

Appendix 11

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Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 06/09/12

Site visit made on 06/09/12

gan Siân Worden BA DipLH MCD
MRTPI

by Siân Worden BA DipLH MCD MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 01/11/12

an Inspector appointed by the Welsh Ministers
Date: 01/11/12

Appeal Ref: APP/H6955/A/11/2150207

Site address: Hafod Tileries, Hafod, Ruabon, Wrexham LL14 6ET

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Eco-Readymix against the decision of Wrexham County Borough Council.
- The application Ref ESC P/2010/0902, dated 28 October 2010, was refused by notice dated 6 December 2010.
- The development proposed is the change of use from a stocking area associated with the Dennis of Ruabon Tilery to a mortar and concrete batching plant.
- This decision supersedes that issued on 7 November 2011. That decision on the appeal was quashed by order of the High Court.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from a stocking area associated with the Dennis of Ruabon Tilery to a mortar and concrete batching plant at Hafod Tileries, Hafod, Ruabon, Wrexham LL14 6ET in accordance with the terms of the application, Ref ESC P/2010/0902, dated 28 October 2010, and the plans submitted with it, subject to the following condition:
 - 1) The use hereby permitted shall cease and all equipment, plant and materials brought onto the land for the purposes of such use shall be removed within six months of the date of failure to meet any one of the requirements set out in (i) to (v) below:-
 - i) within one month of the date of this decision a written scheme of mitigation and habitat compensation and management for Great Crested Newts shall be submitted to the local planning authority. The scheme shall include details of:
 - a. the location of land to be retained for or provided for Great Crested Newt habitat,
 - b. details of how that land will be managed in order to provide habitat for Great Crested Newts,
 - c. a long term management and monitoring plan for the land,
 - d. a timetable for the implementation of the mitigation, habitat compensation and management measures.

- ii) within one month of the date of this decision a written scheme for the management of surface water drainage shall be submitted to the local planning authority. The scheme shall include details of:
 - a. how surface water is managed within the site;
 - b. how surface water is treated to prevent contaminated water flowing from the site; and,
 - c. how surface water is disposed of.
- iii) within 11 months of the date of this decision, if the local planning authority refuse to approve the schemes or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- iv) if an appeal is made in pursuance of (iii) above, that appeal shall have been finally determined and the submitted schemes shall have been approved by the Secretary of State.
- v) the approved schemes shall have been carried out and completed in accordance with the approved timetables.

Procedural Matter

2. The development has been in place for some time and I have made my decision on that basis.

Main Issue

3. I consider that the main issue in this case is whether the appeal site is an appropriate location for employment development with regard to development plan policies.

Reasons

4. The development is a concrete mixing plant on a site adjacent to the largely disused tile factory. The site was granted planning permission¹ for a storage use in connection with that factory in 1976. The link between the appeal site and the adjacent tilery was then significantly reduced by a subsequent planning permission² which extended the range of items to be stored there beyond products made at the factory. Storage, classified as B8, is within the business use class and can be reasonably construed as an employment use. The site has, therefore, previously been used legitimately for employment.
5. Policy PS1 of the Wrexham Unitary Development Plan 1996-2011 (UDP), adopted 2005, is a strategic policy dealing with the location of new development; that for employment is directed to defined settlement limits and employment areas. The concrete plant, which necessitated the installation of new plant and is an activity which has not been previously carried out on the appeal site, could be argued to be new employment development and thus subject to Policy PS1.
6. UDP Policy PS6 sets out the approximate amount of employment land to be made available during the plan period and this is quantified in Policy E1. The requirement is made up of land with planning permission (as at 1 April 2001) and land allocations. A 17.6 ha site adjacent to Dennis Ruabon, Hafod Road is listed at Appendix II of the

¹ 6 ESB 1843 decided 01/04/1976

² ESC P/2005/1219 decided 30/01/2006

plan, *Land with Planning Permission*, as being within the former group. Whilst sites with planning permission are not shown on the Proposals Map, I have no evidence that the appeal site is not included within this area. The explanatory text sets out ³ that employment development will be directed to locations listed in Policy E1 and to sites with planning permission for employment use.

7. Although the site is not within a defined settlement or explicitly allocated for employment it does, through UDP Policy E1 and Appendix II, appear to be an employment area. The development which is the subject of this appeal therefore complies with UDP Policies PS1, PS6 and E1 and is appropriate for this location.
8. The site is near to a designated Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). I therefore have a duty to ensure that these important ecological areas are not adversely affected by the development; to that end the appellant has provided appropriate assessments of its implications. I am thus satisfied that, subject to conditions, the development will not harm the SSSI or SAC.
9. In the light of Circular 35/95 *The Use of Conditions in Planning Permissions* I have imposed a condition which is necessary to protect special wildlife interests. This is largely as previously agreed between the parties although, as the development is already in place, it is necessary to include time limits to ensure that the condition is enforceable. The Council originally suggested a condition requiring visibility splays. As there are not now any issues regarding safe access and the development thus accords with the relevant policies I have not imposed a condition on this matter.
10. For the reasons given above I conclude that the appeal should be allowed.

Siân Worden

Inspector

³ UDP paragraph 7.5

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Wrexham Local Development Plan 2013 – 2028

Candidate Site Register

Site Ref: RHO09CS

Site Address: Dennis Ruabon Hafod Tileries, Adj to Hafod Road and Bangor Road, Johnstown

Settlement: Rhos/Johnstown/Ponciau

Community: Esclusham

Ward: Ponciau

Size Ha: 18.5

Greenfield: No

Brownfield: Yes

Settlement Hierarchy Tiers: 2

With Planning Permission as of 1st April 2015: N/A

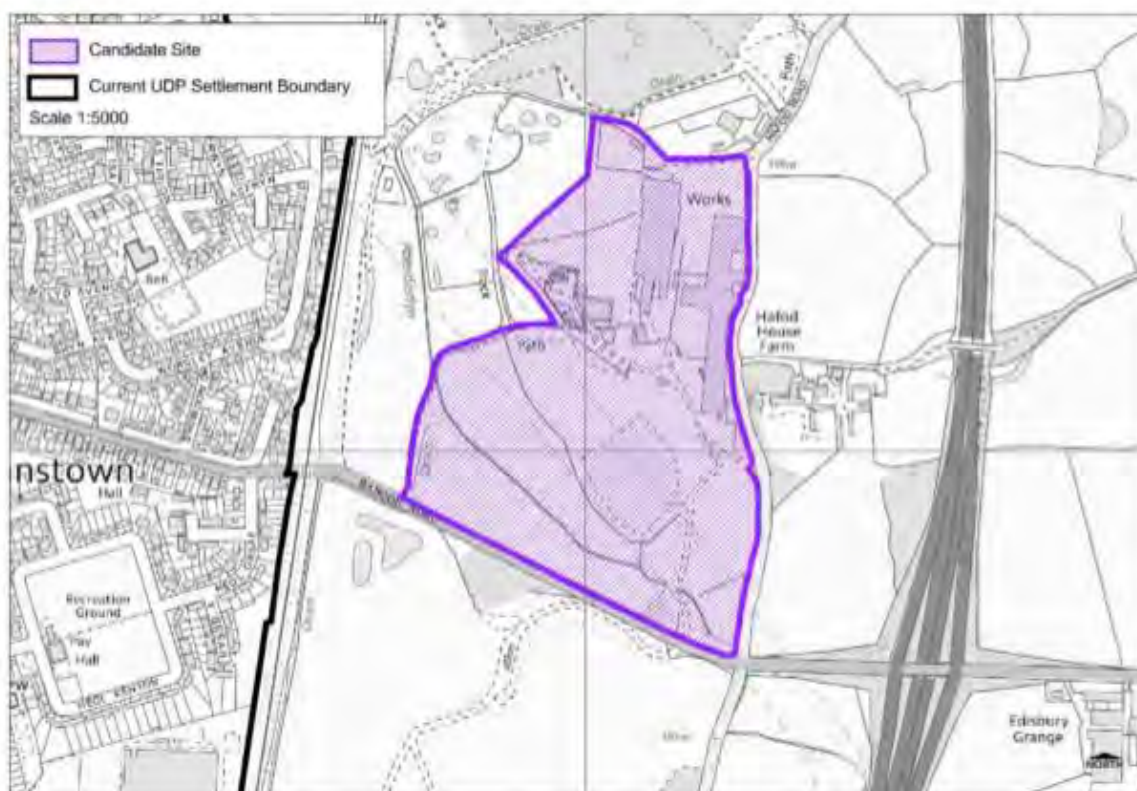
Current Use: Brownfield

Proposed Use: Mixed Use

Small Sites: No

Large Sites: Yes

Comments: The site complies with the Council's Preferred Strategy, however there are site constraints that are unlikely to be overcome to allow the site to be developed.



Wrexham Local Development Plan 2013 – 2028

Candidate Site Register

Site Ref: RHO010S

Site Address: Vinegar Hill, Rhos

Settlement: Rhos/Johnstown/Ponciau

Community: Ponciau

Ward: Rhos

Size Ha: 6.21

Greenfield: Yes

Brownfield: No

Settlement Hierarchy Tiers: 2

**With Planning Permission
as of 1st April 2015:** N/A

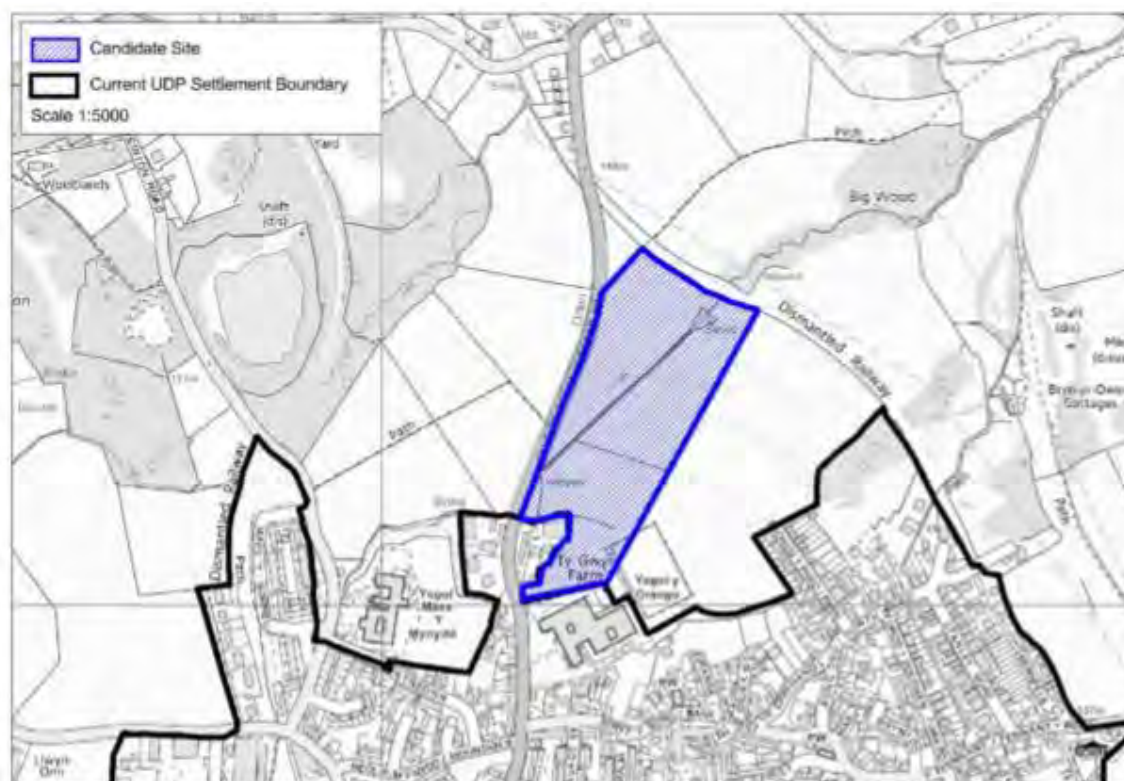
Current Use: Agriculture

Proposed Use: Residential

Small Sites: No

Large Sites: Yes

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



Appendix 13

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REPORT OF THE HEAD OF COMMUNITY WELLBEING AND DEVELOPMENT -
30 March 2015

APPLICATION NO:
P/2014 /0021

COMMUNITY:
Ruabon

WARD:
Penycae & Ruabon
South

LOCATION:
RUABON BUSINESS PARK SITE
ADJACENT TO A483 RUABON
WREXHAM
LL14 6TE

DESCRIPTION:
OUTLINE APPLICATION FOR MIXED
USE DEVELOPMENT COMPRISING
COMMERCIAL (CLASS A1
FOODSTORE WITH PETROL
FILLING STATION AND
ASSOCIATED CAR PARKING AND
CLASSES A3 / B1/ C1), EXTRA-
CARE (CLASS C2), RESIDENTIAL
(CLASS C3) WITH ASSOCIATED
VEHICULAR ACCESS OFF THE A539
AND B5606 AND OTHER RELATED
IMPROVEMENTS.
ALL MATTERS RESERVED EXCEPT
MEANS OF ACCESS

APPLICANT(S) NAME:
MS CAROLINE GOODWILL
WYNNSTAY FARMING CO LTD

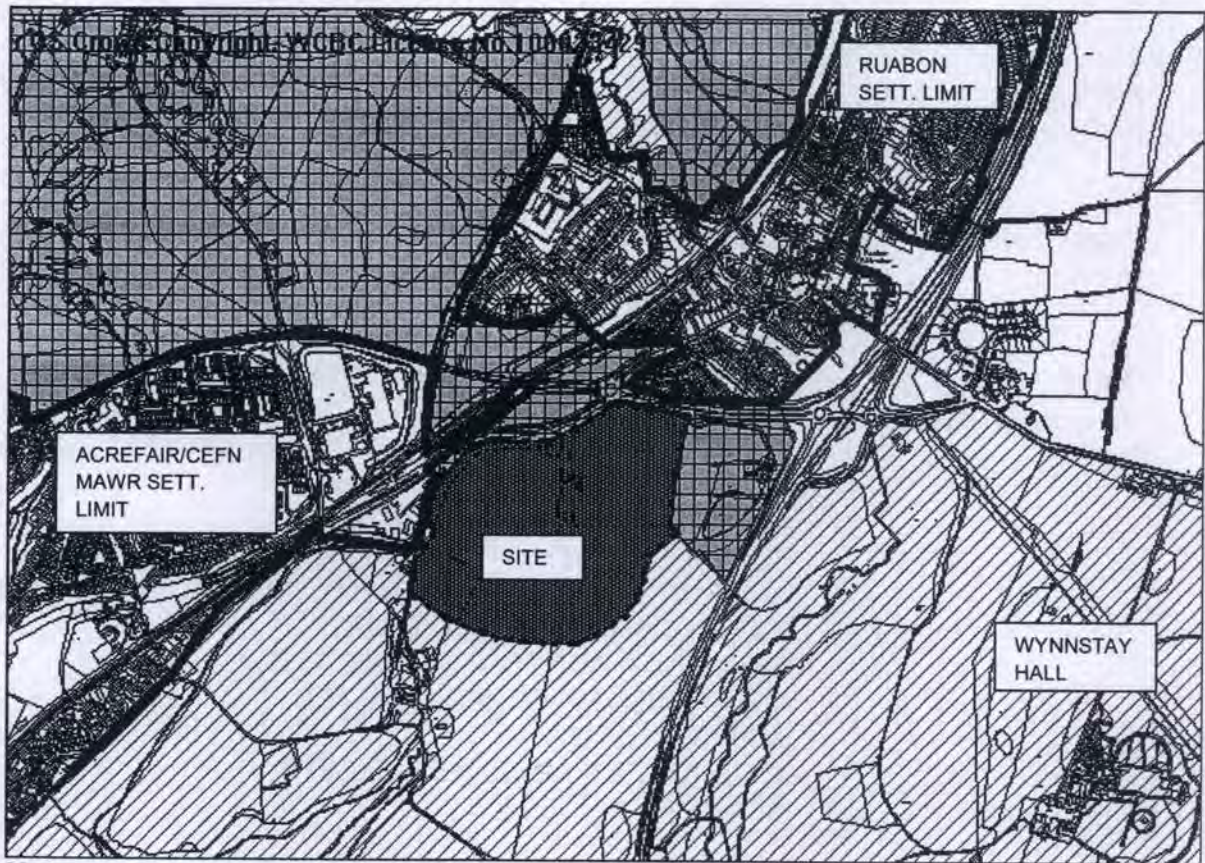
DATE RECEIVED:
22/12/2013

CASE OFFICER:
PF

AGENT NAME:
FORSTERS
MR TIM TAYLOR

THE SITE

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Note

- Diagonal hatching denotes Special Landscape Area
- Square hatching denotes Green Barrier
- Site **is not** in either designation.

The site consists of approximately 25 hectares (61.8 acres) of agricultural land to the south of Ruabon which forms part of the historic Wynnstay Estate. The site has an open aspect and is bounded to north by the A539 and the B5605, to the west by a short section of the road at the rear of The Green, to the east by James Farm Caravan Park and to the south by farmland which is within the control of the applicant. To the north of the site on the opposite side of the road to the A539 dual carriageway is a medium sized housing development (Edge of the Woods/Cil y Coed). Within the site, in a central position, lies a large pond and a belt of trees on the northern and western boundaries. Part of the site forms the north western corner of the Grade I listed Historic Park and Garden of the Cadw registered Wynnstay Hall (are denoted on plan above). A small section of Offa's Dyke (Scheduled Ancient Monument) lies along the south western boundary.

PROPOSAL

Outline planning permission is sought for a mixed use development of the site for up 319 dwellings, extra care accommodation (C2) and commercial development consisting of a class A1 food store with petrol filling station, class A3 (public house), B1 (light industrial) and C1 (hotel) along with associated access provision on to the A539 and B5606. Provision was originally made

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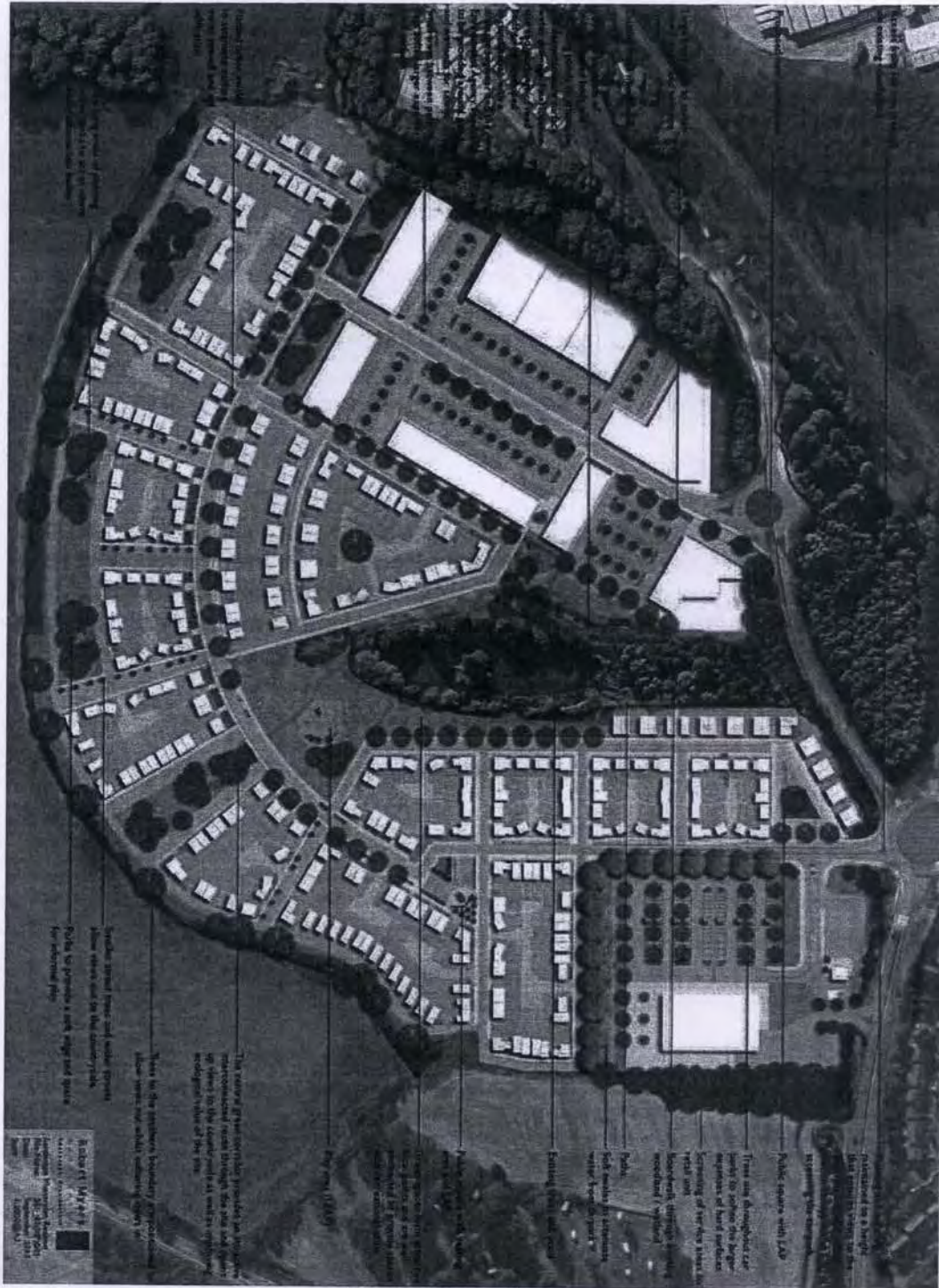
within the proposal to gift land to the Council for the provision of a school, however, following discussions this was omitted from the scheme.

All matters are reserved for further approval, save for access for which approval is sought at this outline stage. In relation to the detailed access proposal, improvements are sought to the existing roundabout at the junction of the A539 and the B5605 with the provision of a new 'fifth arm' to provide vehicular and pedestrian access into the site. A new at grade pedestrian light controlled crossing across the dual carriageway to provide pedestrian access across towards the centre of Ruabon village is also proposed. Approval is also sought for a new roundabout access to the site from the B5605 as well as a dedicated delivery vehicle access route to be associated with the retail element. All access points are shown with a selected length of carriageway into the site.

Supporting Information

The application is accompanied by an Illustrative Site Masterplan (shown on the following page) and a detailed access arrangement plan. Other detailed statements and appraisals have been submitted which include Planning, Design and Access Statement, Transport, Ecological, Landscape and Visual Impact, Arboricultural, Noise, Retail, Employment, Community Involvement, Population, Energy and Sustainability and Viability.

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Illustrative site plan

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RELEVANT PLANNING HISTORY

CODE	DESCRIPTION OF DEVELOPMENT	DECISION
RUA23477	BUSINESS PARK, B1 HIGH TECHNOLOGY, MANUFACTURING, RESEARCH AND DEVELOPMENT & PRESTIGE OFFICES).	GRANTED 31.07.1995
CB01467	VARIATION OF CONDITION NO. 2 OF OUTLINE PLANNING PERMISSION 6/RUA/23477 TO ALLOW A FURTHER 3 YEAR PERIOD WITHIN WHICH RESERVED MATTERS ARE TO BE SUBMITTED.	GRANTED 06.10.1997
P/2000/0418	RELAXATION OF CONDITION NO. 2 IMPOSED UNDER PLANNING PERMISSION CODE NO. CB01467 TO ALLOW EXTENSION OF TIME FOR THE SUBMISSION OF RESERVED MATTERS APPLICATION.	GRANTED 31.07.2000
P/2000/0491	VARIATION OF CONDITION NO 6 OF OUTLINE PLANNING PERMISSION NO CB01467 TO ALLOW A MAXIMUM OF 65% OF THE TOTAL SITE AREA TO BE TAKEN UP BY OPERATIONAL AND BUILT DEVELOPMENT.	WITHDRAWN
P/2000/0769	VARIATION OF CONDITION NO 6 OF OUTLINE PLANNING PERMISSION NO CB01467 TO ALLOW A MAXIMUM OF 65% OF THE TOTAL SITE AREA TO BE TAKEN UP BY OPERATIONAL AND BUILT DEVELOPMENT.	
P/2003/0058	VARIATION OF CONDITIONS 2 AND 3 IMPOSED UNDER OUTLINE PLANNING PERMISSION CODE NO. P/2000/0418 TO ALLOW A FURTHER 3 YEAR PERIOD WITHIN WHICH RESERVED MATTERS MAY BE SUBMITTED AND A FURTHER 5 YEAR PERIOD FOR COMMENCEMENT OF DEVELOPMENT	GRANTED 10.03.2003
P/2003/0852	DISPLAY OF 'V' BOARD SIGN	GRANTED 15.08.2003
P/2003/1484	BUSINESS PARK, B1 USE (HIGH TECHNOLOGY, MANUFACTURING, RESEARCH AND DEVELOPMENT OF	GRANTED 06.06.2005

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	PRESTIGE OFFICES)	
P/2008/0844	OUTLINE APPLICATION FOR DEVELOPMENT OF B1 OFFICE, A1 FOOD RETAIL, ACCESS ARRANGEMENTS AND ASSOCIATED SITE WORKS	REFUSED 01.06.2009
P/2010/0847	APPLICATION FOR CERTIFICATE OF LAWFULNESS IN RELATION TO DEVELOPMENT COMPRISING THE CONSTRUCTION OF AN ACCESS ROAD TO SERVE THE DEVELOPMENT OF THE RUABON BUSINESS PARK AS APPROVED IN DECISION NOTICE REF RUAP/P/2003/1484 - BUSINESS PARK, B1 USE (HIGH TECHNOLOGY, MANUFACTURING, RESEARCH AND DEVELOPMENT OF PRESTIGE OFFICES)	REFUSED ALLOWED ON APPEAL

DEVELOPMENT PLAN

The site is outside any settlement limit. Policies PS1, PS2, PS3, PS4, PS11, GDP1, GDP2, EC2, EC4, EC6, EC9, EC11, EC13, H5, H7, S4, S6, S7, CLF5, T8 and MW9 of the Wrexham Unitary Development Plan (UDP) are applicable. These policies are amplified in Local Planning Guidance (LPG) Notes 10 – Public Open Space in New Developments, 16 – Parking Standards, 17 – Trees and Development, 27 – Developer Contributions to Schools, 28 – Affordable Housing, 30 – Residential Design Guide and 32 – Biodiversity and Development which are relevant.

National planning policy is contained in Planning Policy Wales (Edition 7) (PPW) and Technical Advice Notes (TAN) 1 - Joint Housing Land Availability Studies, 2 – Planning and Affordable Housing, 5 – Nature Conservation and Planning, 11 – Noise, 12 – Design, 18 – Transport and 23 – Economic Development.

CONSULTATIONS

Community Council (Ruabon):

Object and request the application be refused. It is deeply concerned that the developers clearly have no definite plans and have simply listed as many different uses as possible to pick off the most lucrative uses.

- The Council recognises that the previous planning decisions have impacted upon the open break between Ruabon and Plas Madoc/Cefn Mawr but the

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previous business park allowed a very low proportion of built development to green landscaped areas retaining a break between the communities;

- Given the nature of the built development and the views from a series of viewpoints along A539/B5605 it is difficult to see how any sense of open character could be maintained without substantial reduction in the built development;
- Whilst the Council's housing shortage is noted, this is not an appropriate site creating a new community. The site is not a characterful extension to Ruabon given the separation by a major highway which would be difficult to cross even with a pedestrian crossing. This would create a self-contained new village and does not satisfy UDP policy of allocating new housing development to a range of sites within and adjacent to existing built up areas. PPW is also clear that new settlements should not occur on an ad hoc basis.
- Whilst the offer of a school might be welcome, there is no evidence of how it is to be funded or when construction might be programmed – it would need to be funded by the developer and in place concurrently with the construction of the housing otherwise children will have to travel to existing schools which are inconveniently located and are already stretched;
- The offer of 10% affordable housing is woefully below the required 25% normally required in accordance with Council policy;

Traffic

- Segregation is emphasised by the only links to the community being street level crossings which not infrequently forms part of a diversionary route for traffic on the A483 causing problems for diversionary routes or blocking pedestrian links isolating the site;

Retail

- The proposed retail unit is placed remotely from the housing emphasising its lack of sustainability;
- It is a strange size, being too big for Lidl/Aldi and too small for a Tesco/Asda;
- It is too big for this new community nor would it suitably be located to serve Ruabon/Johnstown/Rhos and would not satisfy the primary test for local need shopping (policy S6);

Business units

- The previously approved business park was high quality, low density which could not be provided elsewhere in the County. The scheme now shown is typical small industrial type development with large block of unrelieved buildings surrounded by large area of car parking etc. There are many other far more suitable underused sites for such uses. The opportunity for high quality business is lost.
- There is no evidence to demonstrate that building a new pub/hotel would be justified. The village has several other pubs. There is a danger that a new pub would jeopardise local facilities in Ruabon contrary to S9;

Ecology

- There is little evidence to demonstrate how it properly deals

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with ecological species and historic trees in the site. The amount of built development is so great that it seems unlikely that they can be accommodated as required by law.

Adjoining Community Councils –
Cefn:

Objects – concerns about the increase of traffic on the roundabout and that there is petrol station within half a mile and superstores within Cefn Mawr and Johnstown;
Consulted 30.01.2015

Chirk Town:
Penycae:

The location is not deemed suitable for such development. The site is neither in Ruabon nor Rhosymedre and would appear isolated. It is felt that there is no call for additional supermarket facilities in the location, the area being adequately served at present.

Rhos:

Objects for the following reasons:

- The type of business units suggested would be no different than many unused business units already available within the borough;
- Questions would be raised at which store would take up a unit of this size, does not seem to relate to the current supermarket providers. In this climate Tesco stores are closing. Is another Supermarket required?;
- It is noted that there is a need for more housing in the area, this development does not seem to be an extension of Ruabon but a new village, self-contained, with no easy access to the existing village;
- Although there may be some provision in future for a school, this is an area of bilingual provision, would possibly require provision for both mediums and until this is provided it would have an impact on the current school

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	intake in all surrounding communities;
	- Although the development is not within the Rhos Community Council area, the Council can see an impact on areas that could affect this community and would fully support the representations made by Ruabon Community Council.
Erbistock:	Consulted 30.01.2015
Local Member (Cllr J. Lowe):	Consulted 30.01.2015
<i>Adjoining Local Members –</i>	
Cllr P. Blackwell:	Consulted 30.01.2015
Cllr D. Wright:	No comments.
Cllr D. Taylor:	Does not object. The development will bring employment to the people, choice to the consumer, footfall to local commerce in nearby villages and to council leisure facilities, new quality and affordable family homes, business to the area and economic growth to south Wrexham.
Cllr D. Davies:	Consulted 30.01.2015
Cllr I. Roberts:	Consulted 30.01.2015
Cllr J. Pritchard:	Consulted 30.01.2015
Cllr. J Phillips:	Consulted 30.01.2015
Site Notices:	Expired 20.02.2014
Press Notice:	Expired 24.02.2014
<i>Consultations –</i>	
Welsh Government (Trunk Road Agency):	Does not issue a direction.
Highways:	Have made the following comments: <i>Access/infrastructure</i>
	- The site has planning permission for approx. 50,000m ² of B1 business used served by a new roundabout on B5605 Park Road;
	- The existing 4 arm roundabout serving the A539 and B5605 junction will be upgraded to a 5 arm roundabout serving the site;
	- To provide a sustainable link to Ruabon village a new signal controlled pedestrian crossing will be constructed across the A539.
	- The principle of each proposed access into the site has been

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- checked to ensure compliance with current highway standards;
- A safety audit has been undertaken to ensure that the principle of the proposed 5 arm roundabout and the pedestrian crossing will not impact upon highway safety and a 40mph speed limit will be introduced on the A539 dual carriageway section of the road;
- A condition is recommended requiring the submission of further roundabout design and signal controlled crossing details to ensure that full DMRB standards are met follow by a Stage 2 safety audit to confirm standards have been implemented;

Traffic generation

- The traffic generation from the proposed development has been compared to the consented business park development;
- Traffic generation at peak hours will be less than that of the consented development. The Welsh Government have checked the traffic generation in relation to the A483;
- Computer modelling on the local highway network reveals that all junctions will function within capacity. No objections are made on the grounds of traffic generation;

Travel Plan

- A travel plan has been formulated in conjunction with the local travel plan co-ordinator.
- A condition is recommended to ensure that the travel plan requirements are implemented and monitored to help encourage sustainable travel and identify measures to increase the scope of modal shift. The travel plan must also consider the

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requirements of the Active Travel Bill.

Public transport

- It is intended that public transport will divert through the site to help increase sustainable travel options. Improvements shall be identified through the travel plan and implemented as part of the development.

Public Protection:

An Air Quality Assessment should be submitted to assess the impact of the increased traffic levels at the development site upon the existing site receptors. Construction hours restrictions and provision of a dust management scheme should be submitted as a requirement of a condition.

Head of Assets and Economic Development:
Head of Education Infrastructure and Support Services:

Consulted 26.02.2014

There are four schools that are anticipated to be affected. Ruabon High School, Rhosymedre Primary School, Ysgol Maes Y Llan and St. Mary's CIW School. Ruabon primary and secondary schools are showing full. Section not in favour of the gift of land as it would not result in a school of sufficient scale. Would favour the usual education contribution through the s106 process.

Welsh Water:

No objection. Conditions recommended to protect existing apparatus and delay of occupation of any permitted buildings until March 2017 to allow implementation of capital investment programme to improve existing sewers.

NRW:

Object to the proposed development.

Flooding and drainage

- The site is in a TAN15 flood zone A, but NRW's Surface Water Flood Map shows that some areas of the site are susceptible to surface water flooding. The

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proposed development has the potential to increase flood risk to developments offsite;

- NRW welcomes the use of soakaways to discharge surface water but the applicant has not demonstrated through evidence that ground conditions are acceptable or provided detail that SUDs can be incorporated into the design;
- The scheme includes for a petrol station. No fuel or hazardous substance tanks should be installed below the water table. Further investigations would be required into the level of the water table on the site and details of the fuel tanks provided;

Ecological impact

- The development impact upon ecology will be significant. The submitted ecological report mitigation measures should be implemented as a minimum and a planning condition made to secure ongoing management of the site;

Protected Species

- NRW concur with the conclusions and recommendations of the protected species survey;
- Whilst great crested newts were introduced to the site in 1988, safeguarding approaches have not resulted in the detection of species on the site. The proposal will not be detrimental to the maintenance of the favourable conservation status of the GCN population on the site.

Pollution Control

- Consent of NRW will be required for the disposal of sewage and trade effluent into controlled waters and a Site Waste management Plan should be drawn up and agreed prior to commencement of development.

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Denbighshire County Council:

Response is limited to potential issues relevant to the Llangollen area, which is the nearest highly populated part of Denbighshire to the site.

- Llangollen is a low growth town in the Denbighshire Local Development Plan, with relatively small land allocations for housing and employment use. There is an extant permission for a retail store on the Dobson and Crowther site to the north west of the town centre. It would seem unlikely that the scale of the mixed use development proposed would result in any significant effects on the commercial function of Llangollen, and there are potential benefits for residents of the Dee Valley from the employment generated at the site and reduction in journey times to employment in the Wrexham area. On the basis of the above, no objections are raised to the proposals in terms of their impacts on the Llangollen area.

No comments.

Network Rail:
Cadw (SAMs, Landscapes and
Parks and Gardens):

The proposed development is located in the vicinity of 4 no. scheduled ancient monuments and the development must avoid direct impacts on the designated sites.

- The development will have a negative impact effect upon a section of Offa's Dyke due to changing the existing more open rural setting and any exclusion zoning should not become an area of landscaping itself;
- The proposal does not discuss how Offa's Dyke could be positively managed in terms of interpretation and added public benefit;
- The existing Wynnstay parkland is recognised for its importance

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as one of the largest in Wales because of its designers and has remained largely intact despite being split by the A483 and encroached by roads in the north western corner. Whilst the landscape features have been incorporated such as the pond, ha-ha wall Cadw consider that their setting and ability to interpret them will be lost;

- The LVIA demonstrates that development will be visible from upper rooms of the hall and from the higher approach to Bathground woodland also that the view into the park will be completely altered from an open rural aspect.
- Further assessment of the visual impact of the development is required.

Welsh Historic Gardens Trust::

Opposes the development within the Grade I landscape.

- The development would be located on the north western part of the Wynnstay Grade I landscape which is considered to be of international significance;
- The mixed use development is proposed on fields in agricultural use which forms part of the parkland enclosed by the Wynnstay Park wall and perimeter planting of mature trees;
- The site is cut off from the rest of the parkland by the road system and is not directly adjoining Ruabon. As an out of settlement area this application is in conflict with PPW;
- Development of the land has been established. Any development should be led by the capacity of the landscape to absorb it. Only uses which can be accommodated without visual

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damage to the parkland should be permitted;

- The application states that that the proposed layout has been designed to minimise visual impact but few viewpoints have been taken from the parkland;
- The development would have high visual impact from the upper storeys of the hall and from within the park, for instance from the track to the Bathground Wood. Further landscape assessment might recommend that that prominent large buildings should be omitted from the scheme;
- The proposal downgrades the high quality and prestigious nature of the previous approval;
- Any large commercial buildings would potential block off the open park aspect on approach from Ruabon Road;
- Any landscape mitigation will only be limited;
- As the application is within the a Grade I landscape there could be the opportunity for some 'enabling' works to improve the column, its urn and the landscape of Bathground Wood. A new build residential area with access to a landscape would be attractive and this could provide a link between the park and Ruabon village.

CPAT:

Cadw will need to be consulted and they will provide the primary feedback in relation to the impact upon the registered parkland and the scheduled ancient monuments.

CPAT consider that the impact upon the setting of the SAM De 177 has not been adequately carried out and should be done so as part of the masterplanning process.

Neighbouring Occupiers:

49 neighbouring occupiers of the site were notified and there were a total of 64 responses received.

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Of these responses there were 41 representations supporting the development on the following grounds:

- Improvements are required in this area of Ruabon and Plas Madoc including jobs, housing, restaurants and schools;
- The scheme now before the Committee is by far the best scheme in the planning history of the site;
- The employment and retail opportunities will be a fantastic opportunity for Ruabon which is suffering decline;
- The proposal will be a much needed boost for local young people;
- The proposal will boost tourism on the way through to Llangollen;
- The site is ideally located adjacent to the A483 for Wrexham Denbighshire, Shropshire and Welshpool and the local train station;
- The development appears to be a real asset and a credit to all concerned;
- Supermarket competition will lower prices;
- The increased population growth in the area will be of benefit to existing local businesses;
- A local petrol station is needed by the community;
- Support for the houses is made on the basis that affordable provision will be made;

A further 22 representations were received objecting to the development on the following grounds:

Retail

- There is no need for large scale retail space. There are new supermarkets in Cefn Mawr and in Llangollen and established in Johnstown.

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- Large shops will make it difficult for small independent retailers to survive;
- The proposal will not create a large number of jobs but will move the workforce towards a new employer;
- There is no need for a service station as there is already one on the A483;
- Proposals exclude 'big four' retail operators. Lidl is a large multi-national operation and using the planning regulations to exclude 'big 4' operators in merely being used to 'feather Lidl's nest';
- The food store is based on proving a need for additional retail. The site is out of centre, therefore unless a retail need is proven it should be refused;
- There has been no interest in the Griflex site, therefore there is no need for an additional retail unit;
- Local amenities such as banks shops and post office are not within easy walking distance of the development and will force people to travel by car;
- The hours of use of the retail element could result in detriment to the neighbouring occupiers and should be strictly controlled, but noise from customers could still be a problem;
- The proposal does not accord with Planning Policy Wales (PPW) as the retail unit would be built on greenfield land outside settlement.
- Such a development would be better located on the Griflex site if the PPW search criteria are followed;
- The proposed development contravenes policy S5 of the UDP as the site is not in a defined district centre being outside settlement and that it is not of an

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appropriate scale to existing centres. Existing shops would cease to be viable;

Highways

- The use of a pedestrian crossing is not advisable due to the traffic speeds along the A539 and collisions that have previously been recorded;
- People will not use facilities and are likely to use shortcuts across the road from the site which will cause harm to pedestrians;
- The B5605 is a busy diversionary route from the A483 and proposals for another roundabout will cause further delays and congestion;
- Proposals for a new school will put further pressure on the area;
- The existing infrastructure is inadequate to cope with increased traffic movements;
- No sound assessments have been undertaken relating to existing properties backing on to the slip road. Will the developer be contributing to better sound insulation of existing properties;

Landscape

- Loss of further green space when the area has so much brownfield land available at Vauxhall Ind. Est., Cefn Mawr and Acrefair (Flexsys and Air Products). These areas should be used first;
- The Wynnstay land has significant historical interest linked to Capability Brown. Likewise the green colliery and the sense of arrival into the World Heritage site should be retained;

Design

- The retail unit is set to the front, pushing dwellings to the rear of the site forcing people to drive toward Ruabon using up the sparse existing spaces – residents may feel like they are

not part of the community of Ruabon;

- The existing A539 is a natural boundary to Ruabon. If the development is allowed, this may result in the sprawl between Ruabon and Rhosymedre;
- The scale of the development will make Ruabon appear more like a town than a rural community;
- Existing light pollution will be made worse by the addition of housing, retail and hotel on the site;
- The proposal will do nothing but impact the quality of the natural environment;
- This site is not brownfield land;
- The proposal will not maintain the existing settlement pattern;
- The size and number of dwellings will cause harm by overshadowing and loss of privacy;
- The development will have a detrimental impact upon the Ruabon Conservation Area;

General

- The site is outside settlement limits;
- The proposal will result in the irreversible loss of agricultural land;
- The development will result in the loss of trees and shrubs and associated habitat;
- The village cannot accept any more residential development as the schools and doctors surgery are full. Infrastructure that is promised does not appear to happen as with sites such as Brymbo and developers move on without meeting their commitments;
- The automated methods used by the developer to invite in representations of support via their own website should not be

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given significant weight over those representations objecting to the development. This method is unethical;

- The housing is far too close to the highway;
- The site is a haven for wildlife with red listed lap-wing noted in 2013;
- Pollution will occur from cars and lorries to the site and air quality will reach urban levels;
- If passed, the proposal will result in a prolonged period of construction nuisance;
- There should be no further connections permitted to the mains sewer which runs through the neighbouring land to the east as there are problems with the capacity of the sewer network;
- Stated jobs to be generated by the development are likely to be short term and could easily be transferred to a brownfield site;
- The light and airy offices are not needed as there is an abundance on the Wrexham Ind. Est. and Gutter Hill in Rhos;
- The influx of a large number of residents will have a large impact upon village life;
- There are frequent losses of power in Ruabon and the substation is at capacity;
- There are drainage capacity issues in the vicinity which have not been identified. The problem should be identified prior to developments being approved; the proposal will result in the loss of Green Barrier;
- Marketing the properties as being in close proximity to Chester would have an adverse impact upon the Welsh culture of the area;
- The site is within close proximity to the River Dee SAC and its

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- ecological interests should be preserved;
- The field is not 'redundant' as explained by the developer at a consultation event as it is used for agricultural purposes;
- Ground stability and the possibility of sink holes should be taken into account;
- Why is there a need for another hotel in the village when there are an existing two?

Objection received by Nexus Planning on behalf of Air Products.

The grounds of the objection are summarised below.

- The proposal development is in conflict with the strategic policies contained in the UDP and the national planning policy agenda to ensure that development does not impact upon the character of the countryside as the parcel of land separating the site is Green Barrier. The aim of the Green Barrier is prevent coalescence of urban areas and villages with other settlements. The Green Barrier would lose its main function and purpose and the villages of Ruabon and Acrefair/Cefn Mawr would merge;
- The proposed development will have an impact upon local services within the urban village of Ruabon, with residents using the proposed foodstore as opposed to the local shops and services that exist in Ruabon having a detrimental impact upon vitality and viability;
- The delivery of the Ruabon site may have significant impact upon the delivery of the former Air Products site which has the benefit of outline planning permission for a mixed use development. The Air Products site meets the strategic aims and policies within the UDP and the government's objectives to re-use brownfield land. Whilst commercial delivery is not a material planning consideration, it becomes so if the site cannot be delivered. The Air Products land is a brownfield, in settlement site and within the Council's land supply and its non-delivery would have a negative impact upon a regeneration opportunity.

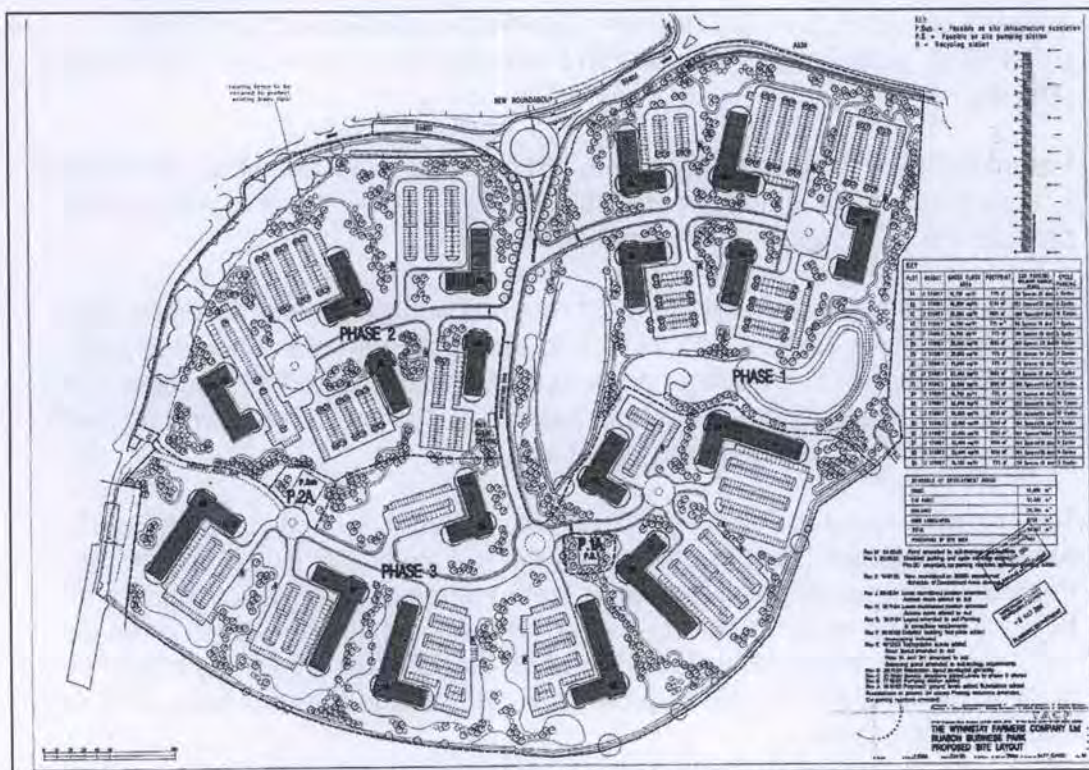
SPECIAL CONSIDERATIONS

Background: This site was allocated for employment purposes and shown within the settlement limit of Ruabon within the Wrexham Maelor Local Plan Forward to 2001 (approved in 1996). Outline planning permission was granted in 1995 for Business Park B1 Use (High Technology manufacturing, research and development and Prestige Offices). However, in the Wrexham Unitary Development Plan (UDP), the site is no longer shown as an allocation and is now outside a settlement limit. Although there had been a significant policy change, the then existing planning permission was acknowledged in Appendix II of the UDP as land with planning permission as at 1 April 2001 – the plan's base date.

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Following various applications to vary the timescales for the submission of the reserved matters between 1997 and 2005, an application for the approval of reserved matters was subsequently submitted in 2003 (P/2003/1484) and approved in June 2005. Although this was an approval of the matters reserved by the outline planning permission, a condition was imposed that development be commenced within 5 years of the date of the approval of those reserved matters. Development commenced on site by the provision of a hard standing associated with the access. Whilst the Council challenged this action by the refusal of a Lawful Development Certificate, a subsequent appeal found in favour of the developer as it was considered that the reserved matters application procedurally reflected a full application for planning permission effectively, conditioning a commencement within 5 years.

The site therefore has an extant planning permission by virtue of this commencement and appeal finding for the erection of a high quality business park consisting of 18 plots of two and three storey buildings, internal road layout and parking provision. For the benefit of members the approved layout plan is shown below.



Extant planning permission approved layout

Policy: The development of the site as now proposed is contrary to local planning policies as identified earlier in this report. The site lies in the open countryside and the current UDP directs all new development for housing, employment and community services to within the defined settlement limits (Policy PS1). Whilst the site is bounded to the north and west by Green Barrier and Special Landscape Area to the south, the site itself **does not** fall

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within any of these designations. The site has a detailed planning history and more importantly an extant planning permission for high quality B1 business development which must be taken as a significant material consideration in this instance.

For ease and clarity I have separated each element of the proposal and discussed the policy implications accordingly.

Residential

The proposal includes for a residential element with an indicative threshold of up to 319 dwellings. The illustrative masterplan shows an intention to site these dwellings predominantly to the eastern half of the site wrapping around the southern and south western boundary. The proposals do not accord with any of the circumstances set out in policy H5 that permit small scale residential development on sites outside of settlement limits.

Ordinarily I would recommend that a planning application be refused for proposals that represent such a clear and (given the number of dwellings proposed) significant departure from UDP policies. However the Council is only required to determine planning applications in accordance with an adopted development plan ***unless material considerations indicate otherwise***. Applications should also be considered in relation to up to date policies.

Planning Policy Wales (paragraph 9.2.3) requires local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing.

Members will be aware that the most recently published Joint Housing Land Availability Study (JHLAS) (2014) found that Wrexham has a housing land supply of 3.1 years. Dwellings proposed on sites allocated for housing in the UDP and/or already benefitting from planning permission have already been taken into account by the most recent JHLAS.

The recently updated Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015) advises that the results of the JHLAS should be treated as a material consideration in determining planning applications for housing. However, it further states that where local planning authorities do not have an adopted Local Development Plan (LDP) or where their UDP is out of date, they will not be able to produce a JHLAS and they will have no 5 year housing land supply.

Where the JHLAS shows a land supply below the 5 year requirement, TAN1 (paragraph 6.2) advises that the need to increase supply should be ***given considerable weight*** when dealing with planning applications, provided that the development would otherwise comply with national planning policies. Planning Policy Wales includes a ***presumption in favour of sustainable development***.

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The proposals conflict with a number of UDP policies. However, as already discussed above, the lack of a 5 year land supply is a significant material consideration in favour of the site being developed. Furthermore the development of the site would broadly accord with the presumption in favour of sustainable development set out in Planning Policy Wales. For sites to contribute towards the 5 year housing land supply, sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development. The site is relatively level thus making it a comparatively straightforward site to develop. The entire site is within the ownership of the applicant therefore I am unaware of any ownership issues that would prevent the site from being developed. An independent assessment of the submitted financial viability of the scheme was commissioned by the Council. The initial conclusions of this assessment indicated that there were no reasons to believe that the development is unviable.

As noted above Planning Policy Wales includes a presumption in favour of sustainable development. The site is located adjacent to the Ruabon settlement to the north and Acrefair/Cefn Mawr settlement to the west. Whilst I appreciate that the site is separated from these settlements by a thin strip of Green Barrier, the site itself is not within this designation and the strip referred to consists of the existing road (A539). Nevertheless, the Green Barrier has been designated in this position and requires some consideration in the context of this scheme.

There must be exceptional circumstances to justify the release of Green Barrier land for development. The pressing need for additional housing land is, in my opinion, one valid reason for giving favourable consideration to the release of **appropriate** sites for residential development.

As noted above Planning Policy Wales includes a presumption in favour of sustainable development. The site is in a broadly sustainable location on the edge of the existing settlement. The site is passed by regular bus services including routes between Wrexham, Ruabon, Cefn Mawr and Llangollen. The proposal also includes for the possibility within the travel plan to explore the opportunity to divert existing bus routes through the site. Additionally, the site is also within 0.5km/10 min walk of Ruabon railway station which serves as a principal railway station on the Chester to Shrewsbury line. Ruabon district centre is within 1km of the site and both the railway station and the district centre are passed by existing bus services.

It should be noted that the site was excluded from the Green Barrier in the existing UDP due to an extant outline planning permission in place at the time of its adoption. This, coupled with the current extant planning permission on the site, further strengthens the argument that the development of the site would satisfy the presumption in favour of sustainable development and would present a suitable site for residential development

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Retail

The proposal includes for the erection of a class A1 food store with an indicative gross floor area of up to 2,312m² and a net sales area of 1,421m². The applicant has stated that an interest has been expressed by Lidl to erect a food store in this location. As stated above, the erection of a food store in this location would be contrary to current local planning policy as it would result in development for commercial purposes outside an existing settlement limit (policy PS1). As part of the submission, the applicant has provided a policy statement and a Retail Assessment in order to justify a retail need and an economic development argument for the inclusion of a retail unit within the development. Given the scale and location of the proposed development outside Wrexham Town Centre or an existing District Centre, I consider that the appropriate local planning policy is S4 which deals with large-scale retail development.

Policy S4 directs new large scale retail development to within the Shopping Area of Wrexham Town Centre or to within one of the District Shopping Centres. Large scale developments outside of these areas will only be supported where there is an identified need, where it can be demonstrated that there are no suitable sites available and where a sequential test to site selection has been applied. The sequential test should examine the potential to meet an identified need in sites on the edge of the town centre or a district centre. Only where no such sites are available will out of centre sites be considered.

Out of centre sites should:

- a) use vacant, underused or derelict, or buildings suitable for conversion; and
- b) be accessible by a choice of transport and does not give rise to serious traffic congestion or road safety problems on local highways that cannot be addressed.

Planning Policy Wales (PPW) also directs large retail developments to town centres. The need for any retail developments outside existing centres must be established and a sequential test applied to site selection (town centre as first preference followed by edge of centre and finally out of centre). Developers are required to demonstrate that the potential for a development to be accommodated within a town centre or edge of centre sites have been fully assessed before out of centre sites are required.

PPW further advises developers to be flexible and innovative in the format of new development in order to maximise the opportunity for developments in existing centres. Rather than propose large scale retail developments with large car parks which can only be accommodated at single site out of centre/out of town locations, developers are expected to demonstrate why they could not develop elements of the large scheme on a site or a number of sites in more central locations with less car parking.

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With regards to the location of developments and transport, PPW explains that it is the Welsh Government's objective to reduce the need to travel, especially by private car by locating development where it has good access by public transport, walking and cycling. The Welsh Government supports the use of a transport hierarchy where by development should, in the first instance, be located where they are accessible by foot and cycle, then by public transport and finally by private motor vehicles.

In terms of need, the application has been considered against the most recent evidence base which is the Wrexham Retail Assessment (PBA, 2014) commissioned to feed into the LDP process. It identifies a County Borough need for around 4000m² floorspace rising to around 7500m² during the anticipated future LDP period. Locally within the catchment area in which the application sits only around 34% of the money that is available within the catchment is spent within the catchment, leaving 66% leaking to higher order centres, mainly Wrexham. Consequently there is a county wide and local 'need'.

However, there is an extant outline planning permission at the former Griflex site in Johnstown (P/2012/0210) for a retail use which must be taken into account as a material planning consideration. If delivered this would take up a significant proportion of the identified need. The exact quantity of the need that could be met by the Griflex development is subject to debate on detailed technical matters such as sales density, occupier and catchment area etc. The impact of the Griflex site and the application site accommodating a 'big 4' operator (Tesco, Sainsbury's, ASDA, Morrisons etc) at the same time has not been assessed, but this scenario is unlikely to occur in the current market as the catchment zone is not big enough to retain expenditure given proximity to a higher order town nearby (Wrexham).

Nevertheless, based on the findings of the evidence before me it is considered that there would still be a residual need which could be met by a retailer in the limited assortment discounter (LAD) category due to such a store's limited offer and possible share of this expenditure. A LAD is generally defined as a store smaller than the average sized supermarket that offers a limited range of products. They will have a minimal offer of perishable goods such as meat or fresh produce. Prices are generally lower than most food stores and are dominated by Private Label (non-branded) products. The applicant has prepared and submitted a draft planning obligation proposing that the occupation and operation of the retail unit be restricted in perpetuity to a LAD retailer to address this finding. I am satisfied that this requirement would meet the relevant tests set out in the regulations relating to planning obligations.

Upon consideration of a quantitative need for the proposal, the applicant must also demonstrate that there are no other suitable sites - in this instance within the district centre or within settlement. I am not aware of any sequentially more preferable sites that could accommodate a development of this scale to serve the primary catchment area of Ruabon and whilst an argument may be

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made that previously developed land should be considered in preference, the extant planning permission on this site is a material issue in favour of this location as a suitable site.

In accepting a quantitative need for a store and having accepted the applicant's sequential search for alternative sites closer to the district centre, the impacts of the development upon those centres requires consideration. Only stores in Wrexham Town Centre and the district centres are afforded protection by planning policy. The impact of the development on other retail offers such as the proposed store at the Griflex site and other stores such as the Tesco store in Cefn Mawr are not a material consideration. The Council's County Retail Study identifies that the Tesco in Cefn Mawr, as with other main convenience destinations which draw expenditure from the catchment are **not** located in areas afforded policy protection. The applicant argues that the study also demonstrates that existing centres within the Ruabon catchment appear to be serving top-up based shopping needs. The current proposal seeks to meet main food shopping needs like that of the recently approved Griflex scheme. This reaffirms an established principle in retail planning that like-affects-like i.e. that the existing convenience provision within the defined centres will continue to serve local day to day needs and will not be impacted by a larger food store as proposed. Further, the restriction of the store to a LAD which does not seek to provide individual items such as tobacco, confectionary or services such as post office, pharmacy, butchers or a deli would result in an comfort that there is limited overlap or competition from the proposal and existing convenience/top-up provision in the district centres.

The qualitative impacts of the proposed retail offer also require consideration. There are currently no discount retailers in the catchment offering lower prices against larger mainstream 'big 4' brands. The retail offer also forms part of a wider mixed-use development against which it is considered to offer significant economic benefits. The policy implications of economic development are discussed later in this report, but those benefits require significant weight afforded to them in determining whether the impact is acceptable. The site is also sustainably located as part of this mixed use development on the edge of settlement.

Commercial

The application is presented with a proposed provision of up to 20,393m² of B1 (light industrial), A3 (pub/restaurant), C1 (hotel) and C2 (Extra Care Residential) class employment use with an indicative position in the north west of the site. Whilst the proposal would not accord with the current UDP policy which restricts the location of new employment and visitor accommodation facilities (policies E4 and CLF4), the site has an extant planning permission for 50,000m² of high quality B1. This is a significant material consideration in determining the acceptability of the current proposal.

The current evidence base is the Wrexham Employment Sites Study (2007), which suggests that whilst the site is not constrained in development terms, the site is unattractive to the market due to its location to the south of

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Wrexham. Other locations such as Wrexham and Llay Industrial Estates and Wrexham Technology Park are deemed to be better placed to serve the market given the proximity to Chester and the North West. The site is no longer included in any land allocation, but the site is included in the overall employment land supply for the County Borough.

The more detailed assessment submitted with the application states that there is little market support for retaining the use of the site as per the extant planning permission and the retention of a reduced employment provision on the site would be attractive to small and medium sized enterprises and start up businesses in the locality rather than a more prestige office accommodation offer seeking occupation from organisations further afield. The applicant surmises that the extant permission could also not be delivered in its current form without cross subsidy from higher value uses such as retail and residential.

In order to present a fully flexible scheme that can react to changes in market demand, the scheme includes for the provision of Extra Care residential (C2 use) and a hotel/public house. These uses are considered to be complementary to the entire Masterplan for the site and reference is made to the Council's Destination Management Plan (2012-2017) in relation to the hotel and public house. Again, whilst such a use would be contrary to the strategic location policies within the UDP, the site is positioned adjacent to a strategic route towards some of North Wales' key tourist destinations and more importantly is within 3 miles of and on approach to the Pontcysyllte Aqueduct & Canal World Heritage Site (WHS), a key driver in the Council's economic development and tourism strategy for the County Borough.

Chapter 7 of PPW and TAN23 – Planning for Economic Development represent more up to date planning policy and guidance than those policies in the adopted out of date UDP. Whilst the economic use of the site for large scale prestigious B1 uses may not be appropriate in market terms, the proposal to allow for a reduced element of B1 with complementary hotel and public house use would broadly comply with the aims of PPW and TAN23 which requires local planning authorities to recognise the needs of the whole economy. Local planning authorities are required to **recognise market signals and have regard to the need to guide economic development to the most appropriate locations, rather than prevent or discourage such development.** TAN23 further recognises that some proposed developments or sites may be resisted by planning authorities – for example because they would have unacceptable environmental impacts, divert demand from town centres or would go against agreed spatial strategies. I consider that in this instance, the extant planning permission, the recognised potential benefits of job creation and the economic development of the locality in this strategically sustainable location represent significant material considerations that outweigh a policy objection on the grounds of location of development.

Other detailed considerations:

Highways

The application seeks outline planning permission for the development as described save for the three points of access into the site from the A539 and B5605 for which approval is sought at this stage.

The application was accompanied by a detailed Transport Assessment which has been considered by both WCBC Highways and the Welsh Government Trunk Road Agency (WG) (due to proximity to A483(T)). Given the nature of the scheme and their previous involvement in determining the impacts of the 2008 planning application, WCBC and WG employed consultants (Atkins) to undertake a full evaluation of the assessment. The conclusions of the response can be found earlier in this report.

The traffic generation from the proposed development has been compared to that of the extant proposed development forming the extant planning permission, including computer modelling of the local highway network and impact upon the capacity of existing junctions. Traffic generation throughout the day will clearly increase when compared to the consented development however it is considered that there is adequate capacity on the existing network to cater for the increase in anticipated movements. Due to the proximity of the site to the A483(T) WG have thoroughly checked the traffic generation figures and have raised no objection to the proposed development on the grounds of impact upon the trunk road. Therefore no direction has been made in relation to the application.

The applicants have discussed the scheme with the local travel plan coordinator. The implementation of an appropriately formulated scheme can be conditioned as part of any approval which will include such measures as the diversion of public transport through the site to promote sustainable transport options.

It is therefore considered that the proposal is unlikely to represent a detrimental impact upon the existing highway network. Traffic generation will be less onerous at peak hours and whilst traffic generation is likely to increase during off peak hours, roads would remain within their design capacity.

Scale, Design and Layout

Discussions have been held between the developer and the Council on various occasions in the initial stages of the scheme formulation and following a process of masterplanning. The application is accompanied by a detailed Design and Access Statement which fully outlines the rationale behind the finalised masterplan responding to the site constraints and input following a public consultation exercise.

Whilst it is important to note that this proposal is made in outline, with matters relating to layout, scale and appearance reserved for approval at a later stage, the Council can broadly rely upon the contents of the illustrative masterplan

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and supporting documentation in determining the anticipated impact of the development. The extant planning permission (as detailed earlier) allows for the erection of 18 two and three storey modern office block buildings casually spread around the site surrounded by a network of primary and feeder roads and large areas of hardstanding to accommodate car parking. The indicative layout of the proposed development seeks to adopt the primary and feeder road network around the site creating a loop between the proposed accesses. The layout also creates blocks of development areas allowing for the use of strong landscaped features and connections to assimilate the zoning of uses. Landscaped connections including pathways and open space/play areas feature within the layout around the existing central pond and between residential blocks. Landscaping also reduces the density of the built development around the southern boundary lessening the punctuation with the wider open aspect which would ultimately reduce the need for harsh boundary treatments.

I acknowledge concerns raised regarding the positioning of the site south of the A539 in relation to the remainder of Ruabon. Whilst the presence of the road may be considered to be a barrier to pedestrians at present, the centre of Ruabon is not prohibitively far from the development site and well within walking distance. The applicant has acknowledged the need to provide safe pedestrian access to the centre of Ruabon and this has been acknowledged through an undertaking to provide a pedestrian light controlled crossing as well as a significant reduction in the speed limit. I consider that this will ultimately change the character of the road and remove this perception. I am satisfied that the layout of the proposal, with the potential to provide for attractive walking and cycling routes will result in a high quality, accessible and sustainable development.

Landscape and Visual Impact

The site is currently characterised by low lying agricultural land, the western half of which forms part of the non-statutorily designated Cadw Register of Parks and Gardens relating to Wynnstay Estate. A small section of Offa's Dyke also crosses the extreme south western corner of the site. Cadw have provided a response to the applicant's masterplan and its associated Landscape and Visual Impact Appraisal (LVIA) to which they conclude that the proposed development will '...completely alter the rural, agricultural nature of the land in the west of the registered landscape which provides a rural backdrop to the parkland immediately around Wynnstay Hall'. Cadw further advise that further assessment of the visual impact of the development is required to ascertain impact.

The submitted LVIA concludes that the site will be visible from the upper floors of Wynnstay Hall. The site is also visible from points along the higher ridge of the parkland adjacent to Bathground Wood. I draw member's attention to the design of the extant planning permission on the site and the nature of its design, with its sporadic layout, and expanse of car parking which will also significantly change the character of the landscape. The priority is to manage the impact of the development of the site upon the landscape. The design of

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the proposed scheme represents a far superior proposal. Although denser in its layout, the scale of the buildings together with pockets of open space and structural tree planting is likely to result in softer views towards the edge of the site. The lower height than previously approved commercial buildings towards the far fringe of the site when viewed from the Wynnstay Estate is also considered to be of benefit to the development of the site. Softer landscaping and strategic mitigation planting around the larger commercial and retail buildings is also considered to reduce the urbanising impact of the development when viewed from a northern direction into the site from the A539. These detailed matters will be considered as part of any future reserved matters application.

The site features a bank of trees across the north western boundary of the site which are the subject of a Tree Preservation Order, a small amount of which will be required to be removed to allow the provision of the new access point. The applicant has presented a Pre-Development Arboricultural Report in support of the proposal which identifies the trees in good condition with good future prospects as well as presenting a good opportunity to screen elements of the development and provide for enhanced biodiversity. Given that the scheme also includes for large areas of tree planting as part of the landscaping it is considered that the illustrative layout is sympathetic to the existing trees on the site. Suitable conditions can be imposed to protect existing trees on the site that are not required to be removed as part of the development.

The south western corner of the site is traversed by a small section of Offa's Dyke which is a scheduled ancient monument (SAM). There are other SAMs in the vicinity, namely the Wynnstay Colliery Engine Winding House and the associated Fan House both to the west of the site. The LVIA infers that the section of Offa's Dyke concerned would go unnoticed to the uninitiated, but its great historical significance is such that it requires significant protection from development. The scheme proposes that a 20m buffer zone be implemented. Cadw acknowledge this but conclude that the development, because of buildings, roads, noise and lighting in contrast to the existing rural setting, will have a negative effect.

The impact upon this section of the Offa's Dyke SAM has been considered at various stages over the planning history of the site. The extant scheme includes for a buffer zone in its layout, with a large 'L' shaped building adjacent to the edge of the buffer. Based on the contents of the masterplan, I am confident that the potential impact of this development, given the softer landscaping and inclusion of open space around the most southern fringe of the site is likely to result in a reduced impact upon the Dyke. Any concerns regarding the interpretation of the historic asset as part of the development can be controlled by a planning condition. A condition would also be required to ensure that no development, to include buildings, earthworks or enclosures be carried out within the 20 metre buffer zone to protect the setting of the SAM.

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Ecology

The development is not proposed on or adjacent to any sites which are afforded statutory protection or are protected locally for their habitat quality. The site has been the subject of a full ecological survey to the satisfaction of the Council's Ecologist and NRW. It is accepted that there will be no detrimental impact upon the favourable conservation status of great crested newts on the site.

Concerns were raised by the Council's Ecologist regarding the impact of the development on ground nesting birds previously recorded on the site. As such, the developer has provided an undertaking to provide ecological habitat creation off site on land within the control of the applicant. It is considered that this provision and long term management will represent suitable enhancements to mitigate the impacts of the development. This management and long term monitoring can be strictly controlled by way of conditions and a section 106 agreement.

Drainage

An initial objection by Welsh Water to the development on the grounds of hydraulic overloading of the foul sewerage system has now been removed following investigations to identify a pinch point in the system that has caused problems within the vicinity. A condition has been recommended that no part of the development be occupied until March 2017 to allow for Welsh Water to implement its capital investment programme to rectify the identified problem. This is believed to be a conservative assessment of timescales therefore I consider that this condition is justifiable and will allow the development to occur without causing harm to existing residents.

The site is located within a Zone A flood risk area as defined in TAN 15 – Development and Flood Risk, being an area that is not at risk of river flooding. However, NRW have objected to the scheme on the grounds that there is evidence of surface water flooding on the site and the proposal has the potential to increase surface water flooding at developments offsite due to the increase of impermeable surfacing. The objection is also made as the applicant has provided no ground condition survey or layout design to demonstrate that the use of sustainable urban drainage systems (SUDS) can successfully be implemented as part of the development.

Again, members are asked to bear in mind the layout and nature of the extant scheme, predominantly the scale of the hard surfacing of the road network, car parking and potential roof runoff from the large commercial buildings. The proposed development features large swathes of open landscape areas, which, like the extant scheme can accommodate areas of SUDS. The impact of the development has previously been accepted and the fact that that development can occur on this site is a material consideration. I therefore do not consider that additional investigations can be justified in this instance. Nevertheless, conditions will be required to ensure that a comprehensive scheme of drainage be submitted and approved as part of any approval.

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Other considerations:

In accordance with policy GDP2, the development is required to make provision for infrastructure and community facilities. The applicant originally proposed to gift land to the local authority for the provision of a primary school. Discussions with the Council's Education and Lifelong learning department concluded that this offer would not fit strategically with the Council's plan for education infrastructure. Secondly, justification was not provided to determine whether the value of the land would outweigh an eventual cost to the council for providing the infrastructure. To this end, the applicant amended the Masterplan to delete this provision and committed to a contribution towards a shortfall in primary and secondary education provision. A figure of £1,501,608 has been generated based on the indication number of residential units and in accordance with the formula set out in LPG27. The applicant has acknowledged this and has been reflected in the recommendation.

The applicant has also acknowledged and committed to the provision of 25% affordable housing as required by policy H7 and LPG28. Again this will be reflected in the recommendation.

Public Protection have requested that an air quality assessment be carried out and approved prior to commencement of development in order to determine the impact upon sensitive receptors around the site. Such a request would not be deemed acceptable and is a matter that should be considered pre-determination. However, attention is drawn to the fact that this request was not imposed upon the extant planning permission. Whilst the nature of this development is different, I consider that the impact of the development upon those properties on Cil Y Coed will be less than the extant permission due to the difference in the distribution of traffic movements through the day. The Masterplan also shows that there is limited intention to construct residential units in close proximity to the boundary of the A539 and there is a significant distance between the site and the A483(T).

CONCLUSION

In accordance with planning legislation and Para. 3.1.2 of Planning Policy Wales, the Council is required to determine the application in accordance with the adopted development plan unless there are material considerations which indicate otherwise. I have given careful consideration to the information submitted in support of the application and the significance of material considerations that have arisen.

Whilst it is acknowledged that the development of the site does not accord with strategic policies relating to the location of the proposal, the principle of development on the site has been established and secured in perpetuity. The proposal presents the opportunity to deliver without, significant known difficulty, a high quality development, which would provide and contribute to much needed housing and affordable housing requirements in a broadly sustainable location. The scheme, through the provision of a reduced

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employment provision and a retail offer would deliver significant economic benefits to the locality through jobs and future expenditure. As such I am satisfied that these material considerations outweigh the strategic location requirements of the UDP and otherwise satisfies policies PS2 and GDP1. I therefore recommend accordingly.

RECOMMENDATION A

If Members are minded to approve the scheme, due to the nature and scale of the development it must be referred to the Welsh Ministers under the terms of the Town and Country Planning (Notification) (Wales) Direction 2012. If the application is referred back to the Authority for determination, the Head of Community Wellbeing and Development be given delegated authority to determine the application in accordance with Recommendation B.

RECOMMENDATION B

That the Council enters into an Obligation under Section 106 of the Town and Country Planning Act 1990 to secure:

- a) Financial contribution towards education provision.
- b) Financial contribution towards the funding of Travel Plan monitoring by the Regional Travel Plan Coordinator over a 5 year period.
- c) The provision of affordable housing in accordance with LPG 28
- d) The management and maintenance of on-site public open space
- e) Implementation of a scheme of ecological mitigation measures for land adjoining the site (as identified in the application documents), including details to confirm its long term management for that purpose.
- f) Control over the occupation of the retail offer to a 'deep discounter' (LAD) operation.

The Head of Community Wellbeing and Development be given delegated authority to approve the final form and content of the obligation.

RECOMMENDATION C

Upon completion of the Planning Obligation that permission be GRANTED subject to the following conditions:

CONDITION(S)

1. Approval of the following details (hereinafter called ""the Reserved Matters"" in each phase shall be obtained from the local planning authority before any part of the development in that phase is commenced:
 - i) The reserved matters
 - a) The siting of all buildings, including the proposed layout and functions of the external spaces, including the layout of vehicle parking and turning facilities.
 - b) The scale of the buildings

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- c) The design and external appearance of all buildings
 - d) The landscaping of the site including a landscaping design showing the planting proposed to be undertaken, the means of forming enclosures, the materials to be used for paved and hard surfaces, the design of street furniture and the finished levels in relation to existing levels.
2. Approval of the following details in each phase shall be obtained from the local planning authority before any part of the development in that phase is commenced:
- e) The layout of the development including the positions and widths of roads, cycleways and footpaths
 - d) The finished levels (above ordnance datum) of both the ground floor of the buildings and the surrounding ground levels;
 - e) The manner and treatment of existing watercourses and drainage ditches/channels;
 - f) The provision to be made for street lighting;
 - g) the provision to be made for external lighting of the retail/commercial/employment uses;
 - h) The alignment, height and materials of walls and fences and other means of enclosure including any acoustic barriers;
 - i) An accurate plan showing the position, type and spread of all existing trees on the site and a schedule detailing the size and physical condition of each tree and, where appropriate, the steps to be taken to bring the tree(s) to be retained to a satisfactory condition, and also details of any proposals for the felling, lopping, topping or uprooting of any tree;
 - j) The provision of emergency service access to each phase of the development;
 - k) Measures for the long term protection of scheduled ancient monument De177 known as Offa's Dyke including the opportunities for management, access, interpretation or presentation of the monument to provide public benefit.
 - h) The provision of a scheme of interpretation relating to the scheduled ancient monument De177 known as Offa's Dyke.
3. The first reserved matters application shall include a plan showing the site and location of all subsequent phases of development ('the Phasing Plan'). All subsequent reserved matters applications shall be submitted in accordance with the approved phasing plan unless otherwise agreed in writing by the local planning authority.
4. Plans and particulars of the first reserved matters referred to in conditions 1 and 2 shall be submitted in writing to the local planning authority before the expiry of 5 years from the date of this permission. The development shall only be carried out in strict conformity with such details as are thereby approved.
5. The development hereby permitted shall be begun before the expiry of 7 years from the date of this permission or two years from the date of approval of the last of the reserved matters required to be approved, whichever is the later.
6. The submission of all reserved matters and the implementation of the development shall be carried out in substantial accordance with the amended Masterplan Dwg No 2500-OP-20 revB (December 2013) and the design

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principles set out in Part 2 of the Design and Access Statement (December 2013), unless otherwise agreed in writing with the local planning authority.

7. Prior to the commencement of development in each of the areas as identified in the Phasing Plan details of all external facing and roofing materials shall be submitted to an approved in writing by the local planning authority. The development shall only be carried out strictly in accordance with those materials as may be approved.

8. The site layout and landscaping details for each of the areas approved as part of the Phasing Plan shall include areas of public open space at a minimum level of 80 square metres per dwelling together with a scheme that includes the following details:

i) Hard and soft landscaping of the open space area(s) (including the location of Local Equipped Areas of Play);

ii) The timing of the construction and landscaping of the open space area(s); Public open space shall be provided on site in accordance with the scheme as approved and thereafter permanently retained.

9. The gross retail floorspace of the discount foodstore hereby permitted shall not exceed 2,312 square metres and shall not be used for any other purpose including those set out in class A1 of the Schedule for the Town and Country Planning (Use Classes) Order 1987 or any Order revoking, amending or re-enacting that order with or without modification.

10. The retail floorspace hereby permitted shall be occupied as a single retail unit only and shall not be subdivided.

11. This permission shall provide for a maximum of 319 dwellings and up to a maximum of 20,393m² gross of Class A3, Class B1, Class C1 and Class C2 use.

12. Prior to the commencement of the relevant phase of the development, a scheme for the comprehensive and integrated drainage of the site indicating provision for foul water, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. Prior to the submission of those details, an assessment shall be carried out into the potential for disposing of surface water by means of Sustainable urban Drainage Systems (SuDS) in accordance with the principles of sustainable drainage systems set out in Technical Advice Note 15: Development and Flood Risk, and the results of the assessment shall be submitted in writing to the Local Planning Authority. Where a SuDS scheme is to be implemented, the submitted details shall:

i) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of receiving ground water and/or surface waters;

ii) Specify the responsibilities of each party for the implementation of the SUDS scheme, together with a timetable for that implementation; and,

iii) Provide a timescale for implementation, management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

13. Prior to the construction of the petrol filling station hereby approved, details of the fuel storage tanks, including their specification and finished

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depth in relation to the ground water table, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the details as may be approved.

14. No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.

15. No buildings on the site shall be brought into beneficial use earlier than 31st March 2017, unless the upgrading of the sewerage network, into which the development shall drain, has been completed and written confirmation of this has been issued by the local planning authority.

16. The proposed development site is crossed by public sewers. No part of any buildings shall be constructed within 6 metres either side of the centreline of the public sewer.

17. Prior to first use of the development suitable grease traps shall be provided in order to prevent entry into the public sewerage system of matter (cooking fats, oils and grease etc) likely to interfere with the free flow of the sewer contents, or which would prejudicially affect the treatment and disposal of such contents.

18. Prior to commencement of development in each phase of the development, a detailed Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with Method Statement as is approved. The Method Statement shall include the following:

- i) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;
- ii) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
- iii) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
- iv) Details of general arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
- v) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
- vi) Method for protecting retained trees during demolition works;
- vii) Details of all proposed tree works, including felling and pruning.

19. No development (nor any site clearance) within each of the areas identified in the Phasing Plan shall take place until a Method of Construction Statement has been submitted for that phase, and approved by the local planning authority, to include details:

- i) construction traffic routes in the local area;
- ii) parking for vehicles of site personnel, operatives and visitors;
- iii) loading and unloading of plant and materials;
- iv) storage of plant and materials;
- v) programme of works (including measures for traffic management and operating hours);

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vi) measures to reduce mud and spoil on the highway;
vii) details of proposed means of dust suppression and noise mitigation
Only the approved details shall be implemented during the construction period.

20. The rating level of any noise generated by reason of this development shall not exceed the pre-existing background level by more than 5dB(A) at any time. The noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Method of Rating Industrial Noise Affecting Mixed Residential and Industrial areas.

21. All mechanical plant and equipment shall be enclosed in sound insulating material, mounted and located to minimise the transmission of structure borne sound in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before the retail uses hereby permitted is open for trading and prior to occupation of the commercial employment uses hereby permitted and thereafter maintained as such.

22. Prior to the commencement of development (to include any site clearance) a farmland bird management plan shall be submitted to an approved in writing by the local planning authority to include detail of offsite habitat creation including its size, location, implementation, timescales for provision, management and monitoring regime (including timescales). The scheme shall be implemented strictly in accordance with the details as may be approved.

23. Prior to commencement of the relevant phase of the development hereby permitted details of the 10m wide landscape buffer proposed to be provided along the southern and part eastern boundaries of the application site as shown on the amended Masterplan dwg No 2500-OP-20 revB (December 2013) and a programme for its implementation, have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall not progress other than in accordance with the approved implementation programme. At all times thereafter, all such boundary treatment shall be retained in a wholly sound and effective condition for a period of 5 years.

24. No development shall occur, to include the alteration of any land levels or the erection of any enclosures within a 20 metre buffer zone of the scheduled ancient monument De177 known as Offa's Dyke.

25. Prior to commencement of development a detailed scheme fully specifying an appropriate 3 arm roundabout at the junction of the B5605 Park Road and a 5 arm roundabout at the junction of the B5605 and the A539 in the locations as shown on the approved plan numbered 12082-010 Rev B shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved Phasing Plan.

26. No part of the development shall commence until a detailed scheme fully specifying the provision of the following has been submitted and approved in writing by the local planning authority:

i) Speed limit amendments to the A539 dual carriageway;

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- ii) Signal controlled crossing pedestrian crossing across the A539 dual carriageway (as shown on approved plan 12082-010 Rev B);
- iii) A priority junction for the foodstore service access (as shown on approved plan 12082-010 Rev B);
- iv) A footway linking the junction of Cil y Coed and the B5605 to the signal controlled pedestrian crossing (as identified in ii); and
- v) A scheme of signage and pedestrian barriers to prevent access along the A539 in a easterly direction.

The approved scheme shall be fully implemented prior to the first use of the development or otherwise in accordance with the details of the approved Phasing Plan.

27. Prior to the commencement of development of each phase of the development, the detailed layout, lighting, design and drainage details of the internal estate roads shall be submitted to and approved in writing by the local planning authority. The internal estate roads shall thereafter be constructed in accordance with the approved details and in accordance with the approved Phasing Plan.

28. Prior to the occupation of each phase of the development, a Travel Plan for that phase shall be submitted to and approved in writing by the local planning authority. The plan shall consider the requirements of the Active Travel bill and public transport infrastructure provision across the site. The plan shall also include the details of an annual monitoring report, which shall be submitted to the local planning authority for written approval following the anniversary of the first use of the development, and every year up to and including the fifth anniversary.

29. Prior to commencement of development of each of each of the areas as shown within the Phasing Plan, further details of the proposed vehicular parking and turning facilities for that phase shall be submitted to and approved in writing by the Local Planning Authority. The facilities as are approved shall be fully laid out, surfaced and drained prior to first use of the development phase within that phase, and shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of vehicles at all times.

30. Prior to commencement of development in each phase of the development a scheme for the provision of affordable housing as of the development shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of Welsh Government Technical Advice Note 2 or any future guidance that replaces it. The scheme shall include:

- i) The numbers, type, tenure and location of the site of the affordable housing provision to be made which shall consists of not less than 25% of housing units;
- ii) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved;

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- iv) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

31. Prior to the commencement of development in each phase of the development as may be approved, provision shall be made to offset the shortfall in education facilities in accordance with a scheme to be agreed in writing by the local planning authority. The provision shall be implemented strictly in accordance with those details as may be approved.

REASON(S)

1. To comply with Section 92 of the Town and Country Planning Act, 1990.
2. To comply with Section 92 of the Town and Country Planning Act, 1990.
3. In the interests of a co-ordinated approach to the development of the site.
4. To comply with Section 92 of the Town and Country Planning Act, 1990.
5. To comply with Section 92 of the Town and Country Planning Act, 1990.
6. To define the permission and ensure compliance with the aims of the Policies PS2 and GDP1 of the Wrexham Unitary Development Plan.
7. In the interests of good design and in accordance with policy GDP1 of the Wrexham Unitary Development Plan.
8. In the interests of the amenity of the future occupiers of the site.
9. To ensure that the development does not harm the viability of Ruabon District Centre and to satisfy policy S4 of the Wrexham Unitary Development Plan.
10. To ensure that the development does not harm the viability of Ruabon District Centre and to satisfy policy S4 of the Wrexham Unitary Development Plan.
11. In the interests of highway safety and to ensure that a high standard of design is achieved for the site.
12. To ensure satisfactory drainage of the site and to avoid flooding.
13. To ensure that the integrity of the ground water table is maintained in the interests of pollution control and public safety.
14. To protect the integrity of the public sewerage system and prevent hydraulic overloading of the public sewerage system. To protect the health and safety of existing residents and to ensure no detriment to the environment.
15. To ensure proper drainage of the site and in the interests of the public.
16. To ensure that existing public infrastructure is protected.
17. To prevent pollution of the water environment.
19. In the interest of highway safety and in the interests of protecting the amenity of local residents.
20. In the interest of the amenity of the neighbouring occupiers.

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21. To protect the amenities of the occupiers of nearby properties.
22. In order to protect wildlife interests, which are afforded special protection.
23. To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
24. To protect the integrity of known archaeological features in accordance with policy EC9 of Wrexham Unitary Development Plan.
25. In the interests of highway safety.
26. In the interests of highway safety and in the interests of ensuring safe and convenient pedestrian access to the site.
27. In the interests of highway safety.
28. In the interests of highway safety and providing a safe and sustainable development.
30. To ensure that the development accords with policy H7 of the Wrexham Unitary Development Plan.
31. To ensure that the development makes appropriate infrastructure provision in the interests of the community and in accordance with policy GDP2 of the Wrexham Unitary Development Plan.

NOTE(S) TO APPLICANT

You should ensure that any difference between the plans approved under the Town and Country Planning Acts and under the Building Regulations is resolved prior to commencement of development, by formal submission of amended plans.

You are advised that this grant of planning permission was made following the completion of an Agreement under Section 106 of the Town and Country Planning Act. Before undertaking any work under this permission you are advised to obtain full details of the Agreement and ensure that you are able to comply with its terms.

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

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Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

The separate written consent of the Local Highway Authority must be obtained before any work is carried out within the confines of the highway.

This permission is granted subject to the above conditions. Some conditions may require your attention prior to you carrying out any work on the proposal. These conditions are known as "conditions precedent". You should be aware that it is important that you comply with any "conditions precedent". If you do not, then any work you undertake on the development subject of this permission would not have planning permission.

Should any made ground and/or contaminated land be identified during the works it would be prudent to investigate the potential for such contamination and inform the Council's Contaminated Land Officer immediately. The applicant is advised to contact the Council's Environmental Protection section on 01978 315733 for further guidance.

RECOMMENDATION D

That if the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 is not completed within six months of the date of the Committee resolution the Head of Community Wellbeing and Development be given delegated authority to **REFUSE** the application for the following reasons:-

1. The development would not make provision for the required infrastructure/community facilities to offset the impact of the development. The proposal as such would be contrary to UDP policies GDP2, CLF4 and H7.
2. The development would not make adequate provision for the potential impacts of the development upon biodiversity through the implementation and maintenance of long term habitat improvements.
3. The development would not make a justification for the provision of an unrestricted retail offer and would have an adverse impact upon the viability and vitality of local district centres and the town centre. This would not accord

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with national and local planning policy and guidance regarding retail developments.

4. The development would not make suitable provision for

That delegated authority be given to the Head of Community Wellbeing and Development to determine the final form and content of the reasons for refusal.

Appendix 14

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72. The second error was, contended Mr Tucker, that the committee were not advised that they could only take the fall back position into account if it were a realistic possibility that the fall back scenario would happen.
73. Mr Fraser and Mr Katkowski submitted that the “fall back position” here was not a true fall back position at all, because the comparator used was not something that might happen to use of the land in the future but rather the use to which it is currently being put as a garden centre enterprise. I do not accept that submission. It is clear from the passages I have quoted above (paragraph 66) from both the officer’s Main Report (“... a retail development with a total floorspace of up to 4,500 square metres gross *could be developed* on the site” (emphasis added)), and the planning adviser’s report from which it was derived (“A retail development with a total floorspace of up to 4,500 sq m gross *could be developed* on the site” (again, emphasis added)), that the comparator was not simply the garden centre continuing to sell a wide range of goods, but the Site being prospectively “developed” with a total retail floorspace of up to 4,500 sq m gross (i.e. with a development of similar size and planning use to the current garden centre). Unlike the adviser’s report, the officer’s report does not suggest that that prospective development would be restricted to a Marks & Spencer store, or three smaller retail units, as proposed in the development of the Site with which this permission is concerned. But it is clear from the language used, that the Main Report was looking at the prospect of the land being developed with such a retail development, even if this application were not granted.
74. Curiously, the Addendum Report is in slightly different terms from page 63 of the Main Report, referring to “the fall back position of the existing use of the site, which enables 4,500 square metres gross of retailing *in the garden centre building*” rather than “... *from the site...*”, which is more suggestive of another retailer trading from the existing building on the Site rather than a redevelopment. Nevertheless, in the Claimant’s favour, I accept that the reports together suggest a comparator involving a redevelopment.
75. However, I remain unpersuaded by Mr Tucker’s ground of challenge. The prospect of the fall back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fall back position happening is “very slight indeed”, or merely “an outside chance”, that is sufficient to make the position a material consideration (see Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government [2009] EWCA Civ 333 at [20]-[21] per Sullivan LJ). Weight is, then, a matter for the planning committee.
76. In this case, the report did not address the gamut of possibilities for use of the Site if this application were not granted. However, in addition to the possibility that the garden centre would continue to use the Site for 4,500 sq m of open Class A1 retail use, it was obviously a possibility that they would use the existing use to redevelop the Site for a building of similar size with a similar use for some retailer. The officer’s Main Report suggested no more than that. It did not suggest the prospect that Marks & Spencer would use the existing buildings or limited redevelopment of the site to trade.
77. In any event, although Mr Tucker submitted that the planning decision was a close thing – the chair used his casting vote (see paragraph 10 above) – it is clear from the

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Appendix 15

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- 47.7% are owner occupiers, 35.1% rent privately and 17.3% live in affordable housing (social rented or intermediate tenures);
 - 28.4% had a gross income of less than £300 each week, 31.1% received between £300 and £500 each week and 40.4% received more than £500 each week;
 - 430 BAME households were in some form of housing need (18.9%), with overcrowding and difficult to maintain property as key needs reasons; and
 - 20.4% were dissatisfied with the state of repair of their homes.
- 6.59 The 2011 census identified 103 people with Gypsy and Traveller ethnicity living in 30 households.

Summary

- 6.60 This chapter sets out to directly address all of the requirements to undertake an assessment of housing need in accordance with the Local Housing Market Assessment Guide (Welsh Government – March 2006) and Getting Started with your Local Housing Market Assessment – A Step by Step Guide (Welsh Government – March 2012). This chapter has provided a compliant and clear definition of housing need and affordable housing along with a step-by-step explanation of what information is required and input into the housing needs assessment model to calculate the degree of housing need.
- 6.61 Analysis reveals that there is an annual shortfall of 157 affordable dwellings across Wrexham County Borough. This annualised figure has been calculated on the principal that the calculated level of total need is cleared over a five year period (see Step 11).
- 6.62 It is important to stress that housing assessments are essentially a snapshot in time and as such the figure calculated under this model should not be used as a definitive measure of housing need or as an absolute target figure. Instead, the model and its output is representative and reflective of the current level of imbalance within the local housing market and so indicative of the scale, type and tenure of housing required in order to seek to redress such imbalance.
- 6.63 In terms of the preferred affordable housing tenure split, existing households in need and newly-forming households stated strongest preferences for social/affordable renting. Overall, analysis would suggest a tenure split of 70% social rented and 30% intermediate tenure.
- 6.64 In terms of affordable housing by size (number of beds) then the analysis clearly suggests a need for smaller two bedroom properties for both under and over 65s with some three bed general needs (under 65s).
- 6.65 It is important to note that this assessment is made against, and by using, the bedroom standard and in doing so matches the number of people within a household in need to the exact number of bedrooms to meet that need. Whilst this is a logical approach and additionally whilst welfare reform may also influence an increasing need for smaller housing, we would advise caution against the development of one bedroom accommodation for outright and intermediate sale,

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