, Brookdale Consulting was subsequently commissioned by the Welsh Government to assess the feasibility of establishing additional dairy processing capacity in South West Wales.

3.18 The feasibility study inter alia concluded that:

- a new large scale dairy processing facility on a greenfield site in south west Wales is unlikely to be affordable in the short term due to high capital costs;
- it is possible that a large inward investment could be made in a new large scale dairy processing facility but the challenges of locating in south west Wales are a lack of proximity to retail distribution, large conurbations, relatively poor connectivity and a risk of displacing existing processors in the region;
- there are already strong expansion plans from existing processors which could, in the short to medium term, see 350 million litres per annum of additional

processing capacity with modest Government support. In the longer term, this figure could be much higher but would require more substantial government support;

- the expansion of existing dairy processing facilities is likely to lead to only limited displacement within Wales;
- the proposed increases in processing capacity are based on identified market demand;
- the Welsh Government should continue to support and prioritise indigenous dairy business;
- the Welsh Government should also review inward investment opportunities for dairy processors in Wales;
- support should be focussed on those who drive innovation in production, new product development, marketing and export; and
- support should be provided in capital terms, but also by helping to ensure that companies understand the changing consumer market, make use of emerging opportunities and harness the support available within Wales through the Welsh Government, Dairy Development Centre, Innovation Centres, AHDB and universities.

3.19 The Welsh Government issued a Written Statement in response to the Feasibility Study on 10 March 2016.

3.20 The Written Statement acknowledged that a fundamental restriction on the further growth of the dairy sector in Wales has been its low processing capacity for the milk that is produced in Wales, with much of the milk in Wales having to be transported out of the country for processing.

3.21 The Written Statement confirmed that the Welsh Government accepted that the establishment of a new market driven dairy processing facility in south west Wales should not be pursued and instead favoured the expansion of existing and established milk processors. The Written Statement opined that this could add 350 million litres per annum of additional processing capacity in the short to medium term and between 700 million to 1 billion litres of additional capacity if all the current plans of Welsh processors came to fruition. The Written Statement also confirmed the increased competition for milk arising from increased processor capacity will help to hold the milk price paid to farmers at a sustainable level and would help to reduce the

considerable amounts of milk that continue to leave Wales for processing.

- 3.22 The Welsh Government's strategy for significantly and rapidly increasing milk processing capacity in Wales is through the expansion of existing and established processors' sites.
- 3.23 Following recent mergers, the UK liquid milk processing sector is currently dominated by two very large processors, namely Arla and Muller Wiseman. However, through its supplier tender process, J Sainsbury have recently added two more processors to its supply base, with Tomlinson's Dairies Limited and Medina Dairy have been selected to supply milk to their stores from 1 July 2017. Tomlinson's Dairies will supply stores in Wales and parts of England, whilst Medina Dairy will supply milk to a number of stores in southern England (See J Sainsbury press release at Appendix 1)
- 3.24 The award to Tomlinson's Dairies Limited is a significant development which will assist in the delivery of the Welsh Government's strategy for the dairy sector in Wales.

#### **4. BACKGROUND TO TOMLINSON'S DAIRIES LIMITED**

- 4.1 Tomlinson's Dairies Limited was founded in 1983, when liquid milk from Pen y Palmant Farm was bottled and sold in the local area. This led to the operation of a full milk round and, after a short period of time, additional milk rounds were purchased and supplied with milk produced and processed on the farm.
- 4.2 Milk was originally processed in a converted farm building. However, due to the progressive expansion of the dairy business, a purpose-built dairy was constructed on a site adjacent to the Pen y Palmant Farm farmstead. At that the time, the business was processing around 1.5 million litres of milk per annum and the new dairy was planned to process up to 9 million litres of milk per annum.
- 4.3 From 1996, Tomlinson's Dairies operated from the purpose-built dairy at Pen y Palmant Farm and this facilitated the expansion of the business. The processes operated at the Pen y Palmant dairy included the pasteurisation, separation and bottling of liquid milk (both conventional and organic) and the production of cream. However, by 2005, the Pen y Palmant dairy had exceeded its original design capacity and by 2012 was processing approximately 25 million litres of milk per annum through innovative shift management and production processes. The scope to substantially extend the existing dairy at Pen y Palmant Farm had however been restricted due to that site's location within the Green Barrier.
- 4.4 In order to facilitate the further expansion of the business, planning permission was sought for a completely new dairy processing facility on land owned by Messrs Tomlinson at the Five Crosses Industrial Estate in Minera. As part of the pre-application evaluation process, other siting options, including relocation to the Wrexham Industrial Estate, were considered, evaluated and ultimately discounted, principally due to the need for the dairy to be accessible to its dairy farm suppliers and to its existing skilled workforce, the majority of whom worked outside of normal working hours and could not therefore rely on public transport.
- 4.5 Planning permission for the new dairy at the Five Crosses Industrial Estate was granted by Wrexham County Borough Council on 31 July 2006. Construction and commissioning of the main dairy building and associated delivery vehicle repair workshop was been completed and the new dairy was brought into full operation.
- 4.6 Since being brought into operation, processing at the Five Crosses Dairy has increased to approximately 95 million litres of milk per annum.
- 4.7 Since the Five Crosses Dairy has been brought into operation, the number of dairy farms supplying milk to Tomlinson's Dairies has increased from 24 in 2012 to a

current total of 71 farms. Of these, 48 farms are direct suppliers to Tomlinson's Dairies and are located within an average distance of approximately 13 miles of the dairy. The remaining 23 farms supply the dairy under third party contracts (e.g. with Arla) and are mainly located within the Welshpool area.



Map indicating the location of direct supply farms to TDL. Note one supplier is located off the map at Caernarfon and some are overlaid.

#### 4.8 The dairy processes milk into a range of products including:

- Whole milk;
- Semi-skimmed milk;
- Skimmed milk;
- Organic milk;
- Flavoured milk;
- Single, double and whipping cream; and
- Yoghurts.



- 4.9 Milk is supplied in glass bottles (which is bottled at Pen y Palmant Farm site), poly bottles, paperboard cartons and Eco pouches, all of which are recyclable and in the case of glass, re-usable.
- 4.10 The main customers of Tomlinson's Dairies are currently:
- ❑ Marks and Spencer;
  - ❑ Asda stores throughout Wales via Arla;
  - ❑ Tesco;
  - ❑ Costa Coffee;
  - ❑ Small to medium sized shops;
  - ❑ Hospitals across North Wales;
  - ❑ Schools across North Wales;
  - ❑ Hopewell Farm Foods;
  - ❑ Other wholesalers; and
  - ❑ Around 60 milk rounds run by other businesses.
- 4.11 The number of people employed by Tomlinson's Dairies has also rapidly increased since the Five Crosses Dairy has been brought into operation. Overall, Tomlinson's Dairies now directly employs 174 staff of which 171 are full time employees and 3 are part time employees.
- 4.12 34 of the staff are drivers, of whom 13 operate from Pen y Palmant Farm and 21 operate from the Five Crosses site. Some of those operating out of the Pen y Palmant Farm site also make collections of products from the Five Crosses site for onward delivery.
- 4.13 The remaining 140 staff include the two company directors, 115 staff involved in dairy processing operations, 8 staff involved in poly bottle blow moulding, 7 mechanics and 8 administration and office staff. Of these staff, 6 are employed in the glass bottling operation at Pen y Palmant Farm and 134 work at the Five Crosses site.
- 4.14 The dairy processing sector has seen a number of high profile processing plant closures and large scale redundancies over the last decade with 900 redundancies within the processing sector between 2005 and 2009. Since then, the sector has seen the closure of the Dairy Farmers of Great Britain plant at Bridgend in June 2009<sup>4</sup> the closure of the Dairy Crest Proper Milk dairy in Camarthenshire in 2014 and the closure of the First Milk site at Maelor with the loss of around 230 jobs, in response to which Cllr Neil Rogers of Wrexham BC was quoted by the BBC as saying it was '*a sad day for Wrexham*' and that '*It is important that Wrexham does everything it*

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<sup>4</sup> National Assembly for Wales Rural Development Sub-Committee. Inquiry into the Dairy Industry. November 2009.

*can to develop its economy by attracting new business into the county borough’.*

- 4.15 The need to reverse this recent decline and increase milk processing capacity within Wales through the expansion of existing and established milk processors is a core element of the Welsh Government’s strategy for the dairy sector as a whole i.e. for producers and processors. Tomlinson’s Dairies has helped to deliver this strategy over the last few years through:
- its investment in and development of the new Five Crosses, with the support of the Welsh Government;
  - its progressive increase in milk processing output;
  - the significant increase in people employed directly by the company;
  - the increase in people indirectly employed by the company including contractors, hauliers and others in the supply chain; and
  - the increase in the number of dairy farms from which milk is sourced, which helps to support employment in the wider rural economy.
- 4.16 From 1 July 2017, Tomlinson’s Dairies Limited will also be supplying J Sainsbury with 100 million litres of processed milk together with cream to its stores in Wales and parts of England.
- 4.17 This will result in:
- a further capital investment in the site of around £14 million;
  - the creation of an additional 60 full time jobs at Tomlinson’s Five Crosses site;
  - additional indirect employment and employment in the supply chain; and
  - a further 47 farms supplying milk to the dairy (the majority of these are under existing contracts to supply J Sainsbury), with consequential support for the wider rural economy.
- 4.18 This will consolidate Tomlinson’s Dairies position as the largest liquid milk processor in Wales and will contribute to Wrexham’s emerging status as a major food and drink manufacturing and processing hub.

## **5. NEED FOR THE PROPOSED DEVELOPMENT**

- 5.1 The existing Five Crosses dairy currently processes and supplies approximately 95 million litres of milk per annum.
- 5.2 This level of output is well within the dairy's processing capacity, but is close to the limit of the dairy's cold storage capacity.
- 5.3 The dairy still utilises some pre-blown poly bottles which are transported to site in articulated HGVs, but the majority are now blow moulded on site. This has served to reduce the number of HGVs delivering poly bottles from 6 or 7 per day (seven days a week) to 3 vehicle deliveries per day. Once fully operational, the blow moulding facility will be capable of fully meeting the dairy's current output.
- 5.4 From July 2017, Tomlinson's Dairies will be processing an additional 100 million litres of milk per annum just to supply J Sainsbury stores in Wales and parts of England. Assuming no other contracts are secured, the dairy will therefore be processing approximately 195 million litres of liquid milk per annum.
- 5.5 The dairy has sufficient capacity to process 195 million litres of milk per annum, however it does not currently have sufficient cold storage capacity or sufficient poly bottle blow moulding capacity.
- 5.6 In order to effectively and efficiently deliver the J Sainsbury order, the processed and bottled milk needs to be 'picked' for each delivery which will comprise a range of products according to individual stores' requirements e.g. skimmed, semi-skimmed, full milk in various poly bottle sizes. The products need to be 'picked' from batches in advance and arranged so as to facilitate efficient loading onto the additional 20 delivery vehicles.
- 5.7 In order to facilitate this, additional cold storage capacity is required to accommodate both the additional milk that has been processed and packaged, but also the products that have been 'picked' and are awaiting collection.
- 5.8 Without the additional cold storage capacity, the dairy would be unable to meet its contractual commitments.
- 5.9 Similarly, the number of poly bottles required will increase dramatically. This will necessitate an extension to the blow moulding building in order to increase production capacity, but more importantly to provide storage for blown poly-bottles prior to transfer to the main dairy in preparation for filling. Without the extension to the blow moulding building, output would be restricted and reliance would again

have to be placed on pre-blown poly-bottles imported from the north east of England. Not only would this have serious financial implications for the business, but it would also have implications for HGV movements with a requirement for 10 deliveries per day, seven days per week.

- 5.10 All of the imported poly-bottles would be supplied by Nampak from their site at Consett in County Durham, which is distance of 187 to 198 miles each way depending upon the haulier's routing strategy.



- 5.11 The increase in output to 195 million litres per annum will generate an additional 60 full time jobs at the Five Crosses dairy site, of which 53 would be involved in processing and cold store operations and 7 would be involved in poly-bottle blow moulding.
- 5.12 After accounting for those that travel to the site by walking, cycling, public transport (the potential for which is limited for some by virtue of shift times) and car sharing, there will be a need for additional on-site parking. The additional parking provision will need to vary at each Phase as implementation of the development progresses and employee numbers increase.
- 5.13 The necessary additional parking provision at Phase 1 would be met by way of a temporary parking area which would subsequently be utilised for HGV parking and manoeuvring following completion of the cold store extension in Phase 2. Consolidation of the on-site parking provision would take place in Phase 2 with 26 spaces (including disabled spaces) retained at the front entrance of the main dairy building for visitors and management staff and up to 143 permanent spaces (of which 14 would be disabled spaces) provided within a new landscaped car parking area for

staff which would be accessed off Gwernygaseg Road. This parking area would also provide parking for the additional staff to be employed in the poly-bottle blow moulding operation and would provide a margin to allow for small changes in shift patterns should they be required and compares with a current provision within the site as a whole of 106 spaces.

## **6. PHASING**

- 6.1 The expansion of Tomlinson's Dairies Five Crosses facilities will be brought forward in three Phases, each of which is subject of a separate planning application. Whilst this planning application is concerned with the development to be brought forward in Phase 2, the phasing of the development as a whole is outlined below to provide the context for this Phase of the development.

### **Cold Store**

- 6.2 Tomlinson's Dairies has to continue operating, processing and delivering milk to its existing customers without delay or interruption throughout the construction process. This means that for operational reasons, the cold store extension cannot be constructed in a single Phase. It has to be constructed in two distinct Phases to facilitate the continued use of the majority of the existing cold store and just as importantly, loading bays, at all times.
- 6.3 In order to facilitate the continued operation of the dairy during the construction of the Phase 1 cold store extension, five of the existing 11 loading bays will remain available and operational. On completion of Phase 1, 11 new loading bays will be available together with a proportion of the additional cold store capacity that is required.
- 6.4 During the construction of the Phase 2 cold store extension, the remaining original loading bays will cease to be available and all loading will take place via the 11 new loading bays constructed in Phase 1.
- 6.5 Some additional first floor office space would be accommodated in Phase 1.
- 6.6 Following the construction of the Phase 2 cold store extension, the cold store will be served by a total of 22 loading bays for outbound deliveries and a further two basement level loading bays for trolley returns.
- 6.7 The raw milk silos to the rear of the main Dairy building would also be replaced as part of the Phase 2 development.

### **Parking and Access**

- 6.8 Additional car parking will be provided in Phases 1 and 2 to cater for staff numbers. A temporary parking area accommodating up to 50 cars will be provided in Phase 1 to the north east of the main dairy building.

- 6.9 In Phase 1, all vehicular access to the site would be gained via the existing Five Crosses Industrial Estate access road.
- 6.10 Subject to feasibility, improvements to on-street parking would also be made along the section of the Five Crosses Industrial Estate access road on the approach to the A525 that is currently under Wrexham CBC ownership. Whilst the need for these improvements are not directly or wholly attributable to the proposed Tomlinson's Dairies development, their provision would improve the flow of traffic along the Estate Road and provide benefits to other road users.
- 6.11 The temporary parking area, together with the existing parking areas to the side of the blow moulding building and vehicle workshop will be replaced in Phase 2 by a single permanent staff car park for up to 143 cars (including 14 disabled spaces), with access gained off Gwernygaseg Road. This car park would be used by the majority of staff. No goods or delivery vehicles would be permitted to use the Gwernygaseg Road access or car park. Management staff and visitors would continue to use the retained 26 spaces (including disabled) at the front entrance to the main dairy building. All goods and other delivery vehicles, together with management and visitors' cars, would continue to use the Five Crosses Industrial Estate access road.

### **Surface Water Attenuation**

- 6.12 With minor modifications, the existing surface water attenuation pool is of sufficient capacity to accommodate surface water run-off arising from the additional hard surfaced areas created in Phase 1. The surface water attenuation pool would however be relocated within Phase 2 and will be designed to accommodate all the additional surface water generated within Phases 1, 2 and 3.

### **Landscaping**

- 6.13 The Phase 1 cold store extension would continue to benefit from the screening afforded by the existing mound located to the east of the dairy, together with landscape planting established in connection with previous developments at the site.
- 6.14 Phase 2 provides the opportunity to implement a carefully designed and extensive landscaping scheme incorporating more sensitive soil profiling and a range of native broadleaved trees and shrubs along the eastern (adjacent to Gwernygaseg Road) and northern sides of the dairy site as a whole.
- 6.15 This will help to improve the appearance of both the Tomlinson's Dairies site and the Five Crosses Industrial Estate as a whole, when viewed from the north and east.

- 6.16 Additional landscaping will be provided following the completion of the blow moulding building extension in Phase 3.

**Blow Moulding Building**

- 6.17 The extension to the blow moulding building will be constructed in Phase 3.
- 6.18 The surface water attenuation, the majority of the landscaping and the staff parking provision associated with the blow moulding building will have already been incorporated within Phase 2.

## **7. DESIGN & ACCESS**

### **7.1 Phase 2 Development**

7.1.1 Development included within Phase 2, which is the subject of this planning application, includes:

- The second phase of the extension of the main dairy building to provide the necessary additional cold storage and trolley returns capacity;
- The replacement of the existing raw milk silos with five new raw milk within the existing bunded compound to the rear of the main dairy building;
- The re-positioning and enlargement of the main surface water attenuation pool;
- Removal of the majority of the earth mound to the east of the main dairy building;
- Repositioning of the main parking area for goods vehicles;
- Formation of a new staff car park with car-only access off Gwernygaseg Road; and
- Establishment of extensive structural landscaping for the dairy site as a whole

### **7.2 Site Context**

7.2.1 The main Tomlinson's Dairies site is located on the north eastern edge of the Five Crosses Industrial Estate at approximate Ordnance Survey grid reference SJ 2770 5230.

7.2.2 The dairy site straddles the Coedpoeth Settlement Limit as defined in the Wrexham Unitary Development Plan 1996 – 2011. Essentially, the main dairy processing building and the vehicle maintenance building are located within the Settlement Limit whilst the blow moulding building and the yard area to the east of the main dairy are located adjacent to but outside of the Settlement Limit. It should however be noted that the Settlement Limit was defined in 1996 and that the Plan Period expired in 2011.

7.2.3 The western and southern parts of the dairy site are occupied by the existing main dairy building and blow moulding building. The eastern and northern parts of the site include earthworks, an attenuation pool, landscaping and a small vacant field.

7.2.4 The northern and eastern boundaries of the dairy site are delineated by hedgerows. The southern and south western boundaries are delineated by security fencing and shrub planting. The western boundary of the site is delineated by crib walling with security fencing above, whilst the north western boundary is delineated by scrub

vegetation adjacent to the disused railway line. Timber acoustic fencing extends along the eastern side of the access road and the southern boundary of the yard area.

- 7.2.5 Beyond the site boundaries, the dairy site is bordered to the west by the Village Bakery which occupies a more elevated site, to the north west by the line of a disused railway, to the east by Gwernygaseg Road, to the south by a private dwelling (Kalver) and its associated paddocks and to the south and south west by other industrial units on the Five Crosses Industrial Estate including Strafford Coaches and Minera Roof Trusses.
- 7.2.6 Access to the site for pedestrians, cyclists, cars and goods vehicles is currently gained from the A525 via the Five Crosses Industrial Estate access road which enters the dairy site from the south.
- 7.2.7 The eastern part of the dairy site is crossed by a high voltage power line with a pylon located close to the eastern boundary of the dairy site, adjacent to Gwernygaseg Road.
- 7.2.8 A Welsh Water mains sewer passes through the site to the east of the main dairy building in a roughly north north west to south south east direction.
- 7.2.9 There are no public footpaths or bridleways crossing the dairy site although there are some in the local area from which views of the site may be gained.

### **7.3 Site Area**

- 7.3.1 The site area for the Phase 2 cold store extension and associated works is principally located to the east of the main dairy building (as indicated on Location Plan H0070-19-A3-PL-01) and is partly contained within the areas covered by the permission for the original dairy development (MIN P/2005/1430) and the blow moulding building (MIN P/2015/0377). The proposed Phase 2 staff car parking area is located within a small unused paddock located between the existing blow moulding building car park and Gwernygaseg Road.
- 7.3.2 The application site area for the Phase 2 development extends to approximately 1.82 hectares (4.50 acres) which includes / also covers the Phase 1 development area of 0.59 hectares (1.36 acres).

## **7.4 Use**

- 7.4.1 The development proposed by way of this planning application is one of three which together will enable Tomlinson's Dairies to supply 100 million litres of processed milk per annum to J Sainsbury stores in Wales and parts of England.
- 7.4.2 The existing dairy facility is capable of processing the additional 100 million litres of milk per annum, but the cold store in particular is of insufficient capacity to accommodate the additional packaged products prior to and following 'picking' in preparation for loading, as well as continuing to meet existing commitments.
- 7.4.3 Given that the dairy has to continue operating without a break throughout the development process, the extension to the main dairy building will be undertaken in two Phases.
- 7.4.4 The Phase 2 extension of the main dairy building will be used for the following purposes:
- an extension to the existing cold store which will be used for the storage of processed and packaged milk and milk products prior to and following 'picking' in preparation for loading onto delivery vehicles via the loading bays;
  - a basement area which will facilitate trolley returns and a first floor area to be used for the storage of packaging and dairy related consumables etc.; and
  - replacement of the existing silos to the rear of the main dairy building with five new silos for the storage of raw milk prior to processing.
- 7.4.5 The other developments within Phase 2 will be used for the following purposes:
- the relocation and enlargement of the surface water attenuation pool which will serve the existing dairy development together with the developments proposed within Phases 1, 2 and 3;
  - an extension to the existing hardstanding to the east of the main dairy building to facilitate the circulation, manoeuvring and parking of HGVs;
  - the formation of a new permanent staff parking area for 143 cars (including 14 disabled spaces) which would be accessed off Gwernygaseg Road; and
  - landscape planting to the east and north of the dairy site.

## **7.5 Scale**

7.5.1 The Phase 2 extension to the main dairy building would have:

- a basement with a gross external area of 722m<sup>2</sup> and a gross internal floor area of 711m<sup>2</sup> (trolley returns);
- a ground floor with a gross external area of 1,139m<sup>2</sup> and a gross internal area of 1,114m<sup>2</sup> (cold store); and
- a first floor with a gross external area of 1,252m<sup>2</sup> and a gross internal area of 1,220m<sup>2</sup> (storage).

7.5.2 The first floor area is marginally larger than the ground floor area as part of the first floor area extends over the ground floor area of the Phase 1 extension.

7.5.3 The Phase 2 extension would measure approximately 46.66 m x 26.34 m with a height above ground level of approximately 13.17 m.

7.5.4 The five replacement raw milk silos would have an overall height of 18 metres above ground level with a 1 metre high safety rail above.

7.5.5 The hardstanding to the east of the main dairy building would be extended by approximately 2,679 m<sup>2</sup>. However, the Phase 2 extension of the cold store would be constructed over 1,139 m<sup>2</sup> of existing hardstanding, resulting in a net increase in hardstanding to the east of the main dairy building of 1,540 m<sup>2</sup>. This area will facilitate the manoeuvring and circulation of vehicles and the parking of some HGVs.

7.5.6 The proposed new staff car park would provide 143 delineated car parking spaces, including 14 disabled spaces. The hard surfaced area of the proposed staff car park and new access onto Gwernygaseg Road would extend to approximately 3,544 m<sup>2</sup> (0.3544 ha).

## **7.6 Layout**

7.6.1 The layout of the existing dairy building allows for the efficient staged processing, production and packaging of milk into poly bottles, cartons and eco pouches.

7.6.2 Once packaged or bottled, the products are conveyed to the existing chilled storage area, where they are arranged by type and then into batches, or 'picked' ready to be loaded onto delivery vehicles. The proposed Phase 2 development will provide the balance of the required additional cold store capacity not provided within Phase 1.

- 7.6.3 The additional cold storage capacity needs to be contiguous with the existing main dairy building where the milk is processed and packaged/bottled. A separate building on the site would not be efficient or desirable from an operational or logistical perspective and a separate building off-site in addition would not be feasible, financially viable or acceptable from a transport sustainability perspective. An extension to the existing main dairy building is consequently the only feasible and viable option available.
- 7.6.4 The location and layout of the proposed extension is therefore largely dictated by the existing cold store position within the eastern portion of the building, the availability of land within the site (there is no scope to extend to the south, west or north) and vehicular routes to, from and within the site. The proposed extension therefore has to be located on the eastern side of the main dairy building.
- 7.6.5 In order to facilitate the continued operation of the Dairy throughout the construction process, the cold store has to be constructed in Phases. Of the existing 11 loading/unloading bays, six will be lost for the duration of the Phase 1 construction period. Once the Phase 1 extension has been completed, 11 new loading bays will be available. These would remain operational during the course of the Phase 2 extension when the remaining five existing loading bays will be lost, to be replaced by a further 11 loading bays. The extended cold store will consequently ultimately have a total of 22 ground floor loading bays.
- 7.6.6 Internally the extension is designed to be open plan to allow trolleys which are filled with packaged/bottled milk to be batched, then ‘picked’ and arranged ready for efficient loading onto delivery vehicles via the loading bays.
- 7.6.7 There will be a basement storage area below the cold store for the efficient delivery and handling of trolley returns. These will be lifted back up to the packaging/bottling area and cold store for refilling. The floor above the cold store will be used for the storage of packaging and other dairy related consumables.
- 7.6.8 There is a safety zone around the National Grid Legacy Deeside 400kv cables which cross the site. The cables and the associated safety zone restrict the height of buildings constructed within the zone. The majority of the Phase 1 cold store extension will consequently be of single storey construction and limited to heights that have been agreed with National Grid, based on their Lidar scans and recommendations for cable sag and swing.
- 7.6.9 The Phase 2 portion of the cold store extension will however be located wholly outside of the National Grid safety zone and can therefore be of two storey

construction with a basement under part.

- 7.6.10 The temporary car parking area formed to the east of the main dairy building under Phase 1 will be incorporated within the permanent HGV circulation, manoeuvring and parking area under Phase 2.
- 7.6.11 The proposed permanent staff car parking area would be accessed via a car-only entrance off Gwernygaseg Road. Vehicular movements from the proposed new car park into the rest of the dairy site would be physically precluded.
- 7.6.12 Parking for management staff and visitors would continue to be gained via the Five Crosses Industrial Estate access road and would utilise the existing parking area to the front of the main dairy building.
- 7.6.13 This arrangement would segregate cars from HGVs with in the majority of the dairy site and would obviate the need for any staff or visitor vehicles to use the circulation route around the eastern, northern and western sides of the main dairy building with attendant health and safety benefits.

## **7.7 Appearance**

- 7.7.1 The existing main dairy building consists of a colour coated clad steel portal framed structure with contrasting colour coated doors and windows with some brickwork to the lower wall of the entrance elevation.



- 7.7.2 The main dairy building's colour scheme currently consists of goosewing grey coloured cladding with merlin grey trims and flashings, dark blue doors and windows and yellow and blue brick walling.
- 7.7.3 Wrexham CBC requested that a darker tone of grey be used for the wall cladding of the blow moulding building and this was accommodated using pure grey which contrasts and compliments the existing goosewing and merlin greys of the main dairy

building. The proposed extension will therefore use pure grey instead of goosewing grey in order to provide a darker tone to the east elevation of the dairy building. This should give the extended building a more recessive appearance when it is viewed from the east and north east of the site.

- 7.7.4 The main portion of the Phase 2 cold store extension will be of steel portal frame construction with a 6° dual pitch roof.
- 7.7.5 On completion of the Phase 1 and Phase 2 cold store extensions, the main dairy building would have a total of 22 ground floor loading bays, with 11 bays arranged along the southern cold store elevation and 11 bays along the eastern cold store elevation. A ramp down to the basement would facilitate the below ground unloading of empty return trolleys.

## **7.8 Landscaping**

- 7.8.1 The Phase 1 development would result in the removal of the western portion of the bund located to the east of the main dairy building. The remainder of the bund would be removed as part of the Phase 2 development.
- 7.8.2 Other pre-existing features including the roadside hedgerow along Gwernygaseg Road (with the exception of a small section to form the access onto Gwernygaseg Road) and the trees along the line of the disused railway, will be retained.
- 7.8.3 A comprehensive landscaping scheme is incorporated within Phase 2 which would include:
- more sensitive earth profiling along the eastern side of the dairy site running parallel with Gwernygaseg Road;
  - the establishment of an area of approximately 2,185 sqm of native broadleaved trees and shrubs extending along the full eastern boundary of the site along Gwernygaseg Road and round to the northern side of the dairy site, linking up with the new planting established in connection with the blow moulding building and a further area between the dairy extension and Kalver;
  - the gapping up of existing hedgerows with native broadleaved species;
  - the establishment of new hornbeam hedgerows within the proposed new parking area;
  - the establishment of new individual trees including field maple, rowan, alder and whitebeam within the proposed car parking area, the existing hedge line between

the proposed car parking area and the HGV parking area and along the existing boundary with Kalver.

- 7.8.4 Some additional landscape planting would also be undertaken as part of the Phase 3 development.

## **7.9 Access and Parking**

### ***Existing Situation***

- 7.9.1 All pedestrian and vehicular traffic to and from the site is currently gained from the A525 via the Five Crosses Industrial Estate access road which has recently been resurfaced and speed humps incorporated.
- 7.9.2 A one way circulatory system for all cars and goods vehicles operates within the dairy site. On entering the site all cars and goods vehicles are directed left to the western side of the main dairy building. Management and visitors' cars then turn immediately right into the surfaced car park at the front of the main dairy building for which there is currently space for 31 vehicles including designated disabled spaces. On leaving this front car park, vehicles turn right towards the site access having bypassed the majority of the main vehicle circulation route around the main dairy building.
- 7.9.3 All other staff cars and all goods vehicles continue on along the main circulation route around the main dairy building. Raw milk is delivered into the main dairy building at its northern end whilst processed milk loading and trolley returns are made via the loading bays along the eastern side of the main dairy building.
- 7.9.4 The majority of the staff cars park within the parking area to the east of the blow moulding building, with the balance parked adjacent to the vehicle workshop as and when available. In total 106 car parking spaces are provided within the site.
- 7.9.5 Some other deliveries (e.g. Nampak poly-bottles) are unloaded along the western side of the building. A significant proportion of poly-bottles are however now blow moulded on site which has served to reduce articulated vehicle movements. Poly-bottles that are produced in the blow moulding building are transferred to the main dairy building by an enclosed bridge link between the two buildings.
- 7.9.6 A hardstanding to the east of the main dairy building and the circulation route provides the majority of the parking for HGVs within the site.

- 7.9.7 Footways extend from the A525 junction into the industrial estate on both sides of the access road for a distance of approximately 90 metres. Beyond that point, the footway on the south side ends whilst that on the north side continues around a 90° bend for a further 30 metres. Beyond this point, there is sporadic footway provision on both sides which is interrupted by access to the various industrial units within the estate. Observations on site revealed that people walk along the carriageway or verge areas where there are no footways. Whilst this may not be desirable, due to the layout of the industrial estate which incorporates relatively short straight sections and speed humps, vehicle speeds are low, which naturally reduces the potential for conflict. On entering the Tomlinson's Dairies site, a pedestrian footway is provided along the entire length of the access road.
- 7.9.8 The Tomlinson's Dairies access road has a nominal width of 7.3 metres and cyclists share the access with traffic travelling to and from the dairy.
- 7.9.9 A cycle stand is provided within the site adjacent to the front management staff/visitor parking area.
- 7.9.10 Disabled parking spaces are provided by the main entrance to the main dairy building and access to the first floor can be gained via a staircase or lift.

### ***Phase 1***

- 7.9.11 Under the Phase 1 development all pedestrians, cyclists, cars and goods vehicle movements would continue to use the existing Five Crosses Industrial Estate access road.
- 7.9.12 The circulation route around the site would continue to be used as at present, with management and visitor's cars utilising the car parking area at the front entrance of the main dairy building. The number of car parking spaces at the front of the building will however be reduced to 26 so as not to conflict with goods vehicle access to the new loading bays.
- 7.9.13 The remaining staff cars will continue to use the one way circulation route around the dairy building and will continue to utilise the parking area adjacent to the blow moulding building. Provision will be made for up to a further 50 temporary car parking spaces within the extended hardstanding located to the east of the main dairy building. This parking area and that beside the blow moulding building would continue to be used pending the construction of a permanent landscaped staff car parking area under Phase 2.

- 7.9.14 Raw milk deliveries will continue to be delivered to the rear of the main dairy building.
- 7.9.15 During the construction of the Phase 1 cold store extension, milk products will be loaded onto goods vehicles via five of the original eleven loading bays. Following completion of the Phase 1 extension, eleven new loading bays will be utilised.
- 7.9.16 The cycle stand will continue to be positioned adjacent to the parking area close to the front entrance to the main dairy building.
- 7.9.17 Disabled access into the main dairy building will continue to be gained by the main entrance and access to the first floor office area will continue to be gained via the lift within the main lobby.

## **Phase 2**

- 7.9.18 Under Phase 2, a new permanent staff car parking area would be provided within the north eastern portion of the site. This would replace the existing parking area located to the east of the blow moulding building (under planning permission MIN P/2015/0377) and the temporary parking area proposed under Phase 1.
- 7.9.19 The proposed new staff car parking area would accommodate 143 cars within marked bays, of which 14 would be dedicated disabled spaces.
- 7.9.20 Access to the proposed new staff parking area would be gained via a new car-only access off Gwernygaseg Road. The new access would not be used by visitors or by any goods vehicles. The new access onto Gwernygaseg Road has been designed so as to allow right turn exit only so that cars are directed southwards along Gwernygaseg Road to the junction with the A525 at Five Crosses.
- 7.9.21 Vehicular access between the proposed new staff car parking area and the rest of the dairy site would be physically precluded.
- 7.9.22 Management staff and visitors would continue to use the Five Crosses Industrial Estate access road and would park within the existing 26 parking spaces that would be retained at the front of the main dairy building.
- 7.9.23 All HGV movements would continue to use the existing Five Crosses Industrial Estate access route
- 7.9.24 The new parking arrangement would serve to segregate cars from HGVs with only HGVs using the main circulation route around the main dairy building. This would

reduce the risk of conflict between staff cars and HGVs within the site and would significantly improve safety.

## **7.10 Surface Water**

### ***Existing Situation***

- 7.10.1 The existing dairy facility is served by two attenuation ponds. The smaller of the two attenuation ponds is located adjacent to the main site access and deals with surface water run-off from the site access which would be unaffected by the proposed development. The larger of the two ponds deals with surface water from the roof areas and hardstandings within the rest of the dairy site and has a capacity of approximately 1,068m<sup>3</sup>.
- 7.10.2 The existing attenuation ponds were designed to take rainwater volumes calculated from standard storm return periods and were designed to have spare capacity should any be required at a future date. The purpose of the ponds is to attenuate flows back to “Greenfield Discharge Rates” and these are set by the Environment Agency, i.e. 3 to 5 litres per second per hectare. This allows clean water to be conveyed safely back to surface drainage systems such as ditches and watercourses without overstretching capacity.
- 7.10.3 The Environment Agency-approved micro-drainage analysis provides for a 200 year return with a critical storm period of 6 hours duration at an intensity of 11.7mm/hour. On this basis, the storage requirement needed for the existing dairy facilities is 804 m<sup>3</sup> with a controlled discharge rate via the hydrobrake device (located in the manhole on exit from the pond) at 5 litres / second.

### ***Phase 1***

- 7.10.4 A net additional 3,125m<sup>2</sup> of 100% run-off from the new roof and new hardstanding has been assumed (although not all of the hardstanding would be impermeable), resulting in 197m<sup>3</sup> attenuation capacity with no allowance included for time of concentration or pipe storage.
- 7.10.5 The total surface storage requirement in the main attenuation pond following the Phase 1 cold store extension (excluding the access road which is catered for by the smaller attenuation pond) equates to a volume of 1,001m<sup>3</sup> (804m<sup>3</sup> existing + 197m<sup>3</sup> proposed). With an existing capacity of 1,068m<sup>3</sup>, the main attenuation pond would accommodate the 6 hour 200 year event.
- 7.10.6 Modifications to the northern edge of the attenuation pond will increase capacity to 1,350m<sup>3</sup> which will attenuate all storm events (including 24 hour storm) up to the 1

in 100 year plus climate change event.

### ***Phases 2 & 3***

- 7.10.7 As part of the Phase 2 development, the main surface water attenuation pool would be located further to the east and would be enlarged in order to accommodate surface water run-off from all of the roof areas and hardstandings within the site resulting from the Phase 1, Phase 2 and Phase 3 extensions to the existing dairy facilities.
- 7.10.8 The surface water generated from the existing main Five Crosses access route would continue to be dealt with by the smaller attenuation pool located adjacent to the access.
- 7.10.9 The developments associated with Phases 1, 2 and 3 would create a net increase of approximately 10,524m<sup>2</sup> in impermeable surface areas comprising proposed new roof areas, new hardstanding and new staff car parking area. When coupled with the existing developed areas, the dairy site would have a total impermeable surface area of 2.495 ha. Based on this area, the green field runoff at 5l/s/ha would be 12 litres/second.
- 7.10.10 The proposed new attenuation would accommodate the surface water run-off from all of the impermeable surfaces within the TDL with the exception of the existing Five Crosses access drive, which is served by its own surface water attenuation pool.
- 7.10.11 The proposed new surface water attenuation would need to attenuate volumes including 1 in 100 year storm plus climate change event and the required storage capacity would be 1,382m<sup>3</sup>.
- 7.10.12 The new surface water attenuation would be provided for by way a new surface water attenuation pool linked to an underground cellular storage pond which together will provide a storage capacity of 1,650m<sup>3</sup> whilst maintaining a minimum 500mm freeboard. Accordingly, the system will attenuate all storm events up to the 1 in 100 year event + 30% for climate change.

## **8. PRE-APPLICATION CONSULTATION**

### **8.1 Wrexham County Borough Council**

- 8.1.1 Tomlinson's Dairies Limited and Wrexham County Borough Council have proactively engaged in pre-application consultation in respect of the proposed expansion of the facilities at the Tomlinson's Dairies site.
- 8.1.2 Broad details of the potential future development of the site were submitted to Wrexham CBC as part of the Local Plan consultation process. The main portion of the Tomlinson's Dairies site has been detailed within the emerging Local Plan as a Candidate Employment Site, whilst the small adjacent field (within which it is proposed to form the permanent staff car park) has been proposed as an 'Alternative Employment Site'. The submission for the 'Alternative Employment Site' was supported by a Landscape and Visual Impact Appraisal and an Ecological Appraisal.
- 8.1.3 A meeting was subsequently held at the offices of Wrexham CBC with David Williams (Planning Control Manager) and Nicola Corbishley (Planning Policy Manager) on 17 May 2016. During the meeting, the background to Tomlinson's Dairies' business and the need to expand the Dairies' cold store and blow moulding facilities in the event that the company was selected to supply milk to J Sainsbury were outlined.
- 8.1.4 A formal request for pre-application advice was submitted to the Council in early June 2016 and the Council's advice was duly issued on 29 June 2016. This detailed advice broadly followed the earlier general advice provided by the Planning Control and Planning Policy Managers.
- 8.1.5 Clarification on certain validation requirements was subsequently provided by way of email exchange with the Case Officer.

### **8.2 Welsh Government**

- 8.2.1 Following the announcement that J Sainsbury would be sourcing 100 million litres of milk and cream per annum from Tomlinson's Dairies, Lesley Griffiths AM, Cabinet Secretary for Environment and Rural Affairs and Assembly Member for Wrexham and Ken Skates AM, Cabinet Secretary for Economy and Infrastructure and Assembly Member for Clwyd South requested a visit to the Five Crosses dairy to discuss what effect the new contract will have on Tomlinson's Dairies' business, the local area and the wider dairy industry.
- 8.2.2 The visit took place on 24 June 2016 and was attended by both Ministers who also toured the Dairy. The meeting was also attended by Rebecca Morgan, Wrexham CBC Regeneration and Business Support Lead.



John and Phillip Tomlinson (centre) with Lesley Griffiths AM and Ken Skates AM.

- 8.2.3 The Ministers welcomed the investment being made by Tomlinson's Dairies at their Five Crosses site, particularly given the economic uncertainties posed by the outcome of EU Referendum.

## **9. PLANNING POLICY CONTEXT**

### **9.1 Introduction**

9.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals are to be determined in accordance with the development plan, unless material considerations indicate otherwise.

9.1.2 In this instance the development plan currently consists of the Wrexham Unitary Development Plan 1996 – 2011 (UDP). The weight attached to relevant policies needs to reflect the intention that the Plan would cover the period to 2011. Indeed, the Introduction to the UDP confirms:

*‘Only those developments which the Council realistically expects to be completed by 2011 are included in the Plan.’*

9.1.3 What constitutes a material consideration is not defined in planning legislation however in the case of *Stringer v MHLG* 1971 it was held that *‘In principle... any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend upon the circumstances’*.

9.1.4 Planning Policy Wales (PPW) confirms that material considerations could include current circumstances, policies in an emerging development plan, and planning policies of the Welsh Government and the UK Government. PPW goes on to advise that material considerations must also be fairly and reasonably related to the development concerned.

9.1.5 Accordingly, in addition to site specific circumstances, the guidance provided within Planning Policy Wales (Edition 6), relevant Technical Advice Notes, any relevant Ministerial Interim Planning Policy Statement and relevant Local Planning Guidance Notes may constitute material planning considerations as may emerging Local Development Plan policies. However, in this instance, the weight that can be given to emerging Development Plan policies are limited by virtue of the stage that the Local Development Plan has reached so far.

### **9.2 Wrexham Unitary Development Plan 1996 – 2011**

9.2.1 A review of the UDP Proposals Map and Inset Map indicates that the application site straddles the Coedpoeth Settlement Limit with part lying within an undesignated area of the Five Crosses Industrial Estate and part lying within an area of open countryside.

- 9.2.2 The site was however proposed for an employment allocation within the Local Development Plan (LDP1) by Tomlinson's Dairies and was scheduled to be considered during the course of the Examination until the Examination was held in abeyance and the Local Development Plan was subsequently withdrawn. The site is now being proposed for an employment allocation within the new Wrexham County Borough Local Development Plan (LDP2).
- 9.2.3 From the UDP Proposal and Inset Maps, it is evident that the application site does not lie within an area subject to Special Landscape Area, Biodiversity Conservation or Green Barrier designations.
- 9.2.4 The majority of the application site lies within the original application area of the main Dairy development (MIN P/2005/1430) and the proposed Phase 2 extension to the cold store would be largely constructed on land that is already surfaced.
- 9.2.5 The proposed staff car park is located outside of the Coedpoeth Settlement Limit. That area is however being promoted as an Alternative Site (Employment) through the emerging LDP.
- 9.2.5 Having regard to the nature and location of the proposed development it is considered that the following UDP policies are of most relevance to the determination of the planning application:
- ❑ Policy PS1 (Broad Location of Development)
  - ❑ Policy PS2 (Broad Location of Development)
  - ❑ Policy PS3 (Broad Location of Development)
  - ❑ Policy PS4 (Broad Location of Development)
  - ❑ Policy PS11 (Biodiversity)
  - ❑ Policy GDP1 (Development Objectives)
  - ❑ Policy EC4 (Hedgerows, Trees and Woodland)
  - ❑ Policy EC6 (Biodiversity Conservation)
  - ❑ Policy EC13 (Surface Water Run-off)
  - ❑ Policy E4 (Employment Development (of Unannotated Land) within Settlements)
  - ❑ Policy T8 (Parking)

### **9.3 Planning Policy Wales**

- 9.3.1 Planning Policy Wales (PPW) (Edition 8) sets out the land use planning policies of the Welsh Government and is supplemented by various Technical Advice Notes (TANs).

9.3.2 PPW Chapters of relevance to the determination of the proposed development to a greater or lesser degree include:

- Chapter 3 Making and Enforcing Planning Decisions
- Chapter 4 Planning for Sustainability
- Chapter 5 Conserving and Improving Natural Heritage and the Coast
- Chapter 7 Economic Development
- Chapter 8 Transport
- Chapter 12 Infrastructure and Services
- Chapter 13 Minimising and Managing Environmental Risks and Pollution.

9.3.3 Technical Advice Notes of some relevance include:

- TAN 11: Noise
- TAN12: Design
- TAN 18: Transport
- TAN 20: Planning and the Welsh Language
- TAN 23: Economic Development.

#### **9.4 Ministerial Decisions and High Court Judgments**

9.4.1 Ministerial Decisions and High Court judgments can constitute material planning considerations to the extent that they are relevant to the development concerned.

9.4.2 The Welsh Government's determination of the Lower Leighton Farm dairy extension (Ref: qA1105342) is of relevance in this instance as it emphasises the relative weight to be attached to environmental, social, economic and employment benefits as material planning considerations in the determination of planning applications. It is also relevant in terms of the importance attached to the Welsh dairy and milk production industry by the Welsh Government.

9.4.3 The Welsh Government's decision on the Lower Leighton Farm dairy extension was subsequently the subject of a legal challenge (*The World Society for the Protection of Animals v The Welsh Ministers, Powys County Council and Fraser Jones 2014 EWHC 1896* ). The claimant's application was however dismissed and the Welsh Government's decision was upheld.

## 10. ASSESSMENT

### 10.1 Employment & Economy

- 10.1.1 PPW confirms that for planning purposes the Welsh Government defines economic development as development of land and buildings for activities that generate wealth, jobs and incomes. PPW also confirms that:

*‘The planning system should support economic and employment growth alongside social and environmental considerations within the context of sustainable development. To this end, the planning system, including planning policies, should aim to ensure that the growth of output and employment in Wales as a whole is not constrained by a shortage of land for economic uses.’*

- 10.1.2 Paragraph 7.2.2 of PPW goes on to explain that:

*‘Local planning authorities are required to ensure that economic benefits associated with a proposed development are understood and that these are given equal consideration with social and environmental issues in the decision-making process, and should recognise that there will be occasions when the economic benefits will outweigh social and environmental considerations.’*

- 10.1.3 Section 7.6 of PPW deals with development management and the economy and at paragraph 7.6.1 confirms that:

*‘Local planning authorities should adopt a positive and constructive approach to applications for economic development. In determining applications for economic land uses authorities should take account of the likely economic benefits of the development based on robust evidence. In assessing these benefits, key factors include:*

- The numbers and types of jobs expected to be created or retained on the site;*
- Whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;*
- A consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas.’*

- 10.1.4 The weight that the Welsh Government considers should be attached to economic benefits, wealth creation and job creation (as set out in PPW and TAN 23) in the consideration and determination of planning applications has been demonstrated by

way of the called-in decision<sup>5</sup> for the proposed extension to the dairy unit at Leighton, Welshpool. In that decision, the Minister noted<sup>6</sup> that the Inspector had identified the main considerations as being:

- The character and appearance of the surrounding landscape;
- The settings of the heritage assets at Powys Castle and Garden, the listed building and Registered Parks and Garden of the Leighton Hall Estate and the Scheduled Ancient Monument of Offa's Dyke;
- Slurry spreading and disposal of waste water;
- The amenities of nearby residents in terms of odour, noise and the need for pest control;
- The health of local residents, including children at the local primary school;
- Animal welfare; and
- Human rights.

10.1.5 However the Minister also considered that the economic aspects of the proposed development should be a main consideration in the determination of the application<sup>7</sup>.

10.1.6 In reaching his decision, the Minister agreed with the Inspector that that development would cause 'considerable harm', however he did not agree with the Inspector as to the weight she had attached to the economic issues arising from the application and the bearing they have on the determination of the application.

10.1.7 The Minister noted that the proposed development would create new jobs, on the farm (seven directly employed new permanent full time stockmen in addition to the existing four full time and one part time staff) and during the construction phase as well as others supported in the wider economy<sup>8</sup> but disagreed with the Inspector's view that great weight should not be attached to this increase in jobs.

10.1.8 The Minister also noted that the Inspector had acknowledged that the financial investment in the proposed development would run into 7 figures and her conclusion that this must be of some importance. The Minister however considered that an investment of that size, and the confidence that it confers from the business perspective, is of more than 'some importance' and something to which great weight should be attached<sup>9</sup>.

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<sup>5</sup> Decision letter provided at Appendix 2.

<sup>6</sup> Paragraph 4 of the Decision.

<sup>7</sup> Paragraph 5 of the Decision.

<sup>8</sup> Paragraph 9 of the Decision.

<sup>9</sup> Paragraph 10 of the Decision

- 10.1.9 In granting planning permission, the Minister considered that the economic benefits of the proposed development outweighed the social and environmental objections. That decision has since been upheld in the High Court.
- 10.1.10 In the Leighton development, direct employment would increase from 4 full time and one part time to 11 full time employees. In contrast, since 2005, the number of staff directly employed by Tomlinson's Dairies has increased from 35 to 172 full time and two part time, all but 19 of which are based at the Five Crosses site.
- 10.1.11 The Phase 1 and Phase 2 cold store extensions will enable Tomlinson's Dairies to deliver the additional 100 million litres of milk per annum to J Sainsbury stores in Wales and parts of England. The Phase 1 and Phase 2 developments together will facilitate the creation of an additional 53 full time jobs at the Dairy. The creation of a further 7 full time jobs will be facilitated by the Phase 3 blow moulding building extension.
- 10.1.12 The dairy currently sources raw milk from 71 dairy farms located within the north east Wales milk field. Kite Consulting estimate that Tomlinson's Dairies currently supports 234 on-farm jobs.
- 10.1.13 With milk sourced from an additional 47 farms, this number is estimated to rise to 390 on-farm jobs.
- 10.1.14 In addition, Tomlinson's Dairies' annual spend (excluding purchase of raw milk) is in the order of £7,200,000 per annum which represents a significant contribution to the wider economy.
- 10.1.15 In terms of the development itself, the three Phases of development represent a £14,000,000 investment by Tomlinson's Dairies Limited.
- 10.1.16 When compared with the Leighton development, the Tomlinson's development will generate significantly greater economic benefits for the local area, whilst resulting in significantly less harm (e.g. in relation to the setting of a number designated heritage assets of national importance etc). The planning balance in favour of the Tomlinson's Dairy development, is consequently significantly stronger.
- 10.1.17 Section 7 of the UDP deals with employment and at paragraph 7.3 explains that the local economy faces a number of challenges:
- less mobile investment available, and greater competition from other parts of the United Kingdom and other countries;

- loss of all assisted area status;
- pockets of severe unemployment and deprivation, especially in the urban villages to the west of Wrexham;
- commuting to centres of employment outside the County Borough, leading to monetary leakage;
- low economic activity rates and increasingly dependent population; and
- over-reliance on manufacturing, leaving the economy increasingly vulnerable to external decision-making.

10.1.18 This strikes a chord with various aims set out within the Economic Development Chapter of PPW.

10.1.19 Tomlinson's Dairies Ltd is a local family business which was established in 1983. The company has been extremely well managed and as a consequence has progressively expanded from a small scale farm diversification enterprise at Pen y Palmant Farm operating a single milk round, to a business which now:

- directly employs 174 members of staff;
- sources milk from 71 dairy farms (an increase of 47 farms since January 2012);
- processes 95 million litres of Welsh milk per annum (an increase of 70 million litres per annum since January 2012; and
- supplies milk and other dairy products to Marks and Spencer, Tesco, Costa Coffee, small to medium sized shops, hospitals across North Wales, schools across North Wales, Costa Coffee, wholesalers; around 60 milk rounds run by other businesses, and branded Welsh milk for sale through ASDA stores across Wales.

10.1.20 Tomlinson's Dairies has consequently already assisted the Council in meeting the challenges identified at paragraph 7.3 of the UDP. By delivering and operating the proposed development, Tomlinson's Dairies will continue to assist the Council in meeting those challenges by:

- continuing to make significant capital investments in Coedpoeth including an estimated £14,000,000 in relation to the current proposed developments (Phases 1, 2 and 3);

- successfully competing with dairies in England which currently process milk produced in both England and Wales for sale and consumption in Wales;
- consolidating its role as a major local employer and providing new employment opportunities for local people in Coedpoeth with creation of 53 full time jobs in Phases 1 and 2 of the development and a further 7 full time jobs in Phase 3;
- providing the opportunity for local employment and reducing the need for commuting to centres outside of the County Borough;
- increasing economic activity, providing not only direct employment at the Dairy but also supporting employment in the wider economy, such as on the additional 47 farms that will supply the Dairy from July 2017, as well as other local manufacturers and suppliers; and
- reducing reliance on and vulnerability to external decision-making given that this is a well-established, locally based family owned business.

10.1.21 The expansion in milk processing output at the Tomlinson's Dairies site that would be facilitated by this development would also help to contribute to the Welsh Government's strategy on increasing the amount of milk processed in Wales by existing and established dairy processors. This is a matter which should be given significant weight in the overall planning balance.

## **10.2 Siting**

10.2.1 PPW confirms the principle that development should be steered to the most sustainable locations. TAN 23 explains that in order to gauge the benefit of the proposal, it will be necessary to compare it with the 'base case' in which the proposal does not go ahead.

10.2.2 When considering alternatives, albeit in the context of weighing economic benefit, TAN 23 acknowledges that some existing firms may not be able to grow unless they are allowed to expand on their existing site, or close to it – the exact situation facing Tomlinson's Dairies. TAN 23 also alludes to the risk of companies relocating outside of Wales unless they secure a particular site.

10.2.3 It is acknowledged that the application site abuts the Coedpoeth Settlement Limit rather than being located wholly within it, however the site is located within an area that benefits from two employment consents. As a consequence the development

could be considered to partially accord with UDP Policy PS1 but would, on the face of it, conflict with Policy E4.

- 10.2.4 That portion of the TDL dairy site that is located outside of the current Settlement Limit is however being promoted within the emerging Local Development Plan for an employment allocation. The majority of this area has been identified as a Candidate Site for Employment, the Council's comments on which are given as:

*'The site complies with the Council's Preferred Strategy and may have potential to contribute to meeting the future growth demands within the County Borough. The site has planning permission.'*

- 10.2.5 The field within the proposed staff car park would be located is also being promoted within the emerging local development plan process as an Alternative Site.
- 10.2.6 Furthermore, a review of the Wrexham CBC Local Development Plan Topic Paper 6: Economy, Employment and Retail (March 2014) confirms that The Five Crosses Industrial Estate is the only employment site in the Coedpoeth & North West Cluster and that it was at full capacity when the study was undertaken in 2014. That situation has not changed.
- 10.2.7 The cold store facility is inextricably linked to the milk processing operation undertaken within the main dairy building. Separating the two functions and locating them on two different remote sites would not be feasible, nor would it be a viable option. Extending the main dairy building cold store at the Five Crosses site is therefore essential. The possibility of acquiring an adjacent site on the Five Crosses Industrial Estate has been explored without success. In any event, irrespective of availability, none exist that would facilitate the extension of the cold store. There is consequently no feasible or viable alternative other than to extend the existing main dairy building's cold store.

### **10.3 Agricultural Land**

- 10.3.1 The majority of the land within the application area for the Phase 2 development would constitute previously developed land or land already subject to a planning permission.
- 10.3.2 The proposed new staff car parking area and the associated structural planting to the north and east of the parking area would however be formed within a small grassland field extending to approximately 0.665 hectares.

- 10.3.3 Representations have been made to the emerging LDP seeking the allocation of this field as an Alternative Site for employment.
- 10.3.4 The field was formerly used for rough grazing by livestock but is currently unused. It is not farmed by an agricultural business
- 10.3.5 The Agricultural Land Classification of England and Wales Map of 1985, which is based on the Provisional Agricultural Land Classification series 1:63,360 scale maps indicates that the site lies within an area provisionally classified as Grade 4 agricultural land. On that basis, the field would not fall within the definition of ‘best and most versatile agricultural land’ (Grades 1, 2 or 3a).
- 10.3.6 The proposed Phase 2 development would therefore accord with the policies set out in PPW sections 4.9 and 4.10 as well as UDP Policies PS3 and EC2

#### **10.4 Transport Sustainability**

- 10.4.1 The dairy site is located at the Five Crosses Industrial Estate. The site is currently served by a single point of vehicular access with a pedestrian footway which connects to the main industrial estate road.
- 10.4.2 The industrial estate is effectively a cul-de-sac which connects to the A525 via a simple priority T junction. The majority of the route from the dairy to the A525 benefits from footway provision although it is not continuous, being interrupted by access to various industrial units within the estate.
- 10.4.3 Pedestrian footways extend along both sides of the A525 to the north and south of the junction with the industrial estate access.
- 10.4.4 A bus stop with a shelter is located approximately 165 metres to the north of the access to the Five Crosses Industrial Estate on the east side of the carriageway. This stop is known as ‘Minera – Village Bakery’, since it is located outside the Village Bakery premises. A bus stop without a shelter is provided on the opposite side of the A525.
- 10.4.5 Another bus stop with a shelter is provided approximately 170 metres to the south of the Five Crosses Industrial Estate access, beyond Talwrn Road. This stop is known as ‘Coedpoeth – Five Crosses’ since it is located adjacent to the Five Crosses public house and junction. Again, the shelter is located on the east side of the route with an unsheltered stop opposite.



- 10.4.6 Bus services Monday to Saturday (excluding Bank Holidays) between Wrexham and Minera (Arriva) are hourly with the first service leaving Wrexham Bus Station at 06:25 hours and the last service from Minera/Five Crosses to Wrexham departing 18:23/18:25 hours.
- 10.4.7 The closest railway station is at Wrexham, approximately 7km distant. Access to the rail services within Wrexham would be possible via the existing bus services.
- 10.4.8 There are no specific cycle facilities on the public highway within the immediate locality, although cyclists are active in the area and share the existing carriageways with motorised traffic.
- 10.4.9 A petrol filling station with an associated convenience food store is located off the A525 approximately 550 metres to the south east of the Five Crosses Industrial Estate access. There is also a fish and chip shop located just before reaching the food store. Pedestrian crossing facilities are provided to assist movement across the A525 between the east side and the food store, which may be accessed via the existing lit footways adjacent to the carriageway.
- 10.4.10 The main shopping area in High Street, Coedpoeth, which provides a range of shops and services, is located approximately 1 kilometre to the south east of the Five Crosses Industrial Estate access junction with the A525.
- 10.4.11 Tomlinson's Dairies already performs well from a transport sustainability perspective, particularly when compared with other medium to large scale dairies given that:

- the majority of the dairy farms that currently supply raw milk to the dairy under direct contracts are located within the north east Wales milk field and are an average of just 13 miles from the dairy. The remaining dairy farms that currently supply milk to the dairy are located around the Welshpool area which minimises both food miles and overall HGV movements (there is no practicable alternative to farm collections by HGVs);
- the Dairy supplies milk to small to medium sized local shops, local schools, hospitals within North Wales and around 60 local milk rounds operated by other milkmen;
- the Dairy supplies milk produced, processed and packaged in Wales to ASDA stores within Wales (as opposed to milk that is transported from Welsh farms to processors in England and then back to supermarkets in Wales); and
- the Dairy is located on the Five Crosses Industrial Estate in Coedpoeth which offers employment opportunities for the local workforce and is readily accessible both on foot, by cycle and by public transport as well as by private motor vehicle.

10.4.12 It must however be acknowledged that the operating hours of the dairy are such that, for some employees, travel to the dairy in the early morning is not possible by public transport.

10.4.13 Subject to prevailing weather conditions, a proportion of the existing workforce already walk or cycle to the Dairy. The company has actively sought to encourage more of its existing and future workforce to walk and cycle to work, where this is reasonably practicable, through the provision of a pedestrian footway along the access road within the dairy site, cycle stand, laundry with drying facilities, staff kitchen area and canteen, male and female changing facilities and showers which exceed the ratio specified under Building Research Establishment Environmental Assessment Methodology (BREEAM).

10.4.14 The ability for the Dairy to produce its own poly-bottles on site within the blow moulding building, once fully operational, will have resulted in a reduction of 2,360 two-way articulated HGV movements per annum or in the order of 896,800 HGV miles. The increase in milk output to 195 million litres of milk per annum will result in a proportion of pre-blown poly bottles having to be delivered to site, however this increase would be reversed with the implementation of the Phase 3 blow moulding building extension.

10.4.15 The main effect of the Phase 2 development in terms of highways and

transportation would be the formation of the new staff car park and the associated car-only access onto the Gwernygaseg Road.

10.4.16 The Transport Statement prepared by the Hurlstone Partnership for the Phase 2 development accordingly confirms that:

- In terms of transport impact, when compared with the Phase 1 development, the only change resulting from the Phase 2 proposal would be the creation of the new access to Gwernygaseg Road and the associated re-distribution of staff movements to Gwernygaseg Road from the existing route through the Five Crosses Industrial Estate;
- There would be no change in HGV activity using the Five Crosses Industrial Estate access;
- The acceptability of the principle of the new access to Gwernygaseg Road for staff cars only (no HGV access) was confirmed by WCBC subject to the provision of satisfactory visibility at the access and sufficient width to accommodate two-way vehicle movements to/from the public highway;
- In order to assess the suitability of the proposed access arrangement, speed and traffic surveys were undertaken on Gwernygaseg Road, from which it was confirmed that acceptable visibility is met and/or exceeded in both directions. In addition, the access design provides for two-way vehicle movement to / from Gwernygaseg Road;
- It was also found that with the cumulative traffic volumes associated with baseline observed flows and the additional staff movements, at the peak hour period the combined flow of 159 vehicles was well within the capacity of Gwernygaseg Road and represented approximately half the flow that could be accommodated on a single track road with passing places without unacceptable delay (300 vehicles per hour);
- The proposed access arrangement would direct all traffic leaving the staff car park to the right on exit, resulting in vehicles passing through the Five Crosses junction to the south. The junction was reviewed and found to provide acceptable visibility;
- A review of recent collision data confirms the junction has a good safety record, with no recorded injury accidents within the most recent 5 year period available on the Crashmap website;

- A review of the existing staff and vehicle movements has been undertaken and compared with the proposed scenario with the Phase 1 and 2 developments in place;
- When taking into account additional staff, visitor and delivery trips, it was established that the proposed peak parking demand within the proposed new staff car park would be 117 vehicles from 119 total staff vehicles, which result in 238 movements per day on Gwernygaseg Road, with a corresponding reduction on the existing access route through Five Crosses Industrial Estate;
- The peak hourly traffic movements on Gwernygaseg Road associated with the proposed Phase 2 development was found to be 52 movements (all leaving the site). This falls within the range of hour to hour traffic movements observed on Gwernygaseg Road, which was found to be 114 vehicles; and
- Having considered the foregoing, it is concluded that the impact of the proposed Phase 2 development on the local highway network would be acceptable.

10.4.17 In light of the above, it is considered that the proposed development would accord with UDP Policies PS4, GDP1 d) and e) and T8.

10.4.18 The proposed development would also accord with the guidance provided within Sections 4.7<sup>10</sup>, 7.6<sup>11</sup> and 8<sup>12</sup> of PPW.

## **10.5 Noise**

10.5.1 It is acknowledged that there have been allegations of noise nuisance arising from chiller units installed at rear of the main Dairy building which resulted in a Noise Abatement Notice being served.

10.5.2 Tomlinson's Dairies Limited has worked proactively with Wrexham CBC in seeking to reduce noise emissions from the site, with a range of measures having been implemented including:

- Installing an acoustic screen around the original chillers;
- Replacing the original chillers with 'super silent' chillers;

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<sup>10</sup> Sustainable settlement strategy: locating new development

<sup>11</sup> Development control and the economy, including the benefits of co-location

<sup>12</sup> Transport and in particular paragraph 8.1.4, section 8.2 and paragraph 8.7.1.

- Installing additional acoustic screening around the ‘super silent’ chillers, fitting compressor jackets etc.; and finally
  - Relocating the ‘super silent’ chillers to a better-screened location within the Dairy site.
- 10.5.3 This process has taken some time to resolve, in part due to the need to reach agreement with the suppliers as to the re-siting of the ‘super silent’ chillers.
- 10.5.4 It is anticipated that the requirements of the Noise Abatement Notice will now have been met.
- 10.5.5 Tomlinson’s Dairies is also implementing a range of other noise mitigation measures including the replacement reversing safety beepers on all of their own vehicles with Broadband White Noise beepers; and the training of relevant staff at induction and periodically thereafter on the importance of noise reduction.
- 10.5.6 In order to inform the determination of the planning applications for the Phase 2 Cold Store Extension and the Phase 3 Blow Moulding Building Extension, an Environmental Noise Assessment has been undertaken by the Acoustical Investigation & Research Organisation Ltd (AIRO). The assessment addresses the combined or cumulative effects of the proposals for the Phase 1, Phase 2 and Phase 3 developments. An assessment of the effects of the Phase 1 Cold Store Extension in isolation was prepared and submitted with the planning application for the Phase 1 development. That report is appended to the report for the combined Phase 1, Phase 2 and Phase 3 developments.
- 10.5.7 The AIRO report concludes that The Chase is the closest noise sensitive property to the blow moulding building and Kalver is the closest noise sensitive property to the cold store extensions.
- 10.5.8 The proposals are not expected to have any adverse noise impact on The Chase as:
- the cold store extension to the main dairy building would result in the loading bays on the eastern elevation being located further away from The Chase;
  - the extension to the blow moulding building would also serve to further screen The Chase from noise emanating from loading bay activity on the eastern elevation of the main dairy building
  - the loading bays on the southern elevation of the main dairy building would be screened from The Chase by the building itself;

- there are no significant new noise sources associated with the blow moulding building extension (Phase 3);
- the blow moulding building extension would provide additional screening of the Chase from external plant already located along the north eastern elevation of the existing blow moulding building, including the recently relocated blue box chillers; and
- The existing relocated Coolmation blue box chillers should have sufficient capacity to accommodate the increase in milk output.

10.5.9 At Kalver, the latest measurements of background noise levels show lower background noise levels than those measured prior to the dairy being constructed in 2007. This indicates that the existing dairy has not adversely affected background noise levels at Kalver since becoming operational.

10.5.10 In order to comply with the noise criteria likely to be sought by the local authority, AIRO has recommended boundary treatments incorporating additional noise screening. These will include a new bund supplemented by a 2.4 metre high timber acoustic fence and the replacement of the existing acoustic fence between the main dairy and Kalver with a 3.0 metre high fence.

10.5.11 With the proposed screening implemented it is assessed that noise levels arising from the proposals at Kalver would not exceed the background noise level by more than 5 dB.

10.5.12 Overall, AIRO note that the predicted dairy noise levels from the proposals are low and are significantly better than general guidance on limits for environmental noise levels for dwellings (for example from the World Health Organisation and BS 8233).

10.5.13 Accordingly, it is considered that the three Phases of the proposed development would individually and collectively accord with the policies on noise contained within section 13.15 of PPW and UDP Policies PS2 and GDP1f.

## **10.6 Landscape and Visual Impact**

10.6.1 A Landscape and Visual Impact Appraisal assessing the combined effects of the Phase 1 and Phase 2 developments has been undertaken by Allan Moss Associates Ltd which has regard to the Landscape Institute's 'Guidelines for Landscape and Visual Impact Assessment: Third Edition 2013' (GLVIA3).

10.6.2 The Appraisal provides an evidence base to inform the decision-making process from a landscape character and visual amenity perspective and covers matters including:

- Description of the proposed development and identification of the range of potential landscape and visual effects;
- Description of the site and surrounding locality; a description of overall visibility; and the identification of potential visual receptor locations relevant to the proposed development;
- Identification of relevant landscape character classifications;
- Assessment of landscape value and landscape susceptibility against appropriate criteria;
- Assessment of the magnitude of the landscape effects of the proposed development against appropriate criteria;
- Assessment of the overall level of landscape effects against appropriate criteria;
- Assessment of visual amenity value and visual receptor susceptibility against appropriate criteria;
- Assessment of the magnitude of visual effects of the proposed development against appropriate criteria; and
- Assessment of the overall level of visual effects against appropriate criteria.

10.6.3 A review of the Wrexham LANDMAP SPD 2007 indicates that the land at Tomlinson's Dairies has been classified as falling within Landscape Character Area 7d: Wrexham Ridges and Valleys, the character of which is summarised as:

*'A complex area of former mining villages, industry, farmland and woodland in a landscape of distinct ridges and valleys which are aligned towards Wrexham town.'*

10.6.4 The Landscape Appraisal notes that there are no national or local landscape designations affecting the land at Tomlinson's Dairies or the wider Gwenfro valley. The landscape is however considered to have local value in contributing to the rural outlook when viewed from identified local footpaths, roads and properties. Accordingly, in the absence of any special landscape interests or specific landscape recognition, the landscape of the Gwenfro Valey is assessed as having Local Level Value.

- 10.6.5 Further to the west, the high ground around Minera Mountain lies within the wider Ruabon Mountain Special Landscape Area, which is a non-statutory landscape designation that conveys recognition of the landscape value of those upland areas at a District/County level.
- 10.6.6 All the judgements relating to landscape value, landscape susceptibility, scale of effect, geographical extent, duration and reversibility have been arranged within Table 9 of the Landscape and Visual Impact Appraisal and the overall levels of effects are summarised below.
- 10.6.7 The Appraisal confirms that there are no indicators that suggest that the site and surrounding landscape should be treated as having high landscape susceptibility. Whilst there are some indicators of moderate landscape susceptibility, most of the indicators suggest low landscape susceptibility. The site is therefore considered to be reasonably suited to accommodating further industrial development. The application site and surrounding landscape is assessed as having Low/Medium Landscape Susceptibility to accommodating the future expansion of Tomlinson's Dairies.
- 10.6.8 In terms of direct effects on existing landscape features, the proposed development would result in the loss of one small field (approximately 0.66 ha) which is currently unused and unmanaged and is required for the formation of the staff car parking area and access onto Gwernygaseg Road. There would also be some small scale hedgerow removal required and the loss of some recent internal planting to accommodate the relocation of the surface water attenuation pool. The overall level of effect on existing landscape features is considered to be Negligible adverse.
- 10.6.9 However, the Phase 2 landscaping proposals would result in an increase of approximately 2,185m<sup>2</sup> of native tree belt planting along the northern and eastern site boundaries. This will be of long term benefit in terms of integrating both the proposed and existing development with its surroundings. The scale of effect would be Medium beneficial; over a Medium geographical extent; and would be effective in the Long Term. The overall level of effect is therefore considered to be Moderate beneficial.
- 10.6.10 Perhaps the most important landscape consideration is the effect that the proposed development will have on the character of the local landscape. The proposed expansion would lead to an intensification of industrial development on the northern edge of the Five Crosses Industrial Estate. The Phase 1 and Phase 2 cold store extensions would however be largely screened to the south and west by the existing industrial buildings and by vegetation along the adjacent disused railway.

Effects on landscape character will therefore be limited to a localised area to the north and east along this part of the Gwenfro valley.

- 10.6.11 The character of this landscape is already influenced by its proximity to the existing Five Crosses Industrial Estate, the overhead power lines and the wider urban area. The effect of the proposed developments needs to be considered in this context. The proposed tree planting along the northern and eastern site boundaries will help to mitigate the effects of both the proposed and existing development on the adjoining countryside as it takes effect.
- 10.6.12 The local landscape has been assessed as having value at a Local level and Low/Medium susceptibility to accommodating the future expansion of Tomlinson's Dairies. The scale of effect on the character of the local landscape has been assessed as Low/Medium adverse across a Medium geographical area in the Medium Term. However, in the Medium/Long Term, the development will be substantially softened as the new tree planting takes effect, reducing the scale of effect to Low adverse. Whilst this effect may be raised as a local issue, it is unlikely to be regarded as an important decision making issue given that the majority of the development will take place within the confines of the existing industrial estate. The overall level of effect on the character of the local landscape is therefore considered to be Minor adverse.
- 10.6.13 All of the judgements relating to visual amenity value, visual receptor susceptibility, scale of effect, geographical extent, duration and reversibility are set out in Table 17 of the Landscape and Visual Impact Appraisal and are summarised below.
- 10.6.14 The main public views of the development would be from the east and north east including Gwernygaseg Road, Brymbo Road and public footpaths BR/60, 61 and 63. Walkers using these routes have generally been treated as having Medium/High susceptibility, although the views are of Local Level value only. The scale of effect from these locations varies from Medium to Low/Medium adverse, given the context of the existing industrial estate and the urban area generally. The geographical extent of the effect varies from Medium to Low/Medium and the duration of effect will be Medium/Long Term until the new tree planting takes effect.
- 10.6.15 Whilst such visual effects are important at local scale, they are unlikely to be regarded as overriding decision making issues given that the majority of the development will take place within the confines of the existing employment area and that the new planting will benefit the appearance of the existing development as well as the proposed extensions. The overall level of effect on the visual amenity of

Gwernygaseg Road, Brymbo Road and Footpaths BRY/60, 61 and 63 is therefore considered to be Moderate adverse.

- 10.6.16 The residential properties at Gwern-y-gaseg will experience similar visual effects. The overall level of effect on these properties is also therefore considered to be Moderate adverse as is the effect at Kalver/Cae Crwn.
- 10.6.17 The overall level of effect on visual amenity along Minera Road and Footpath BRY/62 is considered to be Minor adverse as is the effect on private views from residential properties at Gegin and Pentre Fron.
- 10.6.18 The effect on all the other visual receptor locations identified in the Appraisal is considered to be Negligible.
- 10.6.19 The Phase 1 & Phase 2 cold store extensions collectively would not therefore conflict with the landscape related policies within section 5 of PPW or UDP Policies PS2 and EC4.

## **10.7 Biodiversity**

- 10.7.1 An Ecological Appraisal of the Tomlinson's Dairies site and the proposed development has been undertaken by ECUS Environmental Consultants.
- 10.7.2 The Appraisal notes that natural habitats within the Dairy site as a whole include semi-improved, improved, amenity and marshy grassland, hedgerow, scattered scrub and tall ruderal vegetation.
- 10.7.3 Habitats within the Phase 2 application area include buildings and hardstandings, semi-improved and marshy grassland, tall ruderal vegetation, scattered trees (recently planted) and hedgerow which are considered to be of importance for nature conservation at no greater than the site level.
- 10.7.4 The proposed Phase 2 development is unlikely to affect the local badger population, however, as badgers are active in the wider area and have potential to use the site as part of a wider foraging resource, there is potential for badgers to move through the site during the construction phase. As such, all deep excavations should be covered overnight unless completely fenced off and any unfenced/uncovered shallow excavations should have a scaffold board or equivalent placed in them to act as a ramp to allow any badgers to exit should they fall in. This approach will also help protect hedgehogs which also have the potential to cross the site from time to time.

- 10.7.5 Nesting birds have the potential to use the mature hedgerow during the breeding season (March to August inclusive). Any hedgerow removal should therefore be scheduled outside of bird breeding season between September and February inclusive, if needed. If it is not possible to schedule clearance works for these months, a breeding bird check should be undertaken by a suitably qualified ecologist no more than two days prior to clearance.
- 10.7.6 No other ecological constraints to development were identified during the Ecological Appraisal.
- 10.7.7 A suite of ecological enhancements have been included within the Phase 2 development, including the establishment of significant areas of native broadleaved trees and shrubs of local provenance, the gapping-up and establishment of new hedgerows and the erection of bird nesting boxes.
- 10.7.8 Accordingly it is considered that the proposed development would not conflict with the policies relating to biodiversity within section 5 of PPW or UDP Policies PS11, GDP1 h), EC4 or EC6.

## **10.8 Flood Risk and Drainage**

- 10.8.1 The proposed developments are within Flood Zone 1 and are at an elevated level relative to the land to the south. Accordingly, the risk of flooding from watercourses is not considered significant.
- 10.8.2 As part of the Phase 2 development, the main surface water attenuation pool would be located further to the east and would be enlarged in order to accommodate surface water run-off from all of the roof areas and hardstandings within the site resulting from the Phase 1, Phase 2 and Phase 3 extensions to the existing dairy facilities.
- 10.8.3 The surface water generated from the existing main Five Crosses access route would continue to be dealt with by the smaller attenuation pool located adjacent to the access.
- 10.8.4 The developments associated with Phases 1, 2 and 3 would create a net increase of approximately 10,524m<sup>2</sup> in impermeable surface areas comprising proposed new roof areas, new hardstanding and new staff car parking area. When coupled with the existing developed areas, the dairy site would have a total impermeable surface area of 2.495 ha. Based on this area, the green field runoff at 5l/s/ha would be 12 litres/second.

- 10.8.5 The proposed new attenuation would accommodate the surface water run-off from all of the impermeable surfaces within the TDL with the exception of the existing Five Crosses access drive, which is served by its own surface water attenuation pool.
- 10.8.6 The proposed new surface water attenuation would need to attenuate volumes including 1 in 100 year storm plus climate change event and the required storage capacity would be 1,382m<sup>3</sup>.
- 10.8.7 The new surface water attenuation would be provided for by way a new surface water attenuation pool linked to an underground cellular storage pond which together will provide a storage capacity of 1,650m<sup>3</sup> whilst maintaining a minimum 500mm freeboard. Accordingly, the system will attenuate all storm events up to the 1 in 100 year event + 30% for climate change.
- 10.8.8 Consequently, the proposed Phase 1, Phase 2 and Phase 3 developments would not be at risk of flooding, nor would they increase the risk of flooding elsewhere. Accordingly, it is considered that the proposed development would accord with policies within section 13.4 of PPW and UDP policies GDP1 f) & i) and EC13.

## **10.9 Arboricultural Impact**

- 10.9.1 A Tree Survey and Report for developments within Phases 1, 2 and 3 has been undertaken by Chris Wait of Chris Wait & Associates.
- 10.9.2 The Survey established that there are six trees within the vicinity of the proposed developments that have grown with minimal constraint and have been allowed to develop as naturally fully formed trees.
- 10.9.3 A Tree Protection Plan has been prepared and the Report confirms that all of the trees identified on that Tree Protection Plan can be retained and that none of the trees will be constrained by the proposed developments
- 10.9.4 No tree crowns directly impinge upon the development areas although some are close and may require some pruning and/or minor crown lifting to enable access for construction purposes.
- 10.9.5 Construction Exclusion Zones have been identified in accordance with the Tree Protection Plan and will be safeguarded in accordance with the Arboricultural Method Statement in order to minimise the risk to the RPAs of retained trees and hedgerows.

10.9.6 In light of the above, the proposed development would comply with PPW paragraphs 5.2.9 and 5.2.10 and UDP Policy EC4.

## **10.10 Welsh Language**

10.10.1 The creation of a prosperous local economy is one of the key factors in supporting and maintaining the Welsh language and Welsh cultural identity, as set out within PPW, TAN 20, the UDP, the emerging LDP, LPG 21 and LDP Topic Paper 11.

10.10.2 TDL is a successful local family business which makes a significant contribution to the local and wider rural economy.

10.10.3 The proposed expansion of the TDL site at the Five Crosses Industrial Estate will provide significant employment and economic benefits to the local community by virtue of:

- Creating an additional 60 full time jobs with roles at a range of levels within the company structure which will equate to an additional annual salary spend in the local area of around £1.7 million;
- A capital spend of approximately £14 million at the Five Crosses site; and
- An increase of in the order of £7 million per annum on services, contractors and suppliers (excluding raw milk), a significant proportion of which will be based locally.

10.10.4 The TDL site is located within the Five Crosses Industrial Estate and is accessible from both Coedpoeth and Minera on foot and by bicycle. It is also accessible by regular public transport. Coedpoeth has been identified as a Tier 2 Key Settlement within the emerging LDP Preferred strategy and as such is deemed to be an inherently sustainable settlement and a suitable location for new development. The majority of the TDL site is located within the Coedpoeth Settlement Limit or within areas that are already covered by planning permissions for employment developments. That area has been identified as Candidate Site for an employment allocation within the emerging LDP and as such, sustainability assessments (including that relating to the Welsh language) will have been undertaken as part of the LDP preparation process.

10.10.5 The significant contribution that the proposed development will make to the local economy in terms of direct employment creation and indirect employment support and creation (agricultural sector, construction sector and the service and supply chain) will have a significant positive effect on the wellbeing of the Welsh language

within Coedpoeth and Minera, through the retention and creation of local jobs, thereby diminishing a key driver for outward migration of local people.

- 10.10.6 TDL has a positive approach to the use of the Welsh language within the workplace. It also has an effective staff development programme which has seen the rapid promotion of staff to key upper management positions within the company. This provides the opportunity for career progression for existing and new employees which should encourage the retention of the local workforce.
- 10.10.7 The emerging LDP will make provision for additional new open market and affordable housing within Coedpoeth. Whilst the numbers are not fixed, the average provision across Tier 2 Settlements is likely to be in the order of 133 dwellings per settlement. Without the provision of additional employment opportunities within Coedpoeth, this is likely to result in inward migration and the gradual shift in the nature of Coedpoeth and Minera towards dormitory settlements. The expansion of TDL and the additional economic and employment opportunities this will afford to local people will help to balance the potentially negative effects for the wellbeing of the Welsh language which might otherwise occur from residential only development within the village.
- 10.10.8 The provision of additional housing within Coedpoeth by way of the emerging LDP will however help to counter any potential upward pressure on house prices arising from the TDL development. This will help to ensure the availability of affordable open market housing and affordable housing to local people, whether Welsh speaking or not.
- 10.10.9 The TDL developments should not adversely affect educational provision within the locality or the use of the Welsh language within the school environment. On the contrary, a possible effect of retaining more local people of working age (and by association, their families) would be the retention of more local Welsh speaking children.
- 10.10.10 Accordingly, it is considered that the proposed developments will have a positive impact on the use of the Welsh language within Coedpoeth and Minera and will also help to improve the vitality and sustainability of these communities.

## **11. SUMMARY & CONCLUSION**

11.1 Tomlinson's Dairies Limited is a successful local family business which was established at Pen y Palmant Farm in 1983 and which now:

- ❑ Processes approximately 95 million litres of milk per annum;
- ❑ Directly employs 174 members of staff of whom 155 are based at the Five Crosses Dairy site;
- ❑ Purchases milk from 71 dairy farms within the north east Wales milk field, of which 48 are direct suppliers located an average of approximately 13 miles from the Dairy;
- ❑ Supports an estimated 234 on-farm jobs;
- ❑ Directly and indirectly supports employment within the wider economy with an annual spend on suppliers, contractors and other service providers (excluding raw milk) of approximately £7.2 million per annum; and
- ❑ Supplies Welsh milk and other dairy products to small, medium and large chains of shops, including ASDA stores across Wales, Marks & Spencer, Tesco, Costa Coffee, hospitals across North Wales, schools across North Wales, wholesalers and around 60 milk rounds run by other businesses.

11.2 Tomlinson's Dairies Limited has recently been selected by J Sainsbury to process and deliver a further 100 million litres of milk and cream to its stores within Wales and parts of England.

11.3 This will help to deliver the Welsh Government's strategy for the dairy sector which aims to significantly increase the amount milk processed in Wales by 2020 through the expansion of existing established dairy processors.

11.4 Whilst the existing Five Crosses Dairy has sufficient capacity to process the additional milk, delivery is constrained principally due to insufficient cold storage capacity, insufficient storage for the increased number of poly bottles that will be blow moulded on site and inadequate car parking.

11.5 In order to help facilitate the required increase in output and the associated increase in employment, Tomlinson's Dairies Limited needs to increase the size of its cold storage facilities through the extension of the existing main dairy building; provide additional poly bottle production and storage facilities through the extension of the existing blow moulding building; and to re-organise and extend on-site car parking.

- 11.6 Given that the dairy has to continue operating throughout the development process, the development will be arranged into three Phases, with each Phase being the subject of a separate planning application.
- 11.7 The cold store extension to the main Dairy building will be constructed in the first two Phases, with approximately 36% of the required cold store capacity being provided within Phase 1. The Phase 2 development will involve: the construction of the remaining part of the cold store extension; the replacement of the existing raw milk silos with five new silos; the formation of new hardstandings; the formation of a new staff car park with car only access onto Gwernygaseg Road; the formation of new surface water attenuation; and the establishment of extensive landscaping and biodiversity enhancements.
- 11.8 The proposed expansion of Tomlinson's Dairies' facilities and the delivery of the additional milk to J Sainsbury will provide a range of significant socio-economic benefits including:
- The direct employment of an additional 53 full time jobs in milk processing-related roles (Phases 1 and 2);
  - The direct employment of an additional 7 full time jobs in the on-site fabrication of poly-bottles (Phase 3);
  - The purchasing of milk from an additional 47 farms supporting an estimated 155 jobs in the rural economy;
  - An increase in direct and indirect employment within the wider economy (e.g. suppliers, contractors and other service providers);
  - A capital investment of approximately £14 million in Minera/Coedpoeth supporting numerous construction jobs; and
  - Reinforcing Wrexham County Borough as an emerging drinks and food manufacturing hub.
- 11.9 The proposed Phase 2 development has been subject to a range of surveys and assessments including a Landscape and Visual Impact Appraisal, Ecological Appraisal, Transport Statement, Environmental Noise Assessment; Flood Risk Assessment; Tree Survey Welsh Language Impact Assessment. It has been concluded that the development would not give rise to any over-riding or unacceptable environmental or social impacts.

- 11.10 It is acknowledged that the development would take place outside of the Coedpoeth settlement limit as defined in the Wrexham Unitary Development Plan 1996 – 2011. However, the UDP was only intended to cover the period to 2011 and consequently does not adequately cater for current development needs.
- 11.11 Planning Policy Wales confirms that in relation to the taking of planning decisions:
- ‘All applications should be considered in relation to up to date policies’*
- 11.12 Paragraph 4.2.4 of Planning Policy Wales goes on to confirm that legislation secures a presumption in favour of sustainable development in accordance with the development plan for the area unless material considerations indicate otherwise. However, where, inter alia, relevant development plan policies are considered outdated or superceded, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.
- 11.13 The Council’s Economy, Employment and Retail Topic Paper: 6, dated March 2014, which was prepared in connection with the emerging Local Development Plan 2013 – 2028, confirms that the Five Crosses Industrial Estate is the only ‘employment site’ in the Coedpoeth and North West Cluster. It also confirmed that there was no available industrial space left.
- 11.14 The development would nevertheless be located largely within a site that benefits from the planning permission for the original Dairy development and abuts the Coedpoeth Settlement limit.
- 11.15 The site is also being promoted through the emerging Local Development Plan 2013 – 2028 and has been identified as a Candidate Employment Site. The Council’s comments on the Candidate site state:
- ‘ The site complies with the Council’s Preferred Strategy and may have potential to contribute to meeting the future growth demands within the County Borough. The site has planning permission.’*
- 11.16 The area of the proposed staff car park is also being promoted through the emerging LDP as an Alternative Site for employment.
- 11.17 The proposed development draws support from Planning Policy Wales and the associated relevant Technical Advice Notes.

- 11.18 The Lower Leighton Farm dairy extension decision (and subsequent High Court judgement) is also of relevance in this instance as it emphasises the relative weight to be attached to environmental, social, economic and employment benefits as material planning considerations in the overall planning balance and the determination of planning applications.
- 11.19 It is also relevant to have regard to the importance attached to the Welsh dairy and processing industry by the Welsh Government and the assistance that the development will provide to the Council in meeting the economic challenges identified in paragraph 7.3 of the UDP.
- 11.20 In the light of the above, it is considered that the proposed development would accord with the development plan when considered as a whole, notwithstanding the site's location adjacent to but outside of the Coedpoeth Settlement Limit.
- 11.21 In any event, the socio-economic and employment benefits of the proposed development are so significant that they would outweigh any perceived conflict with UDP policies, particularly given that the UDP plan period expired in 2011.
- 11.22 Accordingly, it is respectfully requested that planning permission be granted for the proposed Phase 2 cold store development without delay.

***David A Haston Dip Est Man MRICS***

***Ian S Reynolds BSc MRICS***

***Haston Reynolds Ltd***

***July 2016***

**APPENDIX 1**  
**J SAINSBURY PRESS RELEASE**

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# Sainsbury's announces changes to milk processor contracts



Sainsbury's is set to work with two additional processors from July 2017 to help deliver a long-term, sustainable supply of fresh British milk. Through its dedicated group of 270+ farmers, its fresh British milk and cream is currently processed by Arla and Muller Milk & Ingredients. From next year, supply will also be processed through Tomlinson and Medina.

The changes to the milk processors come as part of a supplier tender, which is a standard process across retail to ensure customers are offered the best quality and value. Whilst changes will be introduced from next year and run until 2020, the retailer will continue to source from the same group of farmers and remains committed to the long-term sustainability of the Sainsbury's Dairy Development Group.

The two additional processors are family owned businesses. Tomlinson's Dairies, a processor based in Wrexham, Wales will take on milk distributed to stores in Wales and parts of England and Medina Dairy will supply a number of stores in the South of England.

Sainsbury's has 270+ dairy farmers in the Sainsbury's Dairy Development Group (SDDG) which was established in 2007. Our aim remains to work with our suppliers to ensure sustainable profits for them and a sustainable source of British milk for our customers. In 2012 our cost of production model (COP) was voted for by the majority of our farmers, this model is unique to the SDDG and is used to set a price for the milk our farmers produce across England, Wales and Scotland. The price is reviewed every three months to ensure our farmers receive a fair price that builds in a profit and rewards them for environmental and animal welfare standards.

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**APPENDIX 2**  
**LOWER LEIGHTON FARM DECISION**

Carl Sargeant AC / AM  
Y Gweinidog Tai ac Adfywio  
Minister for Housing and Regeneration



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: qA1105342

Richard J Corbett  
Partner  
Roger Parry & Partners LLP  
The Estates Office  
20, Salop Road  
Oswestry  
SY11 2NU

30 October 2013

Dear Mr Corbett

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED): SECTION 77  
APPLICATION BY MR FRASER JONES  
EXTENSION TO THE EXISTING DAIRY UNIT AT LOWER LEIGHTON FARM,  
LEIGHTON, WELSHPOOL, SY21 8HH**

1. Consideration has been given to the report of the Inspector, Ms Katie Peerless Dip Arch RIBA, who held an inquiry into your client's application for the extension to the existing dairy unit at Lower Leighton Farm, Leighton, Welshpool, to include proposed milking parlour, livestock cubicle buildings, fodder storage buildings, slurry stores and water storage tower together with associated landscaping, highways improvements and land to be given to Leighton community.
2. On 24 January 2012 the then Minister for Environment, Sustainability and Housing, one of the Welsh Ministers, directed under section 77 of the Town and Country Planning Act 1990 ("the 1990 Act") that the application be referred to the Welsh Ministers for their determination rather than be determined by the local planning authority. Under the provisions of the Government of Wales Act 2006 the power to determine applications under section 77 of the 1990 Act has been transferred to the Welsh Ministers and, in this case, this power is being exercised by me, the Minister for Housing and Regeneration.
3. The application was dealt with via a public inquiry held on 05-08 and 12-15 March 2013. Site visits were made on 29 November 2012 and 11 March 2013. The Inspector's conclusions are set out in paragraphs 350 – 454 of her report, a copy of which is enclosed, and these paragraphs are reproduced as Annex A to this letter. The Inspector recommended that the application be refused. For the reasons given below I do not accept the Inspector's recommendation.

4. The Inspector considered that, although a number of matters were raised with regard to the application, the main considerations in this application, and those which were considered by the inquiry, are as follows:

the effect of the proposed development on the local environment with particular reference to:

- the character and appearance of the surrounding landscape;
- the settings of the heritage assets at Powis Castle and Gardens, the listed building and Registered Park and Garden of the Leighton Hall Estate and the Scheduled Ancient Monument of Offa's Dyke;
- slurry spreading and disposal of waste water;
- the amenities of nearby residents in terms of odour, noise and the need for pest control;
- the health of local residents, including children at the primary school;
- animal welfare; and
- human rights.

5. I agree with the Inspector that these are relevant issues, but I also consider that the economic aspects of the proposed development are a main consideration in the determination of this application.

#### **Inspector's Overall Conclusions and Balancing Exercise**

6. The Inspector's conclusions on the issues identified in paragraph 4 above are at paragraphs 352 to 434 of her Report with her overall conclusions, at paragraphs 442 to 454 of her Report, as follows:-

"442. I have concluded that the proposed development would conflict with the adopted UDP in that it would cause harm to the landscape quality of the surroundings and the settings of a number of listed buildings and other heritage assets. If planning permission were to be granted for the scheme in the face of this conflict, the harm would need to be clearly outweighed by other material considerations, as explained in S38 (6) of the Planning and Compulsory Purchase Act 2004.

443. There are advantages to the proposal that weigh in favour of the grant of planning permission and which can be considered against the harm found on the main issues that were considered by the Inquiry. These advantages include the fact that the proposed development would create a number of new jobs, both permanently on the farm, and during the temporary construction phase. There was some discrepancy in the documents submitted by the applicant on the actual number of jobs, but he confirmed at the Inquiry that, by the time the scheme was fully operational, he would employ 10 herdsman, a manager and a secretary as well as sub-contracting regularly to a veterinary surgeon (who might possibly be taken on as a full time employee), a foot trimmer and a pest control operative. At present he employs 3 herdsman, a manager and a part-time secretary.

444. The financial investment in the project would run into 7 figures and would be in accordance with the encouragement given by the Strategic Action Plan for the Welsh Dairy Industry for investment and innovation in the industry.

445. The proposal would also result in an improvement in the existing farm operation and have benefits in terms of reducing cattle movements across the road, upgrading the current slurry storage and manure spreading systems and reducing the traffic accessing the farm.

446. There are clear economic benefits associated with the proposal, not only for the applicant but also for the wider dairy industry in Wales. The proportion of the national output supplied by Lower Leighton Farm would nonetheless be only about 1% and the creation of 8 or 9 new permanent jobs would not be particularly significant in an industry that employs a total of 5000 on, and in direct association with, dairy farms.

447. However, the injection of this level of investment, in an industry that evidence suggests is presently in decline in terms of employee numbers, must be of some importance. All these matters weigh in favour of the grant of planning permission for the scheme.

448. It would also be in accord with the requirement in PPW 7.1.3 to support economic growth and (in 7.2.2) to give it equal consideration alongside social and environmental issues. This requirement might be considered to create a tension with the provisions of s.66 of the LBCA, where harm to listed buildings and their settings is accorded a special weight. However, '*environmental matters*', whilst they can include heritage issues, cover a wide range of other topics and I consider that the policy requirement in PPW would not override the statutory duty set out in the LBCA in respect of the particular regard to be given to the protection of listed buildings and their settings. Therefore, the economic benefits need to be given equal weight when set against other policy considerations but, in a situation where all things were otherwise equal, the listed building issues would be likely to be the deciding factor.

449. The benefits fall to be set against the identified harm caused to the landscape quality of the surroundings and the setting of the heritage assets that has been described in preceding paragraphs. As noted, the impact of the proposal on the setting of the listed buildings must be given special regard under the requirements of s.66 of the LBCA. The *East Northamptonshire* case has highlighted that this means that special weight or considerable importance must be given to this matter when carrying out any balancing exercise on the planning merits and disbenefits of a proposal. UDP policies also make clear that the economic benefits of a proposal must be considered against any harmful impact on local amenity.

450. I have found that the harm to the settings of the listed buildings of Holy Trinity Church and the terraces at Powis Castle would be significant and this factor consequently carries great weight. The numbers of people that would experience the views in which the farm would be prominent would be over 100,000 each year and, even if the visitors and countryside users were not all aware of the importance of the historic link between the landscape and the heritage assets, the introduction of this development into some of the major vistas would nevertheless have the effect of diminishing how the landscape setting is experienced. The mitigation measures proposed would take 15 years to reach their optimum condition but, even then, I have doubts that they would be fully effective.

451. The economic benefits are not enough, in my opinion, to outweigh this considerable harm. The number of jobs created, although welcome, would not be great; indeed the numbers of cattle/herdsman envisaged by the applicant would be about, or even below, the national average and, in terms of employment, this unit would not seem to offer any overall advantage over the same number of cows being kept in smaller units. One of the reasons for using this type of farming method is the economy associated with scale and whilst this would be of benefit to the applicant, it would not necessarily make an appreciable difference to the sustainability of the dairy industry as a whole. The applicant confirmed that he would not be reducing the price of his milk if the proposed development went ahead.

452. In conclusion, I find that, whilst any concerns relating to animal welfare, noise and health risks are capable of being satisfactorily dealt with by condition and there would be benefits to the Welsh dairy industry and on a personal level for the applicant's business, there are nevertheless fundamental objections to the proposals. I consider that the weight to be given to the factors in favour of the scheme does not override the conflict with the development plan and the related harm as it relates to the setting of the listed buildings and the RPGs, the quality of the Powys landscape and the, albeit less significant, harm to the SAM of Offa's Dyke. This indicates that planning permission should not be granted for the scheme. The perceptions of local residents in terms of their anxiety about health risks and concerns about the impact on the quality of village life are also matters that, although not determinative, add to the objections to the proposal.

453. In reaching the above conclusions, I have taken into account the Environmental Statement and all other environmental information submitted in connection with the public inquiry.

454. Overall, I conclude that the proposed development would be unacceptably harmful to the setting of the heritage assets at Powis Castle and the Leighton Hall Estate and to the character and appearance of its surroundings and, on balance, contrary to the development plan and national policies that regulate such development."

The Inspector recommended that the application for planning permission be refused.

## **Conclusion**

7. I agree with the Inspector's conclusions on slurry spreading and disposal of waste water (IR 383-387), odour, noise and the need for pest control (IR 388-396), health issues (IR 397-411), animal welfare (IR 412-423), human rights (IR 424-426), impact on the school and village life (IR 427-431), highway issues (IR 432) and on alternative sites (IR 433-434). I also agree with the Inspector that, in respect of the landscape and heritage issues, and having particular regard to the need to accord considerable importance and weight to the desirability of preserving the setting of listed buildings when carrying out any balancing exercise, the proposed development would cause considerable harm. I do not agree with the Inspector, however, as to the weight she has attached to the economic issues arising from this application and the bearing they have on the determination of this application.

8. The proposed development would accord with the requirement in Planning Policy Wales (November 2012) paragraph 7.1.3 to support economic growth and the guidance in paragraph 7.2.2 of Planning Policy Wales has to be taken into consideration:-

"Local planning authorities are required to ensure that the economic benefits associated with a proposed development are understood and that these are given

equal consideration with social and environmental issues on the decision-making process, and should recognise that there will be occasions when the economic benefits will outweigh social and environmental considerations."

In taking this guidance into account I agree with the Inspector's comments at IR 448 that it does not override the statutory duty to have particular regard to the protection of listed buildings and their settings.

9. The proposed development would create new jobs, on the farm (permanently) and during the construction phase. When the scheme is fully operational the applicant will employ 10 herdsmen, a manager and a secretary as well as sub-contracting regularly to a veterinary surgeon (who might possibly be taken on as a full time employee), a foot trimmer and a pest control operative. At present the applicant employs 3 herdsmen, a manager and a part-time secretary. The Inspector did not consider that great weight could be attached to this increase in jobs but, in my view, comparing the number of jobs to be provided locally against the number of jobs in the dairy industry as a whole does not provide for a realistic assessment of the benefits that would arise from the creation of those jobs. Similarly, comparing the milk yield from the proposed development with that produced nationally does not provide for a realistic assessment of the benefits that would arise from the increased production at the site. In my view the weight to be attached to the benefits arising from increased jobs and milk yield should be far more substantial than that afforded to them by the Inspector. As to the Inspector's reference to the confirmation by the applicant that he would not be reducing the price of his milk if the proposed development went ahead, I do not consider it carries any weight in the determination of this application.

10. The Inspector acknowledges that the financial investment in the proposed development would run into 7 figures and concludes that this must be of some importance. In my opinion an investment of this size, and the confidence it infers from the business perspective, is of more than 'some importance' and something to which great weight should be attached. The Inspector also acknowledges that the proposed development would result in an improvement in the existing farm operation and have benefits in terms of reducing cattle movements across the road, upgrading the current slurry storage and manure spreading systems and reducing the traffic accessing the farm.

11. As I have indicated above, and after having particular regard to the need to accord considerable importance and weight to the desirability of preserving the setting of listed buildings when carrying out any balancing exercise, I acknowledge the adverse effect that the proposed development would have on the landscape and the various heritage assets. In the light of my comments above, however, I disagree with the weight the Inspector has attached to the economic benefits arising from the proposed development and consider that they, together with the other benefits identified, are such, in this case, as to override the objections to it in relation to the landscape and heritage assets. The Inspector concluded that the perceptions of local residents in terms of their anxiety about health risks and concerns about the impact on the quality of village life are also matters that, although not determinative, add to the objections to the proposal. I acknowledge those concerns but do not consider that they affect my conclusions.

12. For these reasons I consider that, in this case, the economic benefits of the proposed development outweigh the social and environmental objections and, as such, I propose to allow the application and grant planning permission for the proposed development. I have taken into account the environmental information as defined by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) in reaching my decision on this application.

13. I have received a number of representations relating to the planning merits of the application since the inquiry closed but I do not consider that they affect the initial conclusions on this appeal or raise any issues that should be considered further by the parties.

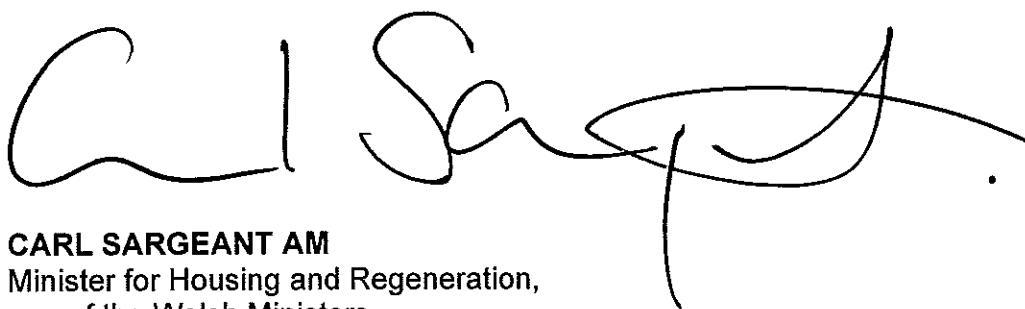
14. I have considered the conditions recommended by the Inspector and have assessed them against the tests contained in Welsh Office Circular 35/95 – The Use of Conditions in Planning Permissions. As a result of that assessment I have made changes to a number of the suggested conditions.

### **FORMAL DECISION**

15. For the reasons given above, and in exercise of the power referred to in paragraph 2 above, I allow your client's application (P2011/0156) and hereby grant planning permission for the extension to the existing dairy unit at Lower Leighton Farm, Leighton, Welshpool, to include proposed milking parlour, livestock cubicle buildings, fodder storage buildings, slurry stores and water storage tower together with associated landscaping highways improvements and land to be given to Leighton community subject to the conditions contained in Annex B to this letter.

16. This letter, a copy of which has been sent to Powys County Council and those who were entitled to appear at the public inquiry and did so, does not convey any approval or consent which may be required under any enactment, bye law, order or regulation other than section 57 of the Town and Country Planning Act 1990

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carl Sargeant', with a long horizontal stroke extending to the right.

**CARL SARGEANT AM**  
Minister for Housing and Regeneration,  
one of the Welsh Ministers.

Enc: Leaflets 'HC' & 'H'

**CONCLUSIONS**

350. The numbers in square brackets in this section are references to previous paragraphs in this Report upon which these conclusions are based.

351. In addition to the concerns raised by the Minister and the revised potential reasons for refusal put forward by Powys County Council (PCC), additional matters have been raised by Rule 6 (6) parties and other interested parties. Taking all these into consideration, the main issues considered by the Inquiry were as follows:

*the effect of the proposed development on the local environment with particular reference to:*

- (i) *the character and appearance of the surrounding landscape*
- (ii) *the settings of the heritage assets at Powis Castle and Gardens, the listed buildings and Registered Park and Garden (RPG) of the Leighton Hall Estate and the Scheduled Ancient Monument (SAM) of Offa's Dyke*
- (iii) *slurry spreading and disposal of waste water*
- (iv) *the amenities of nearby residents in terms of odour, noise and the need for pest control*
- (v) *the health of local residents, including children at the primary school*
- (vi) *animal welfare*
- (vii) *human rights*

**Landscape Character**

352. The Powys landscape is a valued asset and Unitary Development Plan (UDP) policies give great weight to the protection of its character. This is entirely in accordance with the wider scope of Chapter 5 of Planning Policy Wales (PPW) and there was no dispute that the protection of the existing landscape quality is an important and strategic aim of planning policy in Wales. [141] Landscape assessment can be difficult to undertake objectively and consistently and all the witnesses dealing with this topic referred to LANDMAP, as advised by PPW. [151,152] LANDMAP is a tool that aims to eliminate as much subjectivity as possible from the consideration of what the impact a particular development would be on the landscape character of its surroundings. [154] It uses 5 aspect layers which, when taken together, build up a comprehensive picture of the features of importance. These aspects take into account geology, habitats, visual and sensory perceptions, historic sites and cultural influences.

353. In terms of the cultural aspects, part of the site falls within the 'outstanding' designation and the remainder is in the 'high' category; for the historic aspect all of the site is considered to be 'outstanding' and in terms of the visual and sensory aspects it falls within the 'moderate' category. [199] This has lead PCC to conclude that the landscape around the site has a high sensitivity value [165] and the capacity for it to accommodate the development is therefore low. This view is supported by the landscape witness for the Countryside Council for Wales (CCW). [200] However, the applicant's witness did not use the LANDMAP

evaluation of the countryside area in which the application site is located in the same way as the other witnesses, although she states she has taken all the aspects into account. **[153-156, 95]**

354. There was some disagreement between the parties about the relevant viewpoints from which to consider the impact of the development and some of those selected by the opponents of the proposal did not appear to be considered by the applicant's team. **[99, 161, 165, 203]** However, at the site visits, I was taken to all those that were submitted to be the most important by the parties and so was able to see the locations from where any change would appear most significant and form an opinion as to its likely impact.
355. The site lies on the slopes of the Severn Valley in agricultural land, mainly used as pasture, and is dotted with individual farms, clusters of buildings and clumps of woodland. The fields are separated by mature hedges and trees, and on the higher slopes of the valley, as the land rises to Long Mountain, the terrain becomes less cultivated and more wooded. The village of Leighton and its environs are readily located by reference to the spire of Holy Trinity Church whilst the existing farm is identified by the pheasant rearing sheds and the silo tower, and I noted that these are distinctive features in long range as well as closer views. **[205]**
356. The proposed development would extend the built development of the farm to within about 100m of the boundary of Leighton Village Hall and about 45m from the garden to the nearest residential property at Oaklands Cottage. The scale of the new milking parlour, cowsheds, fodder store and slurry and water stores would be significant, both in terms of ground coverage and height, in comparison to most of the nearby buildings. **[207]** Although the silo tower and church both have a strong vertical emphasis and would remain considerably higher than any other buildings in the locality, their footprint areas are relatively small when set against that of the proposed farm expansion, which would consequently occupy a broad swathe of the countryside between the existing buildings and the village and become the most significant man-made feature in the locality. **[209]**
357. It is proposed to provide screening to the application site in the form of tree planting that would be intended to reduce the impact in views from the west. To the south of the buildings, the planted earth bund would separate the site from the remaining pasture field and the village. The gap between the bund and the settlement boundary would be about 60m. The field in which the buildings would be situated slopes down from east to west and the earthworks to create the bund would allow the development to be set into the cut-away land and effectively screened in close views from the south. Similarly, tree planting and a 3m high bund would be used to provide some screening to the slurry stores in views from the west.
358. Nevertheless, views from the B4318 road from Welshpool and the B4388 road which leads into Leighton Village from the north would be dominated by the development, in places obscuring the views of the church and the cluster of red brick buildings close to it. **[176, 203, 226, 327-328]** There are public foot and cycle paths within this area, to the west of the site, that are agreed to be well-used, **[203]** and the nationally important Offa's Dyke Path runs close to the site

to the east; the development would be clearly seen from these, albeit sometimes only for short stretches. Nevertheless, the numbers of people using these paths and the roads means that the significant change in the appearance of the landscape that the development would create in this area would be widely experienced. **[161]**

359. It was agreed that the planting would take several years (up to 15) to become established **[108, 164-165, 207, 227]** and, as it would contain a high proportion of deciduous species, its effectiveness would be reduced in winter. Even at full height, the trees would be unlikely to completely hide the roofs of the buildings, particularly when seen from higher points of the path along Offa's Dyke. The bunds would run contrary to the natural fall of the ground and would therefore clearly be man-made engineered features and the significant extent to which the land would be cut away to accommodate the buildings would also be an unnatural feature within the slope of the pasture land. These elements would, I believe, tend to draw the eye rather than deflect attention away from the development. **[161, 206, 324]** The landscape form would consequently be severely compromised within the 1.2km radius, as noted by the applicant's witness. **[162]**
360. The proposed development would not be so apparent from viewpoints in the middle distance, such as along the Montgomery Canal, due to their lower elevation; nevertheless, it would still be seen from some locations as an intrusive element in the natural lie of the land. The development would also, in my opinion, and contrary to that of the applicant's witness, have a dominant impact on the landscape from viewpoints further away. The longest views are from the terraces at Powis Castle and these will be further considered in the section on heritage impact, but they are particularly important because they would be experienced by a large number of receptors. **[163, 204, 208]**
361. From the higher elevation of Powis Castle, the site appears in the centre of the vista from the terraces, which is contained by the planting on the 'Wilderness' to the south and the ancient yew trees to the north. **[321-324]** From the terraces, I saw that the existing farm was very visible, particularly the roofs of the bird rearing sheds and the silo. The applicant's witness has concluded that, although there would be a significant impact on the character of the landscape when seen in proximity to the development, this impact would not have an unacceptable effect on the wider landscape because it would be proportionately reduced due to the increased distance. However, my own observations lead me to disagree with this assessment.
362. It seems to me that the methodology used by the applicant's witness may have caused her to place insufficient importance on these wider landscape impacts. The lack of specific references to all of LANDMAP's 5 aspects and an analysis of how the proposed development would relate to these, particularly in terms of the historic and cultural significance, in my view, diminishes the weight that can be accorded to her Landscape Visual Impact Assessment (LVIA). One of the purposes of LANDMAP is to allow a consistent evaluation of the quality of the landscape and if all the factors are not taken into account then this evaluation is likely to be fundamentally flawed. **[155]**

363. I saw the site in sunny weather and in darker, rainy conditions and in both situations Lower Leighton Farm was a distinct and readily recognisable landmark and its prominence would only be increased by the addition of the new buildings. Even when the proposed planting had reached its full maturity, and if the buildings were coloured to blend in with the surrounding landscape, I consider that the roofs of the buildings, and in particular building A, would still be seen as discordant elements. The roofs, in whatever colour they were painted, would nevertheless be a solid uniform block that would not alter with the variations in the surroundings that occur over the changing seasons. **[164]**
364. The village of Leighton consists of several small clusters of buildings, including those of the model farm of the Leighton Hall Estate, separated by fields and woods. Compared to this sporadic and low key development, the farm complex would have a considerably greater footprint than many of the individual clusters and its proximity to the school and village hall complex would create the impression of a much larger conglomeration than is typically found on this side of the valley. This change would detract from the typical character of the landscape along the lower slopes of the valley. **[161, 163, 206, 228, 322, 328]**
365. I noted that there are other developments in the valley, and on the outskirts of Welshpool, that have a detrimental impact in the views across it. However, the most prominent are within designated industrial sites and are not, therefore, comparable to new development in designated countryside. In any event, the presence of other discordant features does not set any kind of precedent for allowing further unsympathetic development that would only add to the overall reduction in the attractive quality of the countryside.
366. There was much discussion at the Inquiry about whether the farm extension would appear more like an industrial development than a collection of farm buildings. Certainly the scale of the whole development, including the existing farm buildings and nearby pheasant rearing sheds, would be more akin to an industrial park than a traditional farmstead, although the design of the majority of the individual buildings and the use of materials would be those more usually associated with agricultural structures. However, even if the individual units were identifiable as farm buildings, the combination of the size of the development and the number of buildings in proximity to each other would be distinctly different to what the normal observer would expect to find on a typical farm. **[228]**
367. This would not necessarily be a problem if the buildings were located in a position where they would not be creating such a clearly marked change to the existing landscape. However, in this instance, the development would be sited in the centre of important views from Powis Castle, from where it would close the existing gap between the farm and the village to an appreciable extent. There would still be some green space remaining between the settlement boundary and the farm buildings but, as noted previously, part of this would be the bund which, in itself, would appear as a man-made and somewhat alien feature in the landscape, even, I consider, from a distance and particularly when the leaves are off the trees. **[161, 206]**

368. Although the applicant considers that the development would not be of a scale that could make any significant impact on the character of the wider landscape, its strategic position in the Severn Valley means that it would, in my opinion, be a prominent and disruptive element. **[322-323]** It would not appear as a typical farming complex, as farms of this size are still an unusual feature in the United Kingdom, and it would sit uncomfortably close to Leighton village. **[327]** It would be extremely unlikely that an industrial complex of this size would be granted planning permission in this location, because of its visual impact on the countryside; planning policy calls for large scale agricultural development to be judged against similar criteria. **[147]**
369. The planning witness for PCC noted that there is no 'in principle' objection to this type of large scale farm development in the County but considered that this proposal is in the wrong place. I agree that, in this location, the farm expansion would appear out of place and overly dominant, both in respect of its impact on the setting of the village in the countryside and in long views that take in the wide vista of the Severn Valley. The landscape in this part of Powys is rightly considered to be a valuable resource and the proposed changes to this large site would have a perceptibly harmful impact. The proposed development would consequently conflict with the policy requirement to protect the quality of the surrounding landscape. **[167, 210]**
370. Both main parties agree that it is necessary to determine which of the possible 2 relevant policies in the UDP applies to this case. Although both agree that there was little practical difference between the requirements of policies EC9 and EC10, **[111, 148, 165]** the former applies to agricultural development and the latter to large scale intensive livestock units. The applicant considers that the proposed development should be considered against EC9 as the definition of '*intensive livestock units*' relates only to those housing chickens and pigs. There is no explanation in the UDP of the type of units to which EC10 is intended to apply but the applicant refers to the Environmental Permitting Regulations (EPRs) which cover poultry and pig units but not large scale dairy operations and submits that these are not, therefore, to be considered in the same category.
371. However, the EPRs do not relate to planning controls and are consequently not determinative. It seems to me that there is no doubt that the proposal for Lower Leighton Farm is for a large scale livestock unit. Whether or not this is also '*intensive*' is open to debate, but a sensible interpretation of the policy seems to me to be that it is intended to regulate units where large numbers of animals are kept in buildings for a considerable proportion of the time, as in this case. I therefore conclude that it is policy EC10 and by association, policy EC1, that are most relevant to this proposal. **[148-150]** However, whichever policy applies, I conclude that, for the reasons given above, the scheme would fail to be sympathetic to the character and appearance of its surroundings, would have an unacceptable impact on the landscape quality and fail to complement the surrounding area. It would consequently conflict with the aims and objectives of UDP policies ENV2, EC9 (if applicable), EC10 and GP1.

## Heritage Assets

372. When considering the impact of a proposed development on the setting of a heritage asset, the recent High Court judgement in *East Northamptonshire Council, English Heritage and National Trust v SSCLG and Barnwell Manor Wind Energy Ltd* [2013] EWHC 473<sup>89</sup> has given a timely reminder that decision takers should consider the significance of the asset and the contribution that the setting makes to that significance. The effect of the proposed development on the setting should then be considered and evaluated, as should the impact on the significance of the asset and the appreciation of that significance.
373. The judgement also emphasises that the decision taker should accord considerable importance and weight to the desirability of preserving the setting of listed buildings when carrying out any balancing exercise. **[168, 170-172, 212-214]** The courts have also established that to 'preserve' means to keep free from harm; consequently, if there is any adverse impact, however slight, the requirement to employ 'special regard to the desirability of preserving the listed building or its setting' as set out in s.66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (LBCA) would need to be engaged in any assessment of the weight to be attributed to that harm.
374. It was agreed that the site falls within the setting of the heritage assets at Powis Castle. **[176]** These include the terraces, which each have their own individual listing, and the Grade 1 registered Castle Gardens. The level of designation of the Powis Castle Gardens makes them of 'exceptional' interest and the terraces, being Grade I listed buildings, are amongst the most important historic assets in the Country. **[221]** The site is close to the Grade II\* listed Holy Trinity Church and there is no dispute that the setting of the church would also be affected by the proposed development. **[176]** The church was intrinsically linked to the development of the planned model farm complex and its grand Gothic house built on the Leighton Hall Estate in the mid-1850s and was designed to be one of the focal points of the estate. **[225]**
375. I have already discussed the impact that the proposed development would have on the landscape when seen from Powis Castle and, as noted above, this landscape forms part of the setting of the listed terraces. A fundamental part of the overall design of the terraces was the incorporation of these views, which were intended to be experienced and appreciated from them. **[219, 321]** Over the years the planting within the gardens and the positioning of the statuary on the terraces has combined to give a strong focus on the vistas towards Long Mountain. The eye is led outwards over the formal gardens, to the manicured parkland beyond, then to the pastoral slopes of the Severn Valley and finally upwards to the more rugged slopes of the hills beyond. **[323]** Any significant change to these planned views would consequently affect the setting and have the potential to detract from the appreciation of the significance of the heritage asset. **[324]**

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<sup>89</sup> CD154

376. In most of the vistas, Lower Leighton Farm occupies a central position both horizontally and vertically in the views and, because of this, it is at a natural focal point. **[204]** Already the silo is a landmark that draws the eye and the pheasant rearing sheds are prominent. The inclusion of built development that (even without the bund) would be almost double the width between the northern edge of the silo and the southern edge of the pheasant sheds would have a clearly discernable impact on the setting of the heritage assets at Powis Castle; even the applicant's witness agrees that this impact would be adverse, although, she contends, minimally so. **[161, 173, 173, 123]** It would add a substantial amount of built form into an attractive rural landscape, the views of which were historically intended to enhance the terraces and gardens of Powis Castle. **[215, 219]** In this respect, the harmful impact would, in my opinion, be considerable even given the distance between the viewpoint and the site.
377. As noted previously, some of the views of the church from nearby roads would be obscured by the development. The church acts as a landmark on the southern entrance to the village and this planned hillside setting would be affected; the appreciation of the careful positioning of the building would consequently be significantly diminished. **[178-179, 328]**
378. It has also been submitted that the proposed development would be within the setting of the RPG of the Leighton Hall Estate. It is the case that the Estate originally included Lower Leighton Farm and that LANDMAP recognises this in the assessment of the historic aspects of the area. **[156]**
379. There is now no direct intervisibility between the site and the many listed buildings on the Estate, apart from Holy Trinity Church, as they are separated by the development around the village hall and school. However Lower Leighton Farm remains part of the historic setting of the Estate. **[185, 325-327]** The proposed farm extension would be set at or below the ground level and screened by the bund and tree planting and the impact on the setting of the park would therefore be limited in close views.
380. Nevertheless, in longer views, for example from the 'Wilderness' area of the Powis Castle Gardens, I consider that the proposed development would be seen within the environs of the RPG and consequently have an impact on its setting. For the reasons set out above, I consider that the impact on the landscape setting would be adverse and would consequently add to the objections to the proposal. **[231-232]**
381. The development would also be seen when walking along Offa's Dyke Path. Offa's Dyke is a SAM of national importance and is experienced within a landscape that, in this particular location, includes field patterns that have changed little over the last 150 years as demonstrated by the map extract<sup>90</sup> submitted by PCC. **[184]** The proposed development would change this pattern and include substantial alterations to the landform in proximity to the Dyke. The addition of the bank of trees between the development and the village would also alter the perceived setting of the Dyke. However, these impacts are limited and

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<sup>90</sup> CD147

would not be serious enough to warrant refusal of the application if they were the only objection to it. Nevertheless, they still add some weight to the case against the proposal, as there would be a degree of conflict with the aims of UDP policy ENV17.

382. In summary, I conclude that the proposed development would fail to protect the setting of the listed buildings at Powis Castle and Holy Trinity Church and the RPGs of Powis Castle and the Leighton Hall Estate and have a detrimental, although limited, impact on the setting of Offa's Dyke. It would therefore conflict with the objectives of s.66 of the LBCA, paragraphs 6.1.1 and 6.5.9 of PPW and UDP policies ENV14 and ENV16.

### **Slurry spreading and disposal of waste water**

383. As previously noted, the concerns raised about slurry spreading in proximity to the Coed Byrwydd Site of Special Scientific Interest (SSSI) have now been addressed by the applicant's proposal to use a different tract of land for the disposal of slurry from the proposal. To this end he has produced an updated Manure Management Plan (MMP) and neither the Environment Agency (EA) nor PCC have objected on these grounds. The plan includes a contingency and has also been accepted by CCW.

384. Although CALFe has raised some objections to the MMP, I am satisfied that the applicant has demonstrated that there is sufficient land at his disposal for spreading the slurry that would be produced by the operation. In addition to the contingency land included in the MMP, there is a further 80Ha of land available on a rental basis that could also be used if required. Provision has also been made for the use of an anaerobic digester at Bank Farm, Mellington, which would be available for 30 years, should extreme weather conditions ever make it impossible to apply slurry to land within the floodplain.

385. The applicant's witness also gave a detailed explanation of why he considers that CALFe's witness's calculations on nitrogen levels were incorrect and stated that his own calculations were based on the worst case scenario of the cows being housed all year round, which would not happen in practice.

386. He also explained that the original EA comments were based on the assumptions that the cows would be in a nitrate vulnerable zone (NVZ) and would be housed all year round, which were incorrect. The correspondence referred to was exchanged before the second MMP was issued; the EA have now accepted that report. [30-32] The applicant would be obliged to implement the MMP which would be monitored through independent inspections by the Welsh Government. I find no reason to reject the findings of the appellant's expert witness, particularly as there is no compelling evidence to counteract his report and it has been subject to scrutiny by PCC and the EA.

387. The drainage witness was not called at the Inquiry, as none of the interested parties asked for his evidence to be subject to cross-examination. PCC is also now satisfied that the modifications to the drainage proposals, as agreed with the Highways department, would enable the proper disposal of waste water and that the scheme could be secured by condition. [34]

### **Odour, noise and the need for pest control**

388. The proposed development would be utilising the most up-to-date and efficient farming methods and the applicant is clearly passionate about caring for his stock in the best possible way. The cow sheds would be regularly cleaned using a slurry vacuuming system with the residue pumped into covered storage tanks which remove the need for slurry stirring. It is the stirring process that is most likely to produce odours and this presently takes place on the farm, as the slurry pit is open. The proposed development would remove the need for this process and the occasional past incidents of reported odours cannot therefore be taken as a fair indication of what might occur if the proposed expansion took place. [81]

389. Specific criticism has been raised over the methodology employed to produce the conclusions in the applicant's noise report and, in particular, the fact that he used British Standard (BS):4142 as the basis for his assessment. This BS, which is the most widely used standard for assessing environmental noise, refers to industrial noise and has been used by the witness to consider the noise levels that might be produced by the machinery that would be used on the farm. Some of this equipment is existing and was therefore measured in situ.

390. In respect of the possible noise levels to which the development might give rise, the methods advocated by BS:4142 may not be able to provide a completely accurate prediction of the noise that would be produced by a particular operation at given locations but it is intended to provide an assessment of whether noise would be likely to give rise to complaints by determining the noise levels in comparison to the measured background noise levels. It is a recognised standard used by the industry and, in any event, there was no specific evidence produced by the critics of the report to suggest that noise levels were likely to be particularly high or significantly different from those predicted by the appellant's witness.

391. The BS refers to industrial noise and it is this type of noise, caused by the operation of machinery, which would be relevant to this case. Whilst there was no measurement of the noise made by the animals themselves, the Inquiry was told by the applicant and his noise witness that cows naturally make little noise, apart from when calving, and I heard no evidence that the 300 or so cows that are presently kept in sheds and at pasture on Lower Leighton Farm have caused noise problems in the past. In any event, in the proposed development, calving would take place in the cow shed furthest from the closest residential property. [86]

392. There was also criticism of the noise report in that the caveats in BS:4142 were not specifically mentioned. However, this issue was aired at the Inquiry and, whilst the caveats were recognised by the applicant's witness, he confirmed that they did not have a specific bearing on his conclusions. It was also confirmed that the noise witness had assumed that the bund would at least equal the height of the buildings that it would shield, and that there would be no direct line of sight between the buildings and Orchard Cottage. As any noise generated would not be at roof level, there seems to be no reason to assume that the bund would not provide the attenuation included in the calculations.

393. It was suggested that the 'A' weighting used by the witness and taken from BS:4142 was inappropriate because it was originally used to ensure that the human ear would be protected from damage, not for assessing noise nuisance. However, the witness confirmed that the weighting was used to show how the human ear would receive noise.
394. It was also suggested that there would be noise from reverberation within the partly open buildings but the witness explained that this would be deadened by the sound absorbent qualities of the bedding and the animals themselves. The milking parlour would be fully enclosed and I was given no evidence to suggest that the operations carried out within it would be unduly noisy or that noise was likely to escape from it.
395. The witness accepted that he could not make a subjective assessment of the potential noise nuisance at this stage but was calculating the likely noise levels and measuring their possible impact as set out in the BS. He is a professional in this field and has carried out many such surveys. Given that conditions could be imposed to limit noise levels from the development and that if noise ever did prove to be a problem, it would still be subject to control through environmental health legislation, I consider that any noise impact could be satisfactorily limited. [86-91]
396. The project would also be constructed in phases and this would enable the conditions that would be imposed to control and monitor noise levels. Similarly, the control of pests would be secured through conditions and the use of modern, hygienic practices which would discourage the presence of flies and vermin. I conclude that, as all the suggested conditions covering odour, noise and pest control would be reviewed as each stage of the development was completed and would be subject to ongoing review, this would allow any unforeseen problems to be satisfactorily dealt with as they arose.

### **Health issues**

397. The proposed development would be close to the local school and residential properties and objectors fear that insufficient research has been carried out into the effects of large scale animal feeding and housing facilities on human health. They are particularly concerned about the levels of ammonia present in the atmosphere and the effect that this, combined with the other potential pollutants that may be associated with such operations, could have on the health of nearby residents and the children attending the nearby primary school and toddler group in the village hall. They consider that until more research has been carried out in this Country on the topic, providing convincing proof that such units are safe, a precautionary approach should be adopted and they should not be permitted in proximity to human activities.
398. The World Society for the Protection of Animals (WSPA) refers to a number of reports and studies that have been carried out on Concentrated Animal Feeding Operations (CAFOs) in the United States (US). However, these relate to units that are generally much larger than are under consideration in this case. They are also controlled by a different environmental permitting regime and, without

full details of the relevant regulations in the US and how they were applied in the case studies quoted, it would be inappropriate to draw any definite conclusions from them.

399. In the United Kingdom, the EPRs do not extend to units that house cattle, being limited to units for poultry and pigs, and then only to those above a certain size. The inference is that cattle units are not considered to give rise to the same concerns that have led to the need for the control of collections of large numbers of the other species. [41-42] However, this does not mean that the possibility that the proposed development would give rise to unacceptable levels of air pollution has not been considered or that it would be unregulated. The Environmental Protection Act 1990 is the means by which a land use that proves to be a nuisance or a health risk can be controlled. [47]
400. The Environmental Health Officer (EHO) was consulted by the applicant and subsequently gave his detailed response to the proposals to PCC; this was included in the second report to Committee. He is a professional officer, used to local conditions and farming practices and his conclusion was that, subject to conditions, all matters could be satisfactorily dealt with. [38]
401. In addition, the applicant has produced a report from another expert witness on the levels of ammonia that would be likely to be generated by the proposed development. His conclusions, which, as a precautionary measure, were based on figures in excess of what might be expected, were that emissions of ammonia would fall far short of those that might cause an adverse impact on flora within the vicinity of the site.
402. In respect of the levels of exposure to which humans may be subjected, the witness explained that there are no standards for ammonia in the limits set for key air pollutants in the UK by the Air Quality Standard Regulations 2010. [42] He considers that this indicates that ammonia is not considered to be a problem in this respect but, in the absence of such controls, he had nevertheless considered the regulations relating to occupational exposure to ammonia for workers in an industrial environment. The levels that might possibly be found at the school and nearest residential properties would be only about 0.04% of the occupational exposure limit and, whilst a direct comparison between an industrial environment and a school cannot be drawn, these levels would, I consider, nevertheless indicate that the levels of ammonia from the proposed development would not represent a health risk that would warrant refusal of the scheme. In respect of other pollutants, their impact, and how this could be controlled, has been discussed in previous paragraphs. [74]
403. In respect of dust, particularly from any straw chopping operations that might take place in respect of providing animal bedding, it is proposed that this would happen in one of the existing farm buildings, which would be modified to ensure that it was sealed from the external atmosphere. This, too, could be secured by condition, which would also control emissions from the storage, mixing and movement of the animal feedstuffs.

404. Reference has also been made to a number of reports that have increased the objectors' concerns. However a detailed study of these reports shows that, in most cases, they do not relate to the type of farming operation proposed here. *Sigurdarson and Kline*<sup>91</sup> dealt with a large piggery, *Wolf* deals with toxins in general and is unrelated to any farm operations and *Douwes* deals with occupational exposure.
405. *Williams* does refer to a number of large CAFOs and notes that the '*public health relevance of chronic exposure to cow allergens has yet to be established*'. However, the average size of the majority of the farms in that study was much greater than proposed at Lower Leighton Farm; it was conceded that the sample size was too small to be assessed and farming procedures and other potentially relevant factors had not been established. There is therefore little to indicate that the proposed development would necessarily be comparable to the farms studied in that report. [69-73]
406. It is perhaps understandable that the local community is concerned that the housing of up to 1000 cattle within 100m or so of the village school could possibly pose a health risk to the children within it. However, the applicant is already keeping about 300 cows in buildings on the farm for at least part of the year, albeit in buildings that are a little further from the school than those in the application proposal. There do not appear to be any particular concerns about health risks at the moment and although the proposal would more than triple the number of animals on the farm, the numbers in individual buildings would not increase and the husbandry methods would be improved, particularly in respect of the management of slurry.
407. Although there seems to have been no specific research in this country about the impacts of large scale cattle housing units on human health, the scale of the operation proposed at Lower Leighton Farm would not be the first of its kind in the UK; [46] neither would the methods it would utilise be substantially different from the way the cattle are kept at present when they are inside. There have been no Governmental controls imposed on units of this type, in contrast to large pig and poultry units, despite it having been common practice for cattle to be housed in buildings during winter months and brought inside for milking by machinery for many years. [45] The Inquiry was not told of any instances in the UK where cattle units housing animals for several months of the year, whether larger or of the same size as the existing unit, have caused notifiable health problems.
408. There is no doubt that this type of milk production is on a different scale than has been usual in this Country in the past. However, even though CAFOs have been common in the US for many years and there has been a considerable body of research on the subject in that country, the US Government has nevertheless not seen fit to prohibit the practice on the grounds of dangers to health. [46]

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<sup>91</sup> CD152

409. Although CALFe believe that no permission should be granted for this type of facility in proximity to other human activities and the WSPA considers that they should not be permitted in any circumstances, this Inquiry is charged with considering the planning merits of the proposal and there is presently nothing in the current UDP policy that indicates that such a precautionary approach in terms of health risks related to farm developments should be applied.
410. I note that PPW states that cost effective measures to prevent possible serious environmental damage should not be postponed because of scientific uncertainty about how serious the possible risks might be. However, in this case, there is no suggestion that the measures recommended by the EHO to be secured by condition would not be imposed or subsequently adhered to. There are also other regimes in place to control any emissions or odours that cause a nuisance or raise health concerns. [47] In these circumstances, it would not be equitable, in the absence of any firm and quantifiable evidence as to potential health risks, to single out the proposed development for refusal on this ground.
411. Fear of health risks has been established as a valid planning concern and can be a material planning consideration. However, I would suggest that the weight to be given to such fears must be limited in accordance with the actual possibility of the risk proving well-founded. The conclusions I draw from the analysis of the relevant case law set out and discussed in the parties' cases are that, although I accept that the objectors' fears arise from genuine and deeply held concerns, they are not founded on a well-established or convincing evidence base. [54-59] Therefore, whilst I acknowledge that the proposal could have an impact on the peace of mind of local residents if they continue to believe that the proposed development would be harmful to health, I accord this factor only very limited weight in the planning balance.

### **Animal welfare**

412. Animal welfare is a matter only raised at the Inquiry by the WSPA, who have an in-principle objection to this type of animal housing unit. They submit that it is inherently cruel to the cows, would cause unnecessary suffering and would contravene the 5 freedoms listed by the FAWC as being the rights to which farm animals are entitled. They submit that this is an unsustainable form of development that risks breaching animal welfare legislation. [277-278]
413. Whether animal welfare can be a material consideration in a planning application was discussed at the Inquiry and the WSPA believe that the manner in which the cattle would be housed, and the operations that are carried out in the buildings that would be erected for this purpose, do have social implications. However, the applicant submits that to be material, the matter must have land use implications and notes that this has been established through case law. The example of *Copeland* quoted by the WSPA is not on all fours with the situation in this application, as there is no development plan or national planning policy directly related to the requirement to ensure animal welfare. Such matters are covered by other legislation. [21-24]

414. However, I consider that it would nonetheless be iniquitous to grant planning permission for a development that, even with conditions attached, would be inherently bound to breach other statutory provisions and so the WSPA's case will be considered on this basis.
415. Whilst it could certainly be the case that animals farmed in this way might be ill treated in the manner suggested by the WSPA, there was no compelling evidence to suggest that this would be the case at Lower Leighton Farm. The WSPA accept that animals can be housed in such units without harm to their welfare, provided certain standards of husbandry are maintained, although they consider that in the long term this could not be sustained. [279-281] However, as noted above, there is legislation in place to safeguard the animals from a situation where their living conditions would be harmful. As it has been accepted that the cows could be suitably housed in conditions that would not be harmful, I consider that it is not for the planning system to assume that these conditions would not be implemented and maintained particularly, as in this instance, the applicant has given a full explanation of how he would be looking after his cows.
416. Although the cows would be kept inside whilst they are producing milk, they would be turned out to graze when they are dry or when they are first in calf and still producing limited amounts of milk. The applicant confirmed that they would be in calf again between 120 and 150 days post-calving and would be in milk for 305 days and dry for 60. All the cattle are kept inside during the winter months in any event. A good deal of the WSPA's case was based on the assumption that the cows would have little or even no access to outdoor pasture, but I do not believe that this would be the case. Even if a cow calved at the end of winter, after having been inside for 3 - 4 months, it would be in calf again within 4 or at the latest 5 months and would therefore be turned out to pasture after spending 9 months inside. Consequently, even in the worst case situation envisaged by the WSPA, all the animals would spend at least 3 months outdoors.
417. I also consider that the fear that the animals would be more prone to illness and disease, even with the access to grazing proposed by the applicant, has not been substantiated. The veterinary surgeon did not support this theory and both he and the applicant explained in detail how the proposed management methods would monitor the cows' welfare on a daily basis when they are confined within the buildings. [27] The applicant already has very low levels of mastitis in his herd and he expects this to improve through the use of the proposed system. He explained that hoof and leg problems can be easily spotted at an early stage when the cows are kept inside and the instances of this type of problem are more common when they are kept at pasture.
418. Even when inside, the animals would not be in the uncomfortable conditions suggested by the objectors. They would be in large sheds with partially open sides, allowing plenty of natural ventilation. There would be enough cubicles to allow every cow to select a space without having to compete with her more dominant neighbours or become trapped in 'dead end' spaces. The cubicles would be large enough for the animals to lie down or stand in them without having their back legs in the aisles and the bedding would be straw covered mattresses.

419. The cleaning regime for the sheds was also explained and the buildings would be specifically designed to be hygienic and easily cleared of manure. The aisles would be wide enough to ensure that the slurry would not be deep enough to come over the animals hooves, thereby reducing any risk of digital dermatitis; the aisles would also be cleaned and disinfected twice a day.
420. The applicant's vet confirmed that antibiotics are not routinely used to prevent infection at Lower Leighton Farm and that, if prescribed, the treatments are fully completed so that, although there may be a general problem with increased resistance to antibiotics, it would not be exacerbated by this proposed farming development. [63]
421. In terms of milk production, it is the case that the Holstein breed kept by the applicant is a high yield breed, but he confirmed that the animals are not milked to their maximum potential and he is not proposing to do so in the future. The vet confirmed that current levels of milk yield are below those that the breed can produce. The problem of negative energy balance, where the cow cannot ingest enough food to maintain its condition whilst producing milk, is not therefore likely to occur. In any event, it would not be in the applicant's interests to allow his herd to lose condition and become prone to disease. The applicant noted that whilst the cows are indoors producing milk, their diet and condition can be monitored more readily than when out at pasture. [27-28]
422. It should be noted that the cows on Lower Leighton Farm, in common with most other dairy herds, are already being kept indoors for part of the year and they were inside at the time of the site visits. I saw at the site visit that the cows appeared comfortable, quiet and content in their current accommodation and there has been no evidence produced to show that there has been any harm caused to the welfare of this herd through indoor living. [26-27] The new buildings would represent a significant improvement over those currently in use, and I therefore consider that the animals would be unlikely to experience distress when living in them.
423. I conclude that potential problems in terms of animal welfare have not been demonstrated to be a material consideration weighing against the proposal in this case.

### **Human rights**

424. CALFe have suggested that to allow the application would create an interference with the human rights of the villagers of Leighton set out in Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. They refer to the potential impact on the ability to peacefully enjoy their homes and their quality of life, in respect of health issues. They have submitted a number of court cases<sup>92</sup> that purport to support their stance and these have been responded to by the applicant. [257-258, 48-53]

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<sup>92</sup> CD 139 appendices

425. I have already found that there is little to suggest that the proposed development should be refused on health grounds or due to the production of unacceptably high noise levels. These matters could, in my opinion, be satisfactorily dealt with through the imposition of planning conditions and find that there is no reason why the proposed conditions could not be properly enforced. They are all reasonable and relevant and would be subject to scrutiny by the Local Planning Authority (LPA). Even if there was a breach, the LPA would be able to take action, through a breach of condition notice. [51] This would take effect 4 weeks after issue and this is a short enough period to ensure that there would be no long term impacts caused by any failure to comply with the schemes approved for the mitigation of noise, dust, odour or ammonia emissions.

426. The cases referred to all relate to instances where there was either a reasonable and convincing likelihood that the effect of the development would have direct effect on the quality of life or where there was an existing situation that was already causing concern. [48-51] Neither of these situations would exist in this case. Consequently, for the reasons given above, I conclude that these representations are not well-founded, interference with the human rights of local residents (or those of users of the school and village hall) would be unlikely and, in any event, minimal.

## **OTHER MATTERS**

### **Impact on the school and village life**

427. The Head Teacher of the primary school gave evidence that parents had indicated that they would remove children from the school, or choose another to first enrol them in, if the proposed development took place. Although not specifically expressed, I assume that the concerns of parents related to the perceived health risks and the increase in size and proximity of the farm in relation to the school. It was explained that if school numbers fell there was the possibility that the number of a classes would have to be reduced, with a consequent rise in the number of pupils in the remaining classes. This could have the knock-on effect of more pupils being taken out of the school and a further drop in new pupils joining the school as parents sought alternative facilities with smaller class numbers. The objectors fear that, in time, this could lead to the total closure of the school, the loss of the revenue that it contributes to the village hall and the consequent closure of the hall.

428. This would obviously have serious consequences for the community of Leighton and could take the heart out of village life. The Education Authority *has 'strong reservations'* about the scheme and whilst this does not amount to a formal objection, it indicates a level of concern about the impact that a large intensive farming operation would have so close to a school. [243-245]

429. While parents might actually prove reluctant to move children from a successful school where they are settled and happy, it would be easier for parents to take the decision to choose another school in the first instance, as it would not involve any disruption to the families involved.

430. Nevertheless, it may well be that if planning permission was granted, parents would accept that the arguments that there would not be any appreciable health risks were valid, having been publicly considered and discussed. The series of consequences set out by the Head Teacher is also speculative at this stage and there is no guarantee that they would inevitably follow from the grant of planning permission. [85] Therefore, although there is a possibility that the school numbers could be adversely affected by the proposed development, any weight I accord to the likelihood of this happening, and the resultant consequences, is minimal.

431. However, fears that the village would be a less pleasant place to live add to the anxiety felt by the residents over the proposals. [242] My findings on the landscape issues indicate that their concerns that the character and appearance of the locality would change for the worse are justified. Concerns that property prices would fall are not, on their own, a valid planning objection; however any reduction in the visual amenities presently enjoyed by residents in respect of landscape quality can be taken into account and would carry due weight in the planning balance.

### **Highway issues**

432. Village objectors believe that there would be an increase in vehicle movements, particularly for Heavy Goods Vehicles (HGVs), on the B4388. However, the applicant has submitted a traffic assessment as part of the ES which indicates that, overall, vehicle movements, including those by tractors and HGVs, would fall. This is because there would be more capacity for fodder storage, even though the numbers of animals would increase, resulting in the need for fewer deliveries by HGV. This has been accepted by the Highway Authority and the Inquiry was given no substantive evidence to contradict this view. [35-36]

### **Alternative sites**

433. It has been suggested that the applicant has alternative sites that would be more suitable for this operation than Lower Leighton Farm. It is the case that the farming conglomerate of which he is part owner has other sites, but the Inquiry was told that he alone does not control the activities on these land holdings. It was also explained that none of them were suitable for this type of operation, for a variety of reasons.

434. In any event, the consideration of whether the applicant has alternative locations where he could possibly locate an enlarged cattle unit does not affect the fact that he has applied for planning permission on this particular site and he is entitled to have the proposal considered on its own merits. It is not for the decision taker, or objectors, to challenge the application on the grounds that he might be able to locate a similar unit elsewhere; it is a business decision that is for the applicant alone to take. [126-129]

## CONDITIONS

435. A draft list of conditions<sup>93</sup> that the parties considered would be necessary and appropriate if planning permission were to be granted for the proposal, together with the reasons for imposing them, was discussed during the course of the Inquiry. Following the discussion, the wording of some of the conditions was amended, resulting in a revised list, agreed by the main parties. These amendments, with some further additional minor alterations to the wording, bring the conditions in line with the guidance in Circular 35/95 and are attached as Annex 1 to this Report.
436. Condition 1 is the standard time limit for commencement and condition 2 would require the development to be carried out in accordance with the approved plans, for the avoidance of doubt. Condition 3 would implement the access modifications; condition 4 would ensure that storm water drainage would not be discharged onto the road. Conditions 5, 6 and 23 would ensure that no manure or slurry is deposited onto the highway. Condition 13 would implement the proposed highway improvement works and condition 14 would limit the movement of earth or spoil off the site via the road network. Conditions 21 and 22 would limit the access points to the site and restrict the times when cattle could cross the highway; these are all necessary to ensure highway safety.
437. Conditions 7 - 9 would ensure that the LPA could control the appearance and colour of the buildings. Condition 10 would set out how the development would be phased in relation to the landscaping proposals and highway works, to ensure these are in place at the appropriate times. Condition 11 would secure the approval of the landscaping details shown on the approved drawings, together with further details on the numbers, species and planting schedule and a management plan; condition 12 would implement the approved scheme. These are necessary to ensure the proposed screening of the new buildings.
438. Condition 15 would remove permitted development rights in respect of additional agricultural buildings, so that the LPA could control any further expansion on the site. Conditions 16 - 19 would limit the times during which certain farming operations and vehicle movements could take place, to protect the amenities of nearby residents. For the same reason and to ensure the development would not create any health or disturbance problems, conditions 20, 27, 28, 29, 30, 31 and 32 would require the control of factors relating to noise, manure management, ammonia emissions, odours, flies and dust.
439. Conditions 24 and 25 would control the levels of internal and external lighting to ensure that lighting levels are kept to the minimum necessary for health and welfare, in the interests of the character of the countryside. Condition 26 would provide for an alarm system to be fitted to the slurry stores to ensure that early warning would be given about any failure of the pumping system. CALFe asked for a secondary pump to be available but PCC considered this to be unreasonable. However, the condition calls for a scheme to be submitted and agreed and the applicant appeared to have no objection to installing a secondary pump should the LPA subsequently consider this to be necessary.

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<sup>93</sup> CD 165

440. Condition 33 would encourage the routing of HGV vehicles to and from the site away from Leighton, to reduce traffic movements through the village. It would not be possible to word the condition in the way originally suggested, as all drivers have the right to use the public highway unless there is a specific restriction on the road. The revised wording calls upon the developer to ensure that the drivers under his control take a particular route, through the implementation of a Traffic Management Plan. Condition 34 would require the submission and implementation of a Construction Management Plan aimed at reducing the impact of the building works on local residents during the construction period.

441. Objectors consider that it would be preferable to refuse the application rather than rely on conditions to control any unacceptable impacts. However, I have found that the risks of potential problems are low and, in any event, would all be capable of satisfactorily mitigation through the imposition of the conditions suggested above. In a situation such as this, it would be perfectly reasonable to rely on planning conditions to regulate the environmental impacts considered in previous paragraphs.

### **OVERALL CONCLUSIONS AND BALANCING EXERCISE**

442. I have concluded that the proposed development would conflict with the adopted UDP in that it would cause harm to the landscape quality of the surroundings and the settings of a number of listed buildings and other heritage assets. If planning permission were to be granted for the scheme in the face of this conflict, the harm would need to be clearly outweighed by other material considerations, as explained in S38 (6) of the Planning and Compulsory Purchase Act 2004.

443. There are advantages to the proposal that weigh in favour of the grant of planning permission and which can be considered against the harm found on the main issues that were considered by the Inquiry. These advantages include the fact that the proposed development would create a number of new jobs, both permanently on the farm, and during the temporary construction phase. **[130]** There was some discrepancy in the documents submitted by the applicant on the actual number of jobs, but he confirmed at the Inquiry<sup>94</sup> that, by the time the scheme was fully operational, he would employ 10 herdsman, a manager and a secretary as well as sub-contracting regularly to a veterinary surgeon (who might possibly be taken on as a full time employee), a foot trimmer and a pest control operative. At present he employs 3 herdsman, a manager and a part-time secretary.

444. The financial investment in the project would run into 7 figures and would be in accordance with the encouragement given by the Strategic Action Plan for the Welsh Dairy Industry<sup>95</sup> for investment and innovation in the industry. **[135-136]**

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<sup>94</sup> CD160

<sup>95</sup> CD54A

445. The proposal would also result in an improvement in the existing farm operation and have benefits in terms of reducing cattle movements across the road, upgrading the current slurry storage and manure spreading systems and reducing the traffic accessing the farm. **[139]**
446. There are clear economic benefits associated with the proposal, not only for the applicant but also for the wider dairy industry in Wales. The proportion of the national output supplied by Lower Leighton Farm would nonetheless be only about 1% and the creation of 8 or 9 new permanent jobs would not be particularly significant in an industry that employs a total of 5000 on, and in direct association with, dairy farms.
447. However, the injection of this level of investment, in an industry that evidence suggests is presently in decline in terms of employee numbers, must be of some importance. All these matters weigh in favour of the grant of planning permission for the scheme. **[130-136]**
448. It would also be in accord with the requirement in PPW 7.1.3 to support economic growth and (in 7.2.2) to give it equal consideration alongside social and environmental issues. This requirement might be considered to create a tension with the provisions of s.66 of the LBCA, where harm to listed buildings and their settings is accorded a special weight. However, '*environmental matters*', whilst they can include heritage issues, cover a wide range of other topics and I consider that the policy requirement in PPW would not override the statutory duty set out in the LBCA in respect of the particular regard to be given to the protection of listed buildings and their settings. Therefore, the economic benefits need to be given equal weight when set against other policy considerations but, in a situation where all things were otherwise equal, the listed building issues would be likely to be the deciding factor.
449. The benefits fall to be set against the identified harm caused to the landscape quality of the surroundings and the setting of the heritage assets that has been described in preceding paragraphs. As noted, the impact of the proposal on the setting of the listed buildings must be given special regard under the requirements of s.66 of the LBCA. The *East Northamptonshire* case has highlighted that this means that special weight or considerable importance must be given to this matter when carrying out any balancing exercise on the planning merits and disbenefits of a proposal. **[169, 212-214]** UDP policies also make clear that the economic benefits of a proposal must be considered against any harmful impact on local amenity. **[191, 192]**
450. I have found that the harm to the settings of the listed buildings of Holy Trinity Church and the terraces at Powis Castle would be significant and this factor consequently carries great weight. The numbers of people that would experience the views in which the farm would be prominent would be over 100,000 each year **[208]** and, even if the visitors and countryside users were not all aware of the importance of the historic link between the landscape and the heritage assets, the introduction of this development into some of the major vistas would nevertheless have the effect of diminishing how the landscape

setting is experienced. [219] The mitigation measures proposed would take 15 years to reach their optimum condition but, even then, I have doubts that they would be fully effective.

451. The economic benefits are not enough, in my opinion, to outweigh this considerable harm. The number of jobs created, although welcome, would not be great; indeed the numbers of cattle/herdsman envisaged by the applicant would be about, or even below, the national average and, in terms of employment, this unit would not seem to offer any overall advantage over the same number of cows being kept in smaller units. [313- 314] One of the reasons for using this type of farming method is the economy associated with scale and whilst this would be of benefit to the applicant, it would not necessarily make an appreciable difference to the sustainability of the dairy industry as a whole. [194, 269, 311] The applicant confirmed that he would not be reducing the price of his milk if the proposed development went ahead. [315]
452. In conclusion, I find that, whilst any concerns relating to animal welfare, noise and health risks are capable of being satisfactorily dealt with by condition and there would be benefits to the Welsh dairy industry and on a personal level for the applicant's business, there are nevertheless fundamental objections to the proposals. I consider that the weight to be given to the factors in favour of the scheme does not override the conflict with the development plan and the related harm as it relates to the setting of the listed buildings and the RPGs, the quality of the Powys landscape and the, albeit less significant, harm to the SAM of Offa's Dyke. This indicates that planning permission should not be granted for the scheme. The perceptions of local residents in terms of their anxiety about health risks and concerns about the impact on the quality of village life are also matters that, although not determinative, add to the objections to the proposal.
453. In reaching the above conclusions, I have taken into account the Environmental Statement and all other environmental information submitted in connection with the public Inquiry.
454. Overall, I conclude that the proposed development would be unacceptably harmful to the setting of the heritage assets at Powis Castle and the Leighton Hall Estate and to the character and appearance of its surroundings and, on balance, contrary to the development plan and national policies that regulate such development.

## **RECOMMENDATION**

455. That the application for planning permission be refused.
456. Should the Welsh Ministers disagree with this recommendation, I suggest that the conditions set out in Annex 1 of this Report should be attached to any planning permission granted for the proposal.

*Katie Peerless*

**Inspector**

**CONDITIONS ATTACHED TO GRANT OF PLANNING PERMISSION FOR  
EXTENSION TO THE EXISTING DAIRY UNIT AT LOWER LEIGHTON FARM,  
LEIGHTON, WELSHPOOL, SY21 8HH**

1) The development hereby permitted shall begin not later than five years from the date of this permission.

2) Subject to the following conditions, the development hereby permitted shall not be carried out except in complete accordance with the details shown on the following plans:

LLF 06 Revision F – January 13 (Site Plan as Proposed incorporating Landscaping Details) (which also indicate the rationalisation of existing vehicular access serving the agricultural unit).  
LLF 06.1 Revision E (January 13) (Drainage Layout Plan)  
LLF 06.02 (January 2011) (Highway Improvement Plan)  
LLF 07 Revision B (December 2010) (Longitudinal Sections as Proposed)  
LLF 08 Revision B (December 2010) (Longitudinal Sections as Proposed)  
LLF 09 Revision B (December 2010) (Longitudinal Sections as Proposed)  
LLF 09 -1 (Longitudinal Sections as Proposed)  
LLF 09 -1 Revision C (June 2010) (Longitudinal Sections as Proposed)  
LLF 09 -02 (September 2011) (Longitudinal Sections as Proposed)  
LLF 10 (June 2010) (Floor Plan of Building B)  
LLF 11 (June 2010) (Floor Plan of Buildings C & D)  
LLF 12 (June 2010) (Floor Plan of Building E)  
LLF 13 (January 2011) (Phased Development Plan)  
LLF 14 (January 2011) (Routing Plan on Site)  
Drawings 0579 (sheets 1-5) relating to Building A in the Environmental Statement

3) Prior to the erection of any building associated with the development (with the exception of building G) the site drainage infrastructure works shown by plan LLF-06.01 Revision E (January 13) shall be installed in a phased manner in accordance with condition 9 and shall be fully completed and operational before the first occupation of building E. These drainage infrastructure works shall be undertaken in full accordance with the details of the technical drainage report prepared by Andrew Gough dated July 2011.

4) Prior to the erection of any building hereby permitted a scheme to prevent the discharge of storm water drainage from the development site onto the B4388 shall be submitted to and agreed in writing by the Local Planning Authority. The development shall only take place in accordance with the details of the approved scheme.

5) Prior to the first use of the parlour building (building A), a wheel wash facility shall be installed on the clean vehicular access, in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority, to avoid any

hereby permitted remain on site. The development shall only take place in accordance with those details that are approved.

- 11) All landscaping works approved subsequent to condition 10 shall be undertaken in their entirety during the first planting season following the completion of the re-profiling of the land including the creation of earth bunds.
- 12) No engineering or building operations shall be carried out on the site until the highway improvement works as shown by LLF-06 revision F - Jan 2013 (apart from the stopping up of the existing access to the highway) have been fully completed.
- 13) No soil or materials excavated in connection with the approved development shall be transported off the farm unit or transported to any other location on the farm unit via the B4388 without the prior written approval of the Local Planning Authority.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development conferred by Part 6 of the Second Schedule of that Order shall be erected or constructed at Lower Leighton Farm without the prior written agreement of the Local Planning Authority.
- 15) No construction operations associated with the development at any phase of development (as referred to in condition 9) shall take place outside the hours of 0800 to 1900 hrs Mondays to Saturdays inclusive. No work shall take place on Sundays or Bank Holidays, unless otherwise first agreed in writing by the Local Planning Authority.
- 16) Feeding and milking operations shall not take place, nor shall any deliveries be taken or despatched, between the hours of 2100 and 0500 hrs (Mondays to Sunday inclusive).
- 17) No vehicles transporting feedstuffs including concentrates to the Lower Leighton Farm site, including feedstuffs harvested at Lower Leighton Farm or on any other land holding, shall enter or leave the site between the hours of 2200 and 0630 hrs (Mondays to Sundays inclusive).
- 18) No vehicles transporting dry manure from the Lower Leighton Farm site shall enter or leave the site between the hours of 2200 and 0630 hrs (Monday to Sunday inclusive).
- 19) No cattle shall be housed in any of the buildings hereby permitted until, a scheme detailing the manner by which noise emissions shall be minimised from operations on site and kept at or below the levels referred to in the Report of John Waring dated 4 February 2013 has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of:
  - (i) the specifications of the vacuum machine, mixer unit and telescopic handler to be used on the site;

following year so as to ensure that the level of nitrogen contained within the manures applied is no greater than 250kg/Ha of land.

The development shall be operated at all times in accordance with the approved scheme.

26) No cattle shall be housed in any of the buildings hereby permitted until a scheme has been submitted to and approved in writing by the Local Planning Authority detailing the manner by which ammonia emissions shall be minimised from operations on site. The details to be approved shall include:

- (i) description of the likely opportunities for the deposition of urine and faeces onto surfaces;
- (ii) a method statement for the minimisation of the time over which such depositions shall remain in place until cleaning;
- (iii) the covering of the slurry lagoon with an impermeable membrane;
- (iv) the provision of an alarm system to warn of any malfunction within the slurry storage tanks and a method statement to respond to any such alarms;
- (v) provision to ensure that no lime ash shall be used for bedding of cattle.

The development shall be operated at all times in accordance with the approved scheme.

27) No cattle shall be housed in any of the buildings hereby permitted until a scheme has been submitted to and approved in writing by the Local Planning Authority detailing:

- (i) the manner by which odour emissions shall be minimised from operations on site;
- (ii) provision for manual cleaning, and reapplication of bedding, within the cubicles;
- (iii) collection of slurry twice a day during the milking period by vacuum machine, and tanker;
- (iv) the emptying of the tanker into the reception pit;
- (v) the umbilical connections from the slurry tanks to the field system;
- (vi) the means of injection of slurry into the fields;
- (vii) the warning system to cut off flow if the injection system is not operating properly;
- (viii) the means of collection, movement and destination of solid waste;
- (ix) the conditions in which manure or slurry may or may not be applied to land under the control of the operator of the farm;
- (x) the loading and sheeting of lorries and trailers carrying manure or slurry;
- (xi) the retention of a wheel wash system;
- (xii) the covering of the slurry storage tanks;
- (xiii) the scheme shall include details of the vacuum machine and pumps to be used.

The development shall be operated at all times in accordance with the approved scheme.

**Leaflet H**

Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## **RIGHT TO INSPECT DOCUMENTS**

Under the provisions of the Inquiries Procedure Rules any person entitled to be notified of the decision given in the accompanying letter and who has received a copy of the Inspector's report may apply to the Welsh Ministers within 6 weeks of the decision for an opportunity of inspecting any documents appended to the Inspector's report.

Any application under these provisions should be sent to Planning Division of the Welsh Government at the above address, quoting the Welsh Ministers' reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least 3 days notice should be given.

*Reviewed August 2011*

## **RIGHT OF APPEAL TO THE HIGH COURT**

### **Part 1 - Right provided by Town and Country Planning Act 1990**

1. The Town and Country Planning Act 1990 provides that the decision of the Welsh Ministers, or their Inspector, on any of the appeals or objections listed in the appendix to this leaflet may be challenged in the High Court in accordance with the provisions of either Section 288 or Section 289 of that Act.

#### **Procedures**

##### **Section 288**

2(i). Any challenge against an order or a decision covered by this Section must be made within 6 weeks from the date on which the order is confirmed or takes effect or the date of the decision. As that period is specifically stated in the Act it cannot be extended by the Welsh Ministers or the Courts. Consequently, any decision or action not challenged within that period is, as far as the 1990 Act is concerned, unimpeachable.

2(ii). A challenge may be brought under this Section only on the grounds that

- (a) the action was not within the powers of the 1990 Act (this includes, for instance, failure to take into account material considerations); or
- (b) there has been a failure to comply with any of the relevant requirements (see paragraph 5 below).

##### **Section 289**

3(i). Section 289(4) provides that no proceedings in the High Court shall be brought by virtue of Section 289 except with the leave of that Court and no appeal to the Court of Appeal shall be so brought except with the leave of the Court of Appeal or the High Court. The procedures for seeking such leave are governed by Rules of Court. Notice of application for leave to appeal has to be submitted within 28 days of the decision challenged or good reason has to be shown to the Court why the notice was not lodged within that period. If leave to appeal is granted Notice of Motion has to be lodged and served within 7 days of the decision to grant leave.

3(ii). A challenge under this Section may be made on a point of law only.

##### **Section 288 or Section 289?**

4. Circumstances may arise where Section 289 applications can be brought against certain types of decision not covered by Section 288 appeals. The question of whether such circumstances exist, and the decision as to which would be the most appropriate way in which to proceed, are matters that will need to be considered most carefully by the potential challenger and his/her legal advisers before proceeding.

#### **Relevant requirements**

of the case, it was not made promptly.

**Any person who thinks that they may have grounds for appealing to the High Court is strongly recommended to seek legal advice before taking such action.**

**Appendix to Leaflet HC**

Appeals and decisions covered by Section 288 of the 1990 Act

- (a) Revocation and modification orders (Section 97 of Act);
- (b) Discontinuance orders (Section 102 of Act);
- (c) Tree preservation orders (Section 198 of Act);
- (d) Orders defining Areas of Special Advertisement Control (Section 221(5) of Act);
- (e) Discontinuance, prohibition and suspension orders in respect of mineral workings (paragraphs 1, 3, 5 and 6 of Schedule 9 to Act);
- (f) Decision on planning merits of called-in applications (Section 77 of Act);
- (g) Appeals under Section 78 of the Act;
- (h) Decision of the Welsh Ministers to confirm completion notice (Section 95 of Act);
- (i) Decision on enforcement appeal to grant planning permission under paragraph (a) of Section 177 (1) of Act or to discharge a condition or limitation under paragraph (b) of that Section;
- (j) Any decision of the Welsh Ministers on a purchase notice (Section 141 of Act);
- (k) Any decision on appeal in respect of certificate of lawfulness of existing use or development or certificate of lawfulness of proposed use or development (Section 195 of Act);
- (l) Any decision made by the Welsh Ministers in respect of tree preservation orders; and
- (m) Appeals against refusal of express consent or the issue of a discontinuance notice (Regulation 15 of 1992 Advertisement Regulations).

Appeals covered by Section 289 of the 1990 Act

- (a) Any decision of the Welsh Ministers on an appeal against an enforcement notice except that relating to the deemed planning application (Section 174 of Act);
- (b) Any decision of the Welsh Ministers on an appeal against a special enforcement notice (Section 295 of Act); and
- (c) Any decision of the Welsh Ministers on an appeal against a notice enforcing the terms of a tree preservation order (Section 208 of Act).