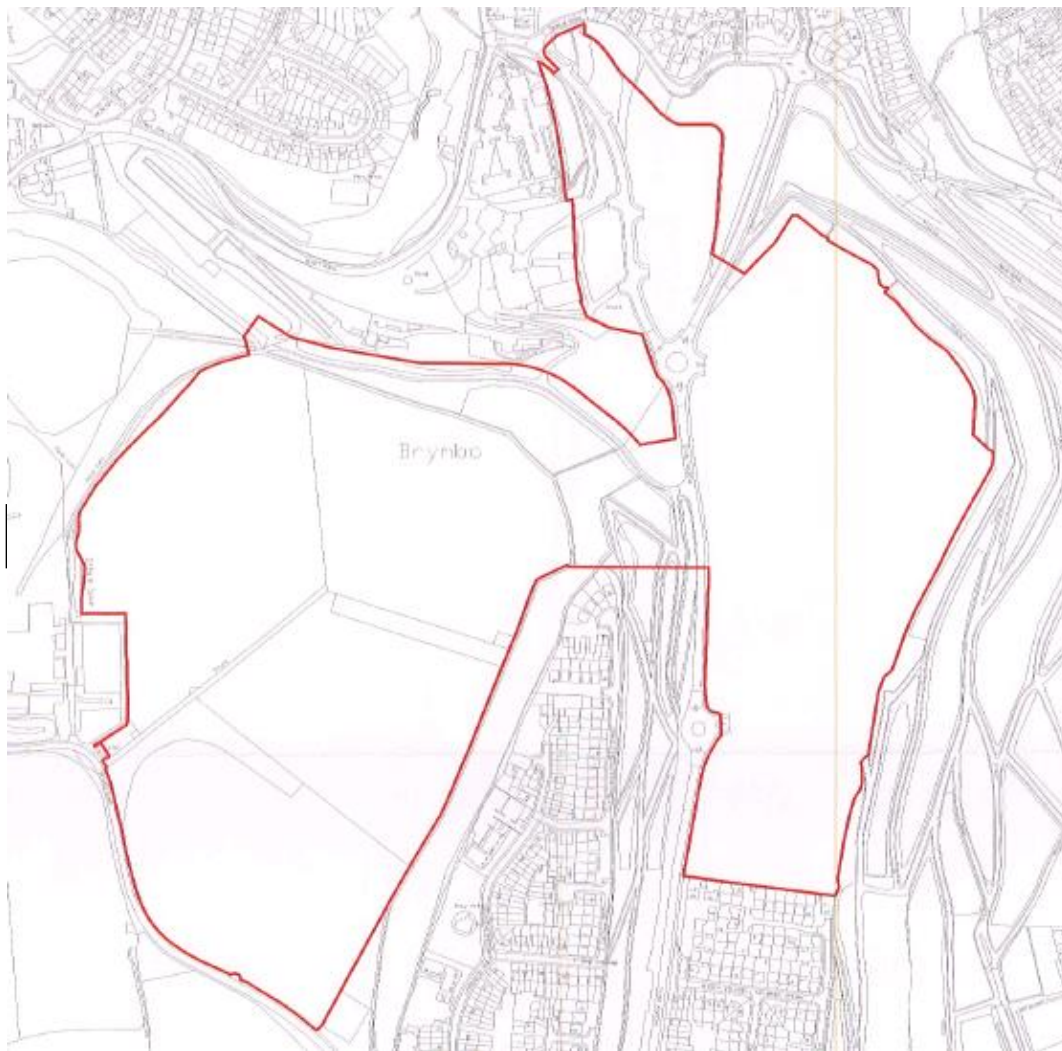


TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL AT
Former Brymbo Steelworks Site, Brymbo, Wrexham, LL11 5FS

COUNCIL'S STATEMENT OF CASE

PLANNING REF: P/2019/0546
PINS REF: 3259057

1.0 SITE



2.0 PROPOSAL

- 2.1 The application site is primarily formed of two parcels of land either side of the spine road (Phoenix Drive).
- 2.2 The land to the east of the spine road is within Brymbo Settlement Limit. The land to the west of the spine road is outside the Settlement Limit.
- 2.3 The application seeks outline planning permission for the construction of:-
- Up to 450 no. dwellings (Class C3 use);
 - Provision of a primary school (2-form entry);
 - District centre comprising up to 1,395m² of Class A1 retail use, up to 372m² of Class A3 restaurant/public house and up to 465m² of Class D1 use;
 - Multi-functional green infrastructure including children's play areas and informal open space;
 - Surface water attenuation;
 - Vehicle accesses, car parking, engineering works, public footpaths;
 - Hard and soft landscaping;
 - Underground services and associated ancillary and enabling works.

- 2.4 All matters are reserved except for vehicular access to Ty Cerrig (the western parcel of land) from Brymbo Road.

3.0 HISTORY

CB00016	Outline application for residential development and erection of buildings for retail, B1, B2 and B8 and leisure uses including heritage area, nature conservation area including formation of new accesses to classified roads. Granted 10/11/1997
P/2000/0968	Variation of Condition No. 2 imposed under planning permission CB00016 to allow the period for the submission of Reserved Matters to be extended. Granted 11/12/2000
P/2003/1324	Variation of Condition No. 1 imposed under planning permission P/2000/0968 to allow the period for the submission of reserved matters to be extended for a further two years. Granted 23/12/2003
P/2005/1484	Light Industrial Units phase 1. Reserved matters approved 6/3/2006
P/2005/1489	Commercial development phase 1. Reserved matters approved 6/3/2006
P/2006/0341	Variation of condition 2 of CB00016 to extend period for submission of reserved matters for a further 2 years. Granted 27/4/2006
P/2009/0125	Variation of condition no.2 of planning permission code. P/2006/0341 to allow the period for the submission of reserved matters to be extended for a further 2 years Granted 6/4/2009
P/2009/0939	Outline application for erection of supermarket and small retail units and associated car parking. Refused 6/12/2010 Appeal dismissed 29/11/2011
P/2010/0516	Reserved matters for north spine road Granted 3/8/2010
P/2012/0816	Outline application for erection of supermarket and small retail units and associated car parking. Committee resolution to grant subject to s106.
P/2014/0166	Variation of condition no.s 1, 2 and 3 of planning permission code no. P/2009/0125 to allow for construction of spine road in advance of approval of reserved matters for the layout, scale, appearance and landscaping of and the means of access to, any built development and to extend the period of submission of reserved matters and commencement of development (business, general, industrial, storage/distribution and non-residential institution development and construction of spine road). Granted 25/04/2014.
P/2017/0105	Outline application for the erection of new primary school. Granted 21/03/2017.

4.0 DEVELOPMENT PLAN

- 4.1 Eastern parcel of land is within Brymbo Settlement Limit and is designated land reclamation.
- 4.2 UDP Policies PS1, P2, PS3, PS4, GDP1, GDP2, EC2, EC4, EC6, EC9, EC11, EC13, EC16, H2, H5, H7, S5, S6, CLF5.
- 4.3 LPG 07 – Landscaping and Development, LPG 10 – Public Open Spaces on New Housing Developments, LPG 13 – Housing in the Countryside, LPG 16 – Parking Standards, LPG 17 – Trees and Development, LPG 21 – Space Around Dwellings, LPG 27 – Developer Contributions to Schools, LPG 28 – Affordable Housing, LPG 30 – Design, LPG 32 – Biodiversity and Development.

5.0 CONSULTATIONS

Community Council:	Major concerns about the impact of the potential increase in traffic on Broughton Community Council roads. There are already major congestion issues along Heritage Way to the junction with Ruthin Road. Other roads in Southsea and New Broughton may also be impacted upon if road users attempt to find alternative routes. The Council would wish to see major road improvements included within this application, particularly at the Heritage Way/Ruthin Road junction.
Local Member:	No comments received.
Adjoining Local Member:	No comments to make.
Welsh Government:	Directs refusal. Modelling work has been undertaken to consider the impact of the development on the trunk road at Junction 4 of the A483. The findings indicate that there is currently no capacity to support any further developments at this location.
NRW:	Object to the application on the basis that insufficient information has been submitted to demonstrate that the proposal would not result in adverse impacts to Great Crested Newts and that no assessment of the impact of the development having regard to its location within the SSSI has been made.
Flood:	Prior to determination of the application, the proposal needs to demonstrate that a Sustainable Drainage Scheme can be achieved for the development which is compliant with the Statutory Standards for Wales. The submitted FCA and Drainage Strategy have not taken into account the comments previously provided by the Flood Officer at pre-application stage. Whilst an outline scheme to manage surface waters has been included, it does not consider the Statutory SuDS Standards and design principles. Elements of the proposed strategy, including proposed discharge rates, are contrary to the National Standards and are unlikely to achieve SAB support or approval. In the absence of this information it has not been demonstrated that a SuDS scheme compliant with the Statutory Standards can be delivered for the site. This may have significant implications for the deliverability of the site if any future application for SAB approval were not successful.
Highway Authority:	Details of the access points into the north and eastern parts of the site can be secured under reserved matters Any permission should include a requirement to extend the 40mph speed limit beyond the new access along Brymbo Road, given the reduction in height/removal of the hedgerows to facilitate the site access into the western parcel of land forming the application site

Other significantly sized residential development on the former steel works site are accessed by a roundabout. It is suggested that the same approach is taken for the access into the western parcel of land which forms part of the development, to take a consistent approach

Full details of proposed pedestrian / cycle routes will be required as part of any reserved matters application

Condition to secure provision of an emergency access onto Brymbo Road required

Any proposed road should be of a circular route to enable a bus service to link to the site

Condition required to secure study of Active Travel routes

Studies of local infrastructure reveal no capacity issues at proposed new access location on Brymbo Road

Until such time that Junction 4 is upgraded, it is not considered appropriate to be permitting the addition of significant additional traffic into an area already at capacity

It may be possible to support some initial phased development of the site which include the school, shops, leisure and some residential, subject to traffic generation levels being no more arduous than those previously consented at the site.

Welsh Water:

No objection. Conditions recommended limiting that no more than 300 units and the primary school shall communicate with the public sewer. Submission of a hydraulic modelling assessment required for the remainder of the development. The connection shall be made in accordance with the recommended connection options set out in the hydraulic modelling assessment. Submission of foul, surface and land water drainage, prior to commencement of development.

Coal Authority:

No objection subject to a condition to secure site investigation works.

Public Protection:

No objection subject to conditions to secure submission of a Phased Investigation and Verification Reports for contaminated land, Air Quality Assessment, restriction of construction hours, dust management scheme, kitchen extraction details and air handling equipment.

Contaminated Land:

No objection subject to conditions to secure site investigation and a remediation strategy if necessary.

CPAT:

No objection.

Education:

Contribution required as a result of the increase in pupil numbers generated from the proposal. This would be secured as part of any Unilateral Undertaking.

Affordable Housing:

Based on current policy, 25% affordable housing provision is considered would be excessive, on the basis that the housing register waiting list and affordable housing waiting list figures for the area are fairly low. Taking on board the emerging policy of 0% contribution, it is considered that an affordable housing

provision of approx. 5-7% would benefit local residents and those within Wrexham on this site.

PROW: No comments received.

Conservation Officer: No objection.

Ecology: The information supplied doesn't answer the fundamental questions regarding the ecology issues.

The proposal will require a GCN licence and not RAMS as suggested.

The newt fence which is described as intact was not managed for many years and was removed in part, it is therefore not known if there are individual newts on the development side of this fence.

Critically the long-term future of the mitigation areas need to be established and a mechanism for their funding provided. It is the responsibility of the developer to pay for mitigation. Potentially there could be a system of ground rents for the properties and business's within the development boundary but this may also not be suitable for several reasons.

Any mitigation area must be owned or leased to an organisation whose primary aim is nature conservation.

Trees: No comments received.

Wales & West Utilities: No apparatus within the area of enquiry.

HSE: Application site does not lie within the consultation distance of a major hazard site.

Ramblers Ass'n: Public footpaths Brymbo 0 and 38 should not be diverted or blocked by the development.

Press Notice: Expired 31.07.2019.

Site Notice: Expired 28.08.2019.

Neighbours: Approximately 11 no. representations received. 5 no. in support of the proposal and 6 no. object.

6.0 COUNCIL'S CASE

Local Plan

6.1 The site is comprised of two parcels of land, either side of the Brymbo spine road.

Residential Development

6.2 The eastern parcel of land is within Brymbo Settlement Limit and is designated Land Reclamation to which UDP Policy EC16 applies. The policy states that this site will be

reclaimed and restored for housing/employment/amenity. UDP Policy H2 allows residential development on unannotated land within settlement limits.

- 6.3 On this basis, the principle of development for housing on the eastern parcel of land is acceptable.
- 6.4 The western parcel of land is outside the settlement limit. Based on the submitted Land Use Plan Rev J, this part of the site primarily proposes residential development. The proposal does not comply with the criteria set out under UDP Policy H5 which allows housing in the open countryside.
- 6.5 There is a policy presumption against development of the western parcel of land for residential development.

Material Considerations

- 6.6 S.38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan in force in the area unless material considerations indicate otherwise.
- 6.7 On the basis that the western parcel of land lies outside Settlement Limit, there is a need to assess whether there are any material considerations associated with this part of the scheme, to warrant granting approval for residential development of this site.
- 6.8 Furthermore, given the Deposit LDP is at an advanced stage, it is also relevant to discuss any issues or emerging policies related to the eastern parcel of land which lies within settlement limit.

Landscape Impact

- 6.9 The western parcel of land is set at an elevated position in its location. The land is comprised of agricultural fields separated by hedgerows and trees along the boundaries. A dense line of vegetation and trees run along the eastern boundary, which separates the site from the residential development to the east.
- 6.10 The land level rises in a south to north direction and the site sits at a more elevated position than the existing residential development to the east, as well as the proposed development which also forms part of this application and which is within the settlement limit. On this basis, residential development on this site is considered to be particularly prominent in the landscape.
- 6.11 This would be exacerbated by the fact that the site comprises undeveloped agricultural fields and lies in isolation, being largely surrounded by agricultural fields, particularly to the south and west on the adjacent side of Brymbo Road. When viewed in this context, the residential development would appear as an alien addition to the site and its surroundings.
- 6.12 Built development in Coedpoeth is visible when travelling along this section of Brymbo Road. It would be reasonable to assume therefore that residential development on this site would also be visible from Coedpoeth. Whilst the application is made in outline with design matters reserved for future consideration, dependent on the layout and scale of the proposal, any residential development may also be visible when viewed from the north and the east.
- 6.13 Given that the proposal could potentially be seen from Coedpoeth Settlement, as well as settlements further north and east including Brymbo and Pentre Broughton, the visual

impacts of the development are considered would be greater than when viewed at a localised level and development on the site would appear as an intrusion into the wider landscape.

- 6.14 The dense vegetation and tree cover along the eastern boundary of the site currently provides a buffer between the site and the residential development to the east, which the proposed Land Use Masterplan shows the tree cover would be retained as part of the outline proposal.
- 6.15 In this respect, residential development on the site is considered would appear detached and discordant in relation to the existing pattern and form of development to the east, having little to no relationship with the existing built development and appearing as an isolated addition in this open countryside location.
- 6.16 A section of hedgerow along Brymbo Road would require removal to facilitate a new access and associated visibility splays. The existing hedgerow is relatively established and well defined and to remove a section, as well as construct a new estate road and residential development is considered would result in the urbanisation of the site and surrounding area, to the detriment of the existing character of this countryside location.

Local Development Plan (LDP)

- 6.17 Paragraph 9.4.8 of the Development Management Manual advises that certainty regarding the content of the plan will only be achieved when the Inspector delivers their binding report – which will only take place post-Examination in Public. However the Manual advises that in considering which weight to give to policies in the LDP, the Council will need to consider carefully the underlying evidence and background to the policies. Paragraph 9.4.9 acknowledges that the evidence underpinning an emerging LDP could be used as a material consideration when making planning decisions.

Housing Land Supply & Recent Appeal Decision

- 6.18 On 26 March 2020 the Welsh Government revoked Technical Advice Note 1, amended Planning Policy Wales (PPW) and published Development Plans Manual Edition 3 (DPM3) to provide revised guidance on how housing delivery is to be monitored. The delivery of housing in the County Borough is now to be monitored using the Average Annual Requirement (AAR) as set out in a Local Development Plan. Despite the changes to national policy, housing delivery remains an important material consideration. This is evidenced by the advice in the amended paragraph 4.2.11 of PPW10 that a review of an LDP may prompted by an under delivery of housing.
- 6.19 It is acknowledged that Wrexham's LDP has yet to be adopted. The Unitary Development Plan therefore remains the operational development plan for the County Borough, however the Plan period expired in 2011 with much of the evidence underpinning it now being at least 20 years old. The UDP strategy, including settlement limits and Green Barriers, are therefore fundamentally out of date and although being a starting point for the consideration of planning applications can no longer be afforded full weight.
- 6.20 Both the Development Management Manual (DMM) and the DPM advise that certainty regarding the content of an LDP will only be achieved when LDP Inspectors delivers their binding report, which takes place following the completion of an Examination in Public (EiP). Paragraph 9.4.9 of the DMM does however acknowledge that the evidence underpinning an emerging LDP could be used as a material consideration when making planning decisions.

- 6.21 The deposit LDP identifies a requirement for 7,750 homes to be built over the 2013-2028 period. The need to deliver 7750 homes by 2028 equates to an annual average requirement (AAR) for 517 dwellings over the whole Plan period. The actual rate of completions over the 2013-2020 period has, on average, been half of this. This amounts to a persistent and considerable undersupply of housing in every one of the 6 past years. This can only be addressed by additional land being brought forward for development and it is clear this will require a considerable release of land outside of settlement limits.
- 6.22 The LDP proposes to meet the identified need by making 2 strategic and 17 non-strategic housing allocations. Of these allocations, 13 are situated outside of UDP settlement limits and 10 lie within the UDP Green Barrier. It is therefore accepted that meeting the LDP housing requirement relies heavily on the release of land outside of existing settlement limits. Nevertheless the western parcel of land, subject of this appeal, is proposed to remain outside of the settlement limit in the LDP. Whilst it is acknowledged that the appellants have made extensive representations to the LDP Examination in Public in respect of the allocation of the appeal site, including the western parcel, certainty over the content of the LDP will only be achieved when the Inspectors issue their report. Until then, there can be no certainty that the Inspectors will agree with the appellants and include the western parcel of land within the settlement limit.
- 6.23 Whilst the LDP is unlikely to be adopted until sometime in 2021, this is not a long period of time in the context of the Plan making process. Given that there is likely to be a plan-led solution to the shortfall in housing land supply within a relatively short time scale, the Council contends that whilst the weight to be given to under delivery is significant it does not of itself justify the grant of planning permission in this case, given the harm that would arise. This is consistent with a recent appeal decision made in respect of Land at Top Road Summerhill, appeal reference APP/H6955/A/20/3249986.

Agricultural Land

- 6.24 The Welsh Government's Predictive Agricultural Land Classification (ALC) map suggests the western parcel of land is primarily Grade 3b, which is not identified as Best and Most Versatile (BMV) land. This proposal would not conflict with UDP Policy EC2 or the provisions set out in PPW paragraph 3.55 in this respect.

LDP Proposals Map

- 6.25 8 hectares of the eastern parcel of land, subject of the appeal site, are identified as being protected for employment development within Classes B1, B2 and B8 of the forthcoming LDP¹. The proposals for a mixed use development on this part of the site would therefore be in conflict with EM1. Nevertheless, policy EM3 does allow for employment sites to be used for alternative non-employment uses if:
- i. The land is no longer well located for business, industrial and warehousing use; or
 - ii. There is no realistic prospect of employment use on the site;
 - iii. There is no need to retain the land or premises for business, industrial or warehousing use, having regard to demand for such land and the requirement to provide for a range and choice of sites available for such use; and
 - iv. There will be no unacceptable impact upon the operating conditions of existing businesses.
- 6.26 As already mentioned above, it is acknowledged that the appellants have made representations to the EiP, essentially proposing that the land subject to EM1 in the LDP

¹ LDP Proposals Map: <https://wrexham-consult.objective.co.uk/file/4944735>
Delegated Tick Sheet

be instead allocated for a mix of uses broadly corresponding to those set out in the appeal proposals. The Council has also confirmed to the EiP Inspectors that if they were minded to accept that further housing allocations are required, that the land within the settlement limit (i.e. including the land subject to EM1) would be an appropriate location (see page 24 of WCED015a²). As such the Council have indicated no objection in principle to the deletion of the employment allocation.

6.27 This notwithstanding, there is no certainty at this stage that the Inspectors will propose changes to the existing employment allocation and/or identify a need for further housing allocations and the conflict with EM1 must therefore be considered.

6.28 The conclusions of the Joint Employment Land Review, October 2015³ are relevant in this instance:

- Table ES3 – Wrexham Site/Area Specific Recommendations includes the following in respect of Brymbo:

Employment uses have been consented on the Steelworks site, Brymbo for 18 years, with no evidence that these uses will ultimately be delivered. WCBC needs to engage with the owners of the former and seek stronger assurances that B-class employment uses will ultimately be delivered here. Also to identify what efforts are being made to market this land to employment occupiers and developers. If such assurances cannot be obtained and/or that, despite appropriate efforts in marketing, there appears to be no demand for employment uses here then it is not recommended that WCBC continue to protect the land indefinitely.

- Table 67 –Summary of Wrexham's Existing Employment Areas advises (see page 178)

Protect [the former steelworks site] as local employment area for B1/B2/B8 uses but only if evidence of the likely use of employment premises is provided by the owner / developer.

6.29 Given that the ELR is now 5 years old and no further moves to deliver employment uses has taken place, this is arguably indicative that the use of the site for B1/B2/B8 uses is unlikely to occur, particularly in light of the appeal proposals and EiP representations made by the appellants. It would therefore be difficult to object in principle to the redevelopment of a significant area of previously developed land within both the UDP and LDP settlement limits on the grounds of conflict with the merging LDP employment allocation.

Planning Balance

6.30 The eastern parcel of land (within settlement limit) is considered to be acceptable in principle for residential development.

6.31 The western parcel, which lies outside the settlement limit, would conflict with relevant policies in the UDP. As demonstrated above, it is considered that there are no material considerations which would outweigh the conflict with local plan policy in allowing approval of the scheme on this basis.

Retail Development (Convenience Goods Store) – up to 930m²

² WCED015a <https://wrexham-consult.objective.co.uk/file/5594217>

³ Joint Employment Land Review Final Report (Oct 2015) <http://wrexham-consult.objective.co.uk/file/5112499>

- 6.32 UDP Policy S6 states that small scale shopping developments will be allowed within settlement limits provided that amongst other criteria, the sales floor area does not exceed 300m².
- 6.33 The convenience goods store is stated within the Retail Need & Impact Statement as having a sales floor area of 744m² (80% of the gross internal area of 930m²).
- 6.34 The proposal would not accord with UDP Policy S6 on this basis.

Planning Policy Wales (PPW)

- 6.35 PPW directs new retail development to within defined retail and commercial centres. If this cannot be achieved, then edge-of-centre sites should be looked at and only if edge-of-centre sites are unavailable, should out-of-centre sites be considered.
- 6.36 Developers should demonstrate that all potential retail and commercial centre options and then edge-of-centre options have been thoroughly assessed using the Sequential Test, before out-of-centre sites are considered.

Retail Need

- 6.37 The tests of retail need are the starting point for new retail development as set out in Technical Advice Note (TAN) 4.
- 6.38 If out-of-centre sites are proposed, both quantitative and qualitative need for the development has to firstly be demonstrated, prior to triggering the Sequential Test.
- 6.39 At the time of writing, the Council's most up to date evidence base is the Wrexham Retail Assessment (August 2019 update). This update states that it should be read alongside the original 2014 Retail Assessment.
- 6.40 The 2019 update takes into account retail convenience planning permissions which have expired, as well as those which have extant permissions (including the Aldi at Ruthin Road (P/2015/0533) and the recently approved Lidl in Wrexham (P/2018/0675)).
- 6.41 A further application for a new Aldi store in Llay was also resolved at Planning Committee on December 7th 2020, to be granted approval, under application P/2020/0623. At the time of writing, the decision has not been issued.
- 6.42 To my knowledge, I am not aware that any further retail convenience store applications have been granted planning permission.
- 6.43 Table 4.2 in the 2019 Assessment demonstrates that after taking into account the extant retail convenience commitments (excluding the Aldi store under P/2020/0623), the remaining floorspace capacity between the period 2018-2023 is 1,390m² whilst the remaining capacity between the period 2018-2028 is 2,369m².
- 6.44 When taking the approved Aldi supermarket under P/2020/0623 into account, the remaining capacity for the period 2018-2023 would be 57m² and 1036m² for the period 2018-2028.
- 6.45 This submitted Retail Need and Impact Statement states that the gross floor area would be up to 930m² whilst the actual sales area is estimated to be 744m², falling within the remaining capacity for the second period mentioned above.

Quantitative Need

- 6.46 The Council's Retail Assessment (2014) identified that locally within the catchment area of Zone 4, the localised convenience goods retention rate was low at 4.4%. This meant that there was an approximate 95% of expenditure leakage, which was spent in centres and stores outside Zone 4, suggesting that there was a local need for an additional retail use selling convenience goods.
- 6.47 Section 2 of the Retail Assessment (2014) states that appropriate local provision should be provided throughout the County Borough, particularly in more deprived areas, whilst Section 5 of the Council's 2019 Retail Assessment states that convenience retail floorspace requirements should be directed to areas of potential under-provision.
- 6.48 Parts of Zone 4 are also well served by stores in other zones, though there may be scope for some improvements in local provision in areas such as Coedpoeth, which are more distant from facilities in Wrexham.
- 6.49 The Councils Retail Assessment (2014) stated at paragraph 8.26 that floorspace requirements were at their highest in the short-term period to 2018 as a result of significant levels of overtrading from existing foodstores.
- 6.50 The Council's Retail Assessment (update 2019) continues to recognise this, outlining at paragraph 5.3 the capacity requirement for convenience retail floorspace, as a result of the over-trading of existing food stores.
- 6.51 On the basis of the Council's 2014 and 2019 Retail Assessments, as well as the submitted evidence which accompanies the planning application, there appears to be an identified quantitative need for the proposal, which would meet this test as set out in PPW.

Qualitative Need

- 6.52 The proposal would be within walking distance of existing properties north, south and west of the site. Nearest bus stops are located approximately 150m south of the site. Bus stops are located in various positions, north and south of the site and along the spine road.
- 6.53 The proposal offers an opportunity to reduce reliance on the car, meeting the aims of the Sustainable Transport Hierarchy as set out in PPW.
- 6.54 The site is located within Brymbo Settlement Limit, reinforcing its sustainable location.
- 6.55 On this basis, there would appear to be demand for the proposal in this location which would assist in providing consumer goods whilst simultaneously reducing travel costs for shoppers currently having to shop elsewhere within or outside the county. This would further reinforce the qualitative demand for the proposal, in supporting the local and immediate surrounding communities.
- 6.66 I consider that a qualitative need for the proposal has also been demonstrated.

Sequential Test

- 6.67 PPW paragraph 4.3.19 states that all new retail and commercial development should be located within a defined retail or commercial centre, before edge-of-centre and finally out-of-centre locations are considered. The applicant has included an Assessment of Potential Impact within the submitted Retail Assessment to demonstrate that this out-of-centre location is appropriate.

- 6.68 There is no defined district shopping centre within Brymbo. Residents within Brymbo must either travel to Coedpoeth or Gwersyllt, or alternatively, in to Wrexham town centre itself.
- 6.69 The site is located within Brymbo Settlement Limit, accessible by a variety of active travel modes.
- 6.70 Furthermore, it is acknowledged that there has been a significant growth in Brymbo during the UDP Plan period. From the original size of Brymbo pre 2006 there has been an approximate 50% increase in dwellings in the village. Whilst there has been a significant growth in housing there has been no provision for supporting community infrastructure (education, employment, retail), as outlined in LDP Policy document INSP017R.
- 6.71 I do not consider that provision of a convenience store at the above mentioned location would undermine the vibrancy and viability of Coedpoeth and Gwersyllt district centres to such an extent, given the store would serve the residents of Brymbo itself. The district centres within Coedpoeth and Gwersyllt are already served by existing residents in those locations.
- 6.72 The sales area proposed is not considered to be significant and would be akin to a small, local convenience store serving residents in the existing settlement.
- 6.73 UDP Policy S5 states that new shopping and leisure development will be allowed in the defined district centres, provided they are appropriate in scale in relation to the function of the centre and would complement and enhance the existing centre.
- 6.74 The proposed convenience store would form part of a wider proposal for a commercial centre, which includes other A1 retail uses, as well as A3 and D1 use classes. On this basis, given the growth of Brymbo in terms of housing numbers, but the lack of a corresponding growth in community infrastructure, whilst Brymbo does not currently have a designated district centre, given the proposed commercial centre as a whole would help to address the lack of community facilities in the area, it would be considered appropriate in this instance to consider the proposal in the context of UDP Policy S5.
- 6.75 On this basis, the convenience store would be considered acceptable, complying with UDP Policy S5 as well as meeting the Sequential Test. I therefore do not consider that a Retail Impact Assessment is required.

District Centre

- 6.76 It is accepted that the proposed district/commercial centre could be assessed under UDP Policy S5. The principle of development for other A1 (465m²), A3 (372m²) and D1 (465m²) uses are therefore accepted under this policy.

Provision of a primary school

- 6.77 The erection of a primary school on the application site and shown on the Land Use Plan (ref: RG-M-15-2) has already been accepted in principle under P/2017/0105.

Public Open Space Provision

- 6.78 The Planning Statement states that 14.45ha of Public Open Space would be provided, which, for the development proposed as part of the application, would comply with UDP Policy CLF5.

- 6.79 However it should be noted that the vast majority of POS provision would be located on the western parcel of land outside the settlement limit, which as mentioned earlier on in the report, the principle of developing this piece of land is not considered to be acceptable.

Design and Layout

- 6.78 Plans submitted in support of the application comprise Land Use Masterplans only and any future reserved matters application should ensure the principles of good design are adhered to.

Residential Amenity

- 6.79 Spacing standards between properties would need to have regard to the Council's Local Planning Guidance Note 21 and would be secured as part of any reserved matters application.
- 6.80 The proposed uses within the settlement limit, would be compatible with the existing surrounding land uses.
- 6.81 Any final layout should ensure that areas of POS and commercial spaces are overlooked, achieving natural surveillance where possible.
- 6.82 Public Protection raise no objection subject to conditions.
- 6.83 Wales & West Utilities raise no objection.

Highway Safety

- 6.84 Modelling work has been undertaken to consider the impact of the development on the trunk road at Junction 4 of the A483. The findings indicate that there is currently no capacity to support any further developments at this location. Welsh Government (Trunk Road Agency) direct that the application is refused on this basis.
- 6.85 In terms of the Council's Highway Authority, the following comments are made:-
- Details of the access points into the north and eastern parts of the site can be secured under reserved matters
 - Any permission should include a requirement to extend the 40mph speed limit beyond the new access along Brymbo Road, given the reduction in height/removal of the hedgerows to facilitate the site access into the western parcel of land forming the application site
 - Other significantly sized residential development on the former steel works site are accessed by a roundabout. It is suggested that the same approach is taken for the access into the western parcel of land which forms part of the development, to take a consistent approach
 - Full details of proposed pedestrian / cycle routes will be required as part of any reserved matters application
 - Condition to secure provision of an emergency access onto Brymbo Road required
 - Any proposed road should be of a circular route to enable a bus service to link to the site
 - Condition required to secure study of Active Travel routes
 - Studies of local infrastructure reveal no capacity issues at proposed new access location on Brymbo Road
 - Until such time that Junction 4 is upgraded, it is not considered appropriate to be permitting the addition of significant additional traffic into an area already at capacity

- It may be possible to support some initial phased development of the site which include the school, shops, leisure and some residential, subject to traffic generation levels being no more arduous than those previously consented at the site.

Drainage

- 6.86 Prior to determination of the application, the proposal needs to demonstrate that a Sustainable Drainage Scheme can be achieved for the development which is compliant with the Statutory Standards for Wales.
- 6.87 The submitted FCA and Drainage Strategy have not taken into account the comments previously provided by the Flood Officer at pre-application stage. Whilst an outline scheme to manage surface waters has been included, it does not consider the Statutory SuDS Standards and design principles. Elements of the proposed strategy, including proposed discharge rates, are contrary to the National Standards and are unlikely to achieve SAB support or approval.
- 6.88 In the absence of this information it has not been demonstrated that a SuDS scheme compliant with the Statutory Standards can be delivered for the site. This may have significant implications for the deliverability of the site if any future application for SAB approval was not successful.

Affordable Housing

- 6.89 UDP policy H7 and Local Planning Guidance Note 28 apply a uniform housing requirement across the County Borough for 25% of dwellings to be affordable on developments of 25 or more dwellings.
- 6.90 The forthcoming Local Development Plan policy H2 will take a different approach by applying a requirement to different areas of the County Borough reflecting variations in viability. The appeal site lies in an area known as the North West Settlements sub market area for the purposes of viability. The Deposit Plan version of policy H2 was informed by the WCBC Viability Study, dated January 2018, produced by Andrew Golland Associates (AGA) indicated that the site lay in an area where a 25% affordable housing requirement could be applied
- 6.91 In response to representations made to the Deposit Plan made by Welsh Government, the Council subsequently requested the District Valuer Services (DVS) to complete a viability study in preparation for the EiP. The key issues identified by WG that made it necessary to commission the DVS assessment were:
- Whether sufficient provision was made for Section 106 contributions, for such considerations as education, in addition to affordable housing
 - Whether the costs of fire sprinklers, which are now a mandatory requirement in houses in Wales, have been taken into account
- 6.92 Further analysis of the AGA assessment suggested that the above matters were not adequately addressed. It had also been carried out on the basis of an affordable housing tenure mix at odds with the requirements identified in the Local Housing Market Update (April 2018).
- 6.93 DVS Viability Study recommends that a 0% affordable housing requirement should apply to the West Settlements. The DVS Viability Study was submitted as updated evidence to the LDP Examination in Public along with a position statement setting out proposed

amendments to LDP policy H2 to take account of its findings. In light of the DVS Viability Study the Council would be minded to accept that there would be no grounds to refuse permission in this instance on the basis of a 0% affordable housing contribution.

Ecology

- 6.94 NRW object on the basis that insufficient information has been submitted with the application to demonstrate that there would be no harm to Great Crested Newts and that parts of the site are within the SSSI which requires submission of a Geological Assessment of the impact of the development on the SSSI.
- 6.95 The Council's Ecologist also raises concerns regarding the lack of information submitted.

Archaeology

- 6.96 CPAT raise no objection.

Education

- 6.97 Contribution required as a result of the increase in pupil numbers generated from the proposal. This would be secured as part of any Unilateral Undertaking.

Trees

- 6.98 No comments received from the Council's Tree Officer.

PROW

- 6.99 No comments received from Public Rights of Way.

7.0 CONCLUSION

- 7.1 The eastern parcel of land (within settlement limit) is considered to be acceptable in principle for residential and commercial development.
- 7.2 However, the western parcel of land, primarily proposed for residential development, lies outside the settlement limit, conflicting with relevant UDP Policies. There are no material considerations associated with the scheme as a whole, which would outweigh the proposals conflict with local plan policy, in allowing approval of the application on this basis.
- 7.3 In addition to the above, the Trunk Road Agency have directed that the application is refused, on the basis that Junction 4 of the A483 has no capacity to accommodate further development in the location proposed.
- 7.4 The proposal has not demonstrated that a SuDS scheme compliant with the Statutory Standards can be delivered for the site.
- 7.5 Furthermore, insufficient information has been submitted to demonstrate that the proposal would not result in harm to Great Crested Newts or that the parts of the site within the SSSI have been adequately assessed in the manner required by NRW in their formal response, dated 27th April 2020.

- 7.6 For the reasons outlined above, the Council respectfully requests that the appeal is dismissed.

8.0 CONDITIONS & OBLIGATION

- 8.1 In the event that the appeal is allowed, it is requested that the conditions listed in Appendix 1, are considered as a starting point for attaching to any decision notice.
- 8.2 Given there are objections from various consultees, any outstanding conditions are requested should be discussed at the Inquiry with the relevant consultees present.
- 8.3 A legal obligation would also be required in the event the appeal is allowed. I am not aware that such a document has been submitted by the appellant to date.