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21 February 2002

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77

APPLICATION BY WELSH DEVELOPMENT AGENCY FOR PROPOSED BUSINESS AND

INDUSTRIAL DEVELOPMENT ON LAND AT SHOTWICK ROAD, DEESIDE

DEVELOPMENT ZONE, FLINTSHIRE (APP NO. 97/8/5/0638)

1. Consideration has been given to the report of the Inspector P J Macdonald MSc RIBA MRTPI who held a local inquiry into your client's application for proposed business and industrial development (classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987) including the erection of buildings, raising the level of part of the site, associated building, engineering and other operations and landscaping; and the creation of a nature reserve with vehicular access and car parking on land north-east of Shotwick Road, Deeside Development Zone, Flintshire.

2. On 9 October 1997 the then Secretary of State for Wales directed under Section 77 of the Town and Country Planning

Act 1990 (the 1990 Act) that the application be referred to him rather than be determined by the local planning authority. On 12 February 2002 the Assembly resolved that a committee, to be known as Planning Decision Committee 2002/2 be established, in accordance with Standing Order 35 to discharge the functions of the Assembly under Section 77 of the 1990 Act, in respect of the application by Welsh Development Agency described above. Accordingly the Planning Decision Committee has considered the application and resolved under Standing Order 35.16 to adopt this letter.

3. The Inspector's conclusions are set out at paragraphs 17.00 -17.11 of his report, a copy of which is enclosed and those paragraphs are at an Annex to this letter. The Inspector recommended that planning permission be refused for the proposals the subject of the above application.

4. The Planning Decision Committee agree with the Inspector's conclusions and accept his recommendation.

5. The Planning Decision Committee agree with the Inspector that in this case the single most important factor in determining whether to grant planning permission is the application of national planning policy set out in paragraph 5.2 of Planning Guidance Wales (and which is consistent with paragraph 2.8.1 of the emerging Planning Policy Wales) namely whether it has been demonstrated that there is an overriding need for this particular development, and a lack of alternative sites which could accommodate it, sufficient to justify the loss of best and most versatile agricultural land. This policy is linked to the Assembly's statutory commitment to the principle of sustainable development and the associated aim of encouraging, wherever possible, the re-use of land which has already been developed in the past (brown field sites) in preference to green-field sites. The Committee also agree with him that there is a difficulty in demonstrating that the necessary exceptional need to develop this site exists and that it outweighs the desirability of avoiding the unnecessary development of the best agricultural land since it involves weighing a doubt against a certainty. The loss of the agricultural land is a certainty if the planning permission is granted whereas there is doubt about the type of development which might occupy the site and the benefits which might come with it.

6. Having regard to the evidence before them the Committee can find no basis for disagreeing with the Inspector's assessment that the case for overriding need has not been made out and that there are other sites other than the application site which, while not its equal, could provide for at least some of the employment uses which might otherwise locate at Shotwick Road. The Committee agree with the Inspector that while a single identified user could represent exceptional circumstances the provision of two physically divided development areas with the possibility of three end users is not sufficiently special to justify the release of the site. The Committee share his concern that if the site was vacant for some time after preparation the eventual land - users might simply not be such as to justify the loss of the site for agricultural use.

7. The Committee whilst accepting that there are other sites which could provide for much of the development which this application anticipates would be provided at Shotwick Road, have also weighed in the balance the argument that in the absence of an identified use there is nevertheless need to have sites ready to take advantage of opportunities as they arise. They agree with the Inspector, however, that, in this case, this consideration, which, inevitably involves an element of speculation, is of insufficient weight to enable them to conclude that economic gain outweighs the loss of previously undeveloped high quality agricultural land. They agree with the Inspector that the absence of such a user might not be such a problem on a site of lower agricultural value and/or sites requiring less extensive and time consuming advanced preparation works so that they were capable of being brought forward more quickly. However, in this case, having regard to the high quality of the agricultural land involved and the extensive and time consuming advanced preparation works required, the Committee agree with the Inspector that at the present time there is no compelling case for releasing the site and that the exceptional circumstances which would justify the loss of Grade 2 agricultural land have not been demonstrated.

8. The Planning Decision Committee have reached their decision taking account of correspondence which was received after the inquiry had closed and was as a consequence not taken into account by the Inspector in forming his conclusions and recommendation. They are satisfied that the correspondence raised no new evidence or new matter of fact which

would dispose them to disagree with the Inspector's recommendation on the appeal.

FORMAL DECISION

9. For the reasons given by the Inspector the Planning Decision Committee dismiss your client's application and hereby refuse to grant planning permission for the business and industrial development (classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987) including the erection of buildings, raising the level of part of the site, associated building, engineering and other operations and landscaping; and the creation of a nature reserve with vehicular access and car parking on land at north-east of Shotwick Road, Deeside Development Zone, Flintshire.

10. A copy of this letter has been sent to the Solicitor and County Secretary, Flintshire County Council.

Yours faithfully



Sue Essex AM

Chair, Planning Decision Committee 2002/2

Enc: Leaflets "H" and "HC"

ANNEX TO NATIONAL ASSEMBLY FOR WALES LETTER OF 21 FEBRUARY 2002

17.00 CONCLUSIONS

Bearing in mind all the above, and having due regard both to the Environmental Statement and to what I saw on my site inspections, I have reached the following conclusions. The numbers refer to paragraphs within the report.

17.1 Relevant National and Development Plan Policies.

17.1.1. I shall begin, as Section 54A requires, with the development plan. The statutory development plan consists of three documents: the Clwyd Structure Plan First Alteration (CSPFA) and the old-style development plans for Flint (1958) and Connah's Quay/Shotton (1962). The latter two plans are now so out-of-date as to be scarcely relevant, and no party at the Inquiry relied on them (5.1: 5.2: 7.7.11: 7.7.12: 7.7.13: 8.2: 9.1.1). This leaves, effectively, only CSPFA. It is now ten years since it was approved, and the period which it covered ended in 1996. Nonetheless, it remains the single most relevant plan in respect of this application, albeit dated.

17.1.2. The other documents discussed at Inquiry are not part of the statutory development plan, and

in the case of the Clwyd Structure Plan: Second Alteration: Flintshire Edition, never will be (5.11: 5.12: 7.7.44: 9.1.2). They do, however, need to be given appropriate weight as material considerations.

17.1.3. The question of appropriate weight is particularly difficult and contentious in the case of the Alyn and Deeside Local Plan (ADLP). This was on the brink of being adopted when Welsh Office intervention caused the process to be put into abeyance (6.1: 6.10: 8.10: 8.19). At the present time, the ship is dead in the water but it is, nevertheless, still afloat. A plan at such an advanced stage would normally be expected to carry significant weight (with the exception of the disputed Policy Em15), provided that it is likely to proceed eventually to adoption. Some objectors contend that adoption is unlikely, and hence the plan should carry little weight (6.1: 7.7.43: 9.1.3 to 5: 9.1.8)

17.1.4. I prefer the view of the County Council's chief policy witnesses, that the plan is likely to proceed to adoption once the outcome of the present application is known (8.20). The only stumbling block to adoption has been Policy Em15 and, once that is resolved, it would seem to be beneficial to the Council to have an adopted local plan in place, particularly since the UDP is at a very early stage in the replacement process (5.3iii). Accordingly, I consider that ADLP should generally be given great weight, with the exception of Policy Em15. It also follows that the Local Plan Inspector's Report is still of relevance.

17.1.5. Of the other documents, I give some weight to the 'Flintshire Edition', as carrying forward the policies of CSPFA post 1996 (5.11). The emerging UDP is at such an early stage that it can be given little weight, and it was, in fact, little discussed at Inquiry (5.3iii). The draft Regional Planning Guidance and The Dee Estuary Strategy give some useful background information, but are of little direct relevance in determining this application (5.17 to 21: 7.7.56: 7.8.7 to 11: 9.1.12 and 13).

17.1.6. For an authoritative and up to date statement of national policy one turns, of course, to "Planning Guidance (Wales): Planning Policy" (PGW) of April 1999. All previous documents, including the Ministerial letters in respect of Green Belts (2: 7.9.1: 8.13 to 17), need to be seen in its light. The public consultation draft of "Planning Policy Wales" (February 2001) had not been published at the time the Inquiry ended, and hence it was not discussed by the parties. As I write, it remains a consultation draft only, and has not superseded the 1999 edition as a statement of policy.

17.1.7. Turning now to CSPFA (Core Document 33), the key policies are A3, A10 and H1 (5.8 to 5.10), the first two dealing with employment sites, and the third with protection of best and most versatile agricultural land. Both Policy A3B and Policy H1 seek to protect Grades 1,2 and 3a land against development unless (Policy H1) "there is no other site suitable for the particular purpose". Policy A10 defines the, DDZ in general terms, leaving precise boundaries to be defined in a local plan. Within DDZ, "sites will be allocated for major employment development projects, taking into account other Structure Plan policies, particularly with regard to.....(inter alia) agricultural land".

17.1.8. Some very important points arise here. Firstly, and crucially, Policy H1 (which, of course, long predates PGW, 1999) does not fully reflect paragraph 5.2.1 of PGW, which requires two things to be demonstrated before best and most versatile agricultural land is taken for development: 1) over-riding need for the development, and 2) lack of sufficient lower grade agricultural land. Secondly, I find no suggestion here that the application of Policy A10 should not be subject to (inter alia) Policies A3B and H1. Thirdly, the reference in A10 is to 'sites' (plural), not site, and there is no specific reference there to the application site, although there is specific mention of the former

power station site at Connah's Quay, and land at Broken Bank (5.9). In my view, nothing in Policy A10 leads inexorably to the application site.

17.1.9. Within the 'Flintshire Edition' (Core Document 34), relevant policies are: Policy EMP3c, which seeks to protect agricultural land in Grades 1,2 and 3A unless there is "an especially strong case"(5.14): and Policy CONS 1 (5.16), which is similar in intent to Policy H1 of CSPFA. Read with EMP3C, it brings the test for development on agricultural land much closer to PGW: ie, very strong need, and lack of alternative sites. The Flintshire Edition has been adopted by the County Council for development control purposes (5.12).

17.1.10. In ADLP (Core Document 35), there is, of course, Policy Ern15, which I shall consider in detail below. Protection of best agricultural land is covered by Policy G1M, and Policy A1. The latter refers to the taking of such land only in "exceptional circumstances" (this wording is proposed to be deleted by the proposed modifications: Core Document 37)) and where no other land is suitable. Again, it does not fully reflect PGW, in that there is no explicit test of over-riding need.

17.1.11. ADLP contains a raft of policies about the general location of employment sites. Of potential relevance, in the absence of Policy Em15, would be Policies EM4 (general industry) and EM6 (storage and distribution uses) covering sites in settlements and development zones outside those with planning permission or allocated for such uses (9.1.11). Since the Local Plan Inspector did not recommend that the application site be deleted from the Deeside Development Zone (7.7.37: 8.25), and there is nothing about scale of development in either policy, it could be argued that they are relevant to the present proposals, and apply two tests: 1) lack of alternative sites, and: 2) general requirements of Policy G1, including G1M. However, neither would apply an 'over-riding need' test, which is in PGW and was clearly in the Inspector's mind in recommending the deletion of Em15.

17.1.12. I should comment here on the suggestion that, because the application site was not recommended by the Inspector for removal from the DDZ, it should no longer be regarded as being in the countryside because of paragraph 5.25 of ADLP (7.7.37). Such an approach would fly in the face of common sense and is, in my view, clearly not what the Inspector had in mind (6.7: 6.8). Even if the site is to be regarded as lying within the designated area of the DDZ (and no statutory development plan puts it there, although I accept that is the intention of ADLP) the site remains best and most versatile agricultural land.

17.1.13. There is general agreement that the site comprises Grade 2 agricultural land (the Flintshire Green Party has no rational basis for claiming it to be Grade 1) (7.11.1: 8.30: 9.2.1: 10.5: 10.26: 12.4). As such, I consider that development proposals must be subject to national policy as set out in paragraph 5.2.1 of PGW, ie the twin tests of over-riding need, and lack of lower grade land. This test is not fully reflected in the development plan (CSPFA) or the emerging development plan (ADLP), since both pre-date PGW 1999. The 'Flintshire Edition', which is supplementary planning guidance, comes closest to PGW (17.1.9).

17.1.14. I conclude, therefore, that the main considerations in determining this application should be:

- i) whether there is an over-riding need for the proposed development
- ii) whether there is sufficient land of lower grade available.

in both cases, sufficient to overcome the policy presumption, set out in paragraph 5.2.1, that such land should only be developed exceptionally. In practice, all parties to the inquiry (with the exception of Flintshire Green Party, who did not accept the definition of sustainable development set out in paragraph 3.2.1 of PGW; 12.2) accepted that it was necessary to balance "need" against the protection of good agricultural land. It is to the question of `need' that I now turn.

17.2. The Need for the Proposed Development.

17.2.1. Both the Applicants and the Local Planning Authority laid some stress on the "paper trail", ie. the long-term emergence of the application site, through the development plan process, for the type of development that the application envisaged. This process was intended to demonstrate an identified long-term need for the application site (eg 7.7.40: 7.7.43: 7.14.4: 8.2: 8.5: 8.22).

17.2.2. In practice, the "paper trail" is much less clearly defined than was suggested. It would appear that development of this site was first considered circa 1984 as a potential location for a Nissan car plant, ie. for a single, very large incoming user (9.1.8). The CSPFA, approved in 1991, had a specific policy, A10, referring to the DDZ, and the accompanying text makes it clear that this is a strategic location. It is, however, not location specific, ie it does not identify the application site, nor the type of user for which an A10 site would be intended. Such matters are left for the local plan (Core Document 33: 5.9).

17.2.3. The relevant local plan is, of course, ADLP, and the relevant Policy Em15. However, the derivation from Policy A10 of CSPFA is much less clear than was argued. The policy identifies the land at Shotwick Road as one of three "opportunity sites", the other two being Opportunity Site 1 at Garden City, ("large scale comprehensive mixed development comprising industrial, commercial, leisure and small-scale residential uses") and Opportunity Site 3 at Connah's Quay Power Station ("large-scale comprehensive mixed-use development comprising industrial, commercial and leisure uses"). Opportunity Site 2 is described in the deposit draft version of the plan as being for "large-scale comprehensive mixed-use development comprising business, industrial, commercial and leisure uses". The accompanying text (paragraph 5.61) states that commercial and leisure uses should not affect the vitality and viability of town or district centres in the plan area or town centres elsewhere (6.2: 6.3).

17.2.4. I have to say that this does not sound like a strategic employment site in furtherance of Policy A10, which is not referred to in either the policy itself or the reasoned justification. The description of development does not differ substantially from that of the other two Opportunity Sites: all are "mixed development" with industrial, commercial and leisure uses. Any shopping, commercial or leisure uses must not seriously affect the vitality and viability of other centres: but that would still seem to allow for such uses on a not-inconsiderable scale. It is noteworthy that the WDA objected to this policy (7.7.34).

17.2.5. In response to my question at Inquiry, the County Council's policy witness accepted that the wording of Policy Em15 was deficient, in that it did not accurately reflect the true intentions regarding the development of the site. These are better shown by the September 1995 Planning Brief, which stated that the site would be for major projects falling within Classes B1 and B2, with small-scale ancillary commercial and leisure uses (8.24).

17.2.6. The Local Plan Inspector (Core Document 36, paragraph 5.123) specifically referred to the Brief, and to Proposed Change 73 (6.5). He understood the nature of the proposed uses, although he appears to have thought that the site was for a single large user (8.24). However, he found no compelling justification for release of the land, and considered that it should remain in productive agricultural use for as long as possible. Significantly, he said (at paragraph 5.131) that "its contribution to national farm output should not be put at risk by measures such as land raising or recontouring as part of any speculative site preparation works". He recommended deletion of Policy Em15, which the Council did not accept (6.7 to 6.9: 8.6).

17.2.7. Two points were made about the Inspector's conclusions, on which I should comment here. Firstly, it was said that he did not have the evidence as to need that was available at my Inquiry (8.25). That is true, to a degree, as although the Council gave evidence there, the WDA did not. Secondly, it is said that he did not fully realise the long lead-in times involved in bringing such a site forward to the point where it could be offered to a potential user (7.7.36: 7.14.7: 8.25). I do not accept that argument. Paragraph 5.19 of ADLP itself specifically refers to lead-in times for opportunity sites. The Inspector, in the quotation above, specifically mentions land raising and recontouring and, was obviously well aware that significant site preparation works would be required. In my view, he understood the points about lead-in times and advanced preparation works: he just did not accept them as providing a justification for releasing the site in advance of a demonstrable need that would constitute exceptional circumstances.

17.2.8. The proposed modification (MD1) to Em15 referred to Opportunity Site 2 as being for "major inward investmentto meet the needs for large scale industrial and business uses which may include elements of commercial and leisure uses". The accompanying text referred to manufacturing, high technology and headquarters business functions. Use Classes are not specified, but there is a reference to the Planning Brief, which itself mentions B1 and B2 uses (6.9).

17.2.9. The planning application, as made in June 1997, was for B1, B2 and B8 uses, but this was Limited in July 2000 to B2 and B8 with ancillary 131 (1.1: 1.6). Various other stipulations were made as to floor areas, height (briefly up to 40m maximum in August 2000, before reverting to 23m), and a maximum of 3 occupiers (1.6 to 1.8). The previous WDA application in 1992 had been for 131, B2 and B8 (4.1).

17.2.10. What the above demonstrates, I think, is a long-term intention on behalf of the County Council to designate the site for development, but less clarity and consistency about its intended end uses. The original intention that it should be for a single large user was long ago abandoned, although its ghost lingers (8.24: 14.2). The Council has more recently intended B1 and B2 uses, although the current application is for B2 and B8 uses (17.2.8: 17.2.9). That application has itself been much more tightly circumscribed in the last year or so, considerably limiting the range of users to which it might appeal. There is now no mention, as in Policy Em15, of commercial or leisure uses. These changes do not, in my view, support any contention that there has been a clear, long-term strategy that is, in itself, indicative of a clearly identified need.

17.2.11. I turn now to the evidence of need presented by the WDA at the Inquiry. Since there is no identified end-user for the site (7.7.5), such evidence had, of necessity, to be general rather than user-specific (see Section 7.6 of this report). I should say at the outset that the statutory functions of the WDA are acknowledged, and its expertise in this field readily conceded.

17.2.12. It is accepted that meeting the economic targets set by the Assembly, eg in respect of increasing the national GDP per capita, and job creation, necessitate continued inward investment

(7.1.4 et seq). To argue that investment should be redirected to West Wales and the Valleys would be to miss the point that national GDP is to be increased, as well as achieving a fairer distribution of jobs and investment throughout Wales. This requires sites that are attractive to companies who are by nature foot-loose in terms of location, and such sites need to be deliverable within an acceptable time-scale.

17.2.13. In that context, the attractiveness of a large site at Deeside, with good road access, is readily acknowledged, as is the area's past success in attracting inward investment: and success breeds success. Objectors, rightly, laid stress on the relative strength of the local economy, and the considerable economic progress made since the difficult years of the early 1980's (eg: 9.2.9: 9.2.11). All this is true: however, it has to be recognised that there is continuing vulnerability to economic change, and that the area has retained Assisted Area status (7.1.10), which is an undoubted advantage in attracting inward investment.

17.2.14. The application site has been described as being unique in North Wales in having three notable features (7.5.5):

- i) locational advantages; eg. Motorway access, skilled workforce, area with good track record, Assisted Area status, relative nearness to international airport (Manchester).
- ii) 81ha developable area, with a single developable area of 62 ha
- iii) available for development within 2 years, with no problems of ownership access, etc.

I consider the question of alternative sites below, but it can be said here that these are considerable advantages, and no other site in North Wales offers them. Together, they form an impressive list of positive features that could make the site attractive to potential inward investors.

17.2.15. The applicants have attempted to quantify the economic benefits the development might produce (Section 7.6 of this report). Clearly, there have to be assumptions made here, but the potential total within the local impact area of 3,240-4,700 (full time equivalent) jobs is impressive, with some 60% going to Welsh workers (7.6.4: 7.6.5). It has to be recognised, however, that highly capital-intensive industry could substantially reduce that figure eg, Toyota at 6.3 jobs per hectare would produce 580 jobs on site, rather than the 2700 produced by taking the DIP density of 33.6 jobs per hectare (7.6.2). One wonders how many jobs would be created by extensive B8 uses and, indeed, whether a site with the attractions and advantages claimed would be best employed in accommodating B8 uses on any significant scale.

17.2.16. In terms of contribution to Welsh GDP objectives, it must be remembered that, of course, these are not location-specific. Any comparable development anywhere in Wales would produce equivalent benefits, so that it cannot be a particular factor in support of the site. Being so close to the border also produces anomalies, e.g. the 40% of jobs likely to be taken up by workers from England would also contribute to Welsh GDP (7.6.5: 9.2.13).

17.2.17. Taken overall, the WDA presented an impressive case that release of the application site could lead to major development of substantial, if ultimately unquantifiable, economic benefit to Deeside and to Wales. It is much more questionable if it amounted to a demonstration of (in the words of paragraph 5.2.1 of PGW) "overriding need". I shall return to this point later, when attempting a planning balance. For the moment, I turn to the second leg of the PGW test: whether

sufficient land of lower grade is available elsewhere.

17.3 Alternative Sites

17.3.1. It can be said at once that no single site has been identified in North Wales that offers the combination of advantages that can be found (17.2.14) on the application site. However, objectors made the point that, since the 81 hectare site was to be physically divided into two sites, and was further capable of being divided between 3 occupiers, it was unnecessary to identify a single competing site, since the same accommodation could be provided on several sites (9.2.7). This is correct.

17.3.2. One of the matters on which the National Assembly wished to be informed was the supply of employment land (2). In its most general sense, this matter can be dealt with quite shortly. There is no general shortage of employment land in Flintshire, (9.2.3), being upwards of a 20 year supply available. It is no part of the Applicants' case that there is any quantitative shortage of employment land: it is the particular qualities of the application site that are the basis of their case (7.5.5: 8.26).

17.3.3. A considerable number of sites were discussed at length at Inquiry, and I have visited many of them. They are reported in some detail above (Section 7.4 of this report 9.2.13 to 15: 10.25). Within Flintshire itself, there is only one strong contender, and that is Opportunity Site 1, at Garden City. The site has a potential gross area of 125ha, and is in relatively close proximity to the application site, the locational advantages of which it therefore shares, including Assisted Area status. It has the problem of divided land ownership, with uncertainty as to when the MOD land might become available. It is however (at least in part) a brownfield site, and is within the urban area (7.4.9). Its reuse would therefore be entirely in accord with national policy. It would admittedly be more time-consuming to bring it forward for development than the application site, but it is in the nature of brownfield sites that they can take longer to bring forward (particularly where there is divided ownership) and there will always be some reluctance to take on brownfield sites if greenfield sites are too readily available.

17.3.4. Slightly further away is the Bridge Road (formerly Firestone) site at Wrexham, with a gross area of 46ha (7.4.14: 9.2.14). It is within the Wrexham Industrial Estate, and is owned by the WDA. The local planning authority wishes to see it reserved for a single large user, although the WDA wants to subdivide. Infrastructure is in place. Access improvements are required, which are unlikely to be completed until 2005. It is not within an Assisted Area. Both this site and Garden City lack some of the advantages of the application site, and neither could be ready within the same timescale. However, both sites have considerable merits in their own rights.

17.3.5. The Powergen site at Connah's Quay and Site A6, DIP both have their limitations, and cannot be considered as an alternative to the application site in a full sense. They are, however, brownfield sites in close proximity to Shotwick Road, and both have potential for B8 uses (7.4.11: 9.2.14). Warren Hall, Broughton is an attractive site, but I accept that it is limited to B1 uses (7.4.10).

17.3.6. I note that there are 3 potential employment sites on Anglesey, but I agree with the WDA view that sites this far west would appeal to a different type of inward investor from Shotwick Road (7.4.12: 9.2.14).

17.3.7. Given the nearness to the border, sites in North-West England are relevant. They would not, of course, contribute to Welsh GDP, but they could make a contribution to employment in Flintshire, since (as the WDA noted: 7.4.1) the border is largely irrelevant to commuting patterns. That contribution would tend to diminish as one moved on to consider sites further east.

17.3.8. The nearest relevant site to Shotwick Road lies just to the east, at Hooton Park, Ellesmere Port. The exact extent of the site will depend upon the decision as to its future by Vauxhall Motors, but land for up to 64,500 sqm of development is immediately available. It is an established employment location, and has excellent motorway communications (7.4.18: 9.2.15).

9. The acknowledged front-runner among alternative sites is Omega 600 at Warrington, a 232ha site with a Section 7 (New Towns Act) permission for B1, B2 and B8 uses. The location has Assisted Area status and will, once a direct access to the adjacent M62 is completed, have unrivalled road transport links. It is some 30 mins drive-time east of Deeside, which means that it is likely to deliver limited employment benefits for areas west of Deeside (7.4.17: 9.2.15).

17.3.10. The Estuary Business Park at Speke (the Liverpool Northern Airport Site) has already seen development of the highest quality. A second phase of 80ha will become available, but the private owner may seek to subdivide. That, and its easterly location, weigh against it. However, the quality of the development means that it might well be considered a serious contender by some potential users of the application site (7.4.19: 9.2.15).

17.3.11. Some of the other sites discussed, e.g. Axis, Liverpool: Owens-Corning, Wrexham: might, if and when available, have some attractions to potential occupiers of part of the Shotwick Road site, but cannot be considered as functional alternative in the fullest sense (7.4.13: 9.2.14 and 15).

17.3.12. In summary, then, there is no site in North-East Wales that could compete directly with the application site, and the only directly competing site in the wider area is at Warrington. However, other sites do exist which might prove acceptable to some potential users of Shotwick Road, notably Garden City, Firestone (Wrexham) and Hooton Park, Ellesmere Port. In a more limited sense, Site A6 at DIP, and Powergen at Connah's Quay might provide for some B8 use. None of these sites raises the same agricultural land issue as the application site. It would be a very exceptional development that could not be accommodated on one or more of the alternative sites discussed. There is no overall shortage of employment land availability.

17.4. Agricultural Land Quality

17.4.1 The area of land on the application site that is in agricultural use cannot be precisely defined. The Applicants estimate it to be "approximately" 183.6ha (7.11.1), whilst Banks' figures (revised during the course of the Inquiry) would give 188.64ha (9.6.1: 9.6.3). The latter figure is likely to be more accurate, and is the one I have used. The discrepancy is minor, and does not affect the outcome in any event.

17.4.2 I have said above that the agricultural land is Grade 2, and hence best and most versatile land, and I regard that as the starting point for consideration of this application. In this respect, it is worth briefly considering national policy as set out in PGW. In the first edition (May 1996), this matter is dealt with in paragraph 94, which states that development plans and development control

decisions should give "considerable weight" to protecting Grades 1, 2 and 3a land from development, because of its special importance.

3. The matter is more fully dealt with in the April 1999 First Revision of PGW, at paragraph 5.2.1. The sentence about "considerable weight" is repeated, but then expanded upon in a significant respect. It is stated that such land is only to be developed exceptionally, where there is an overriding need for the development, and when sufficient lower-grade land is not available. I regard this as a clear strengthening of national policy in respect of the protection of such land. As noted above (17.1.8: 17.1.10), neither CSPFA (as the development plan) nor ADLP as the emerging local plan, reflect the current guidance, which post-dates them.

17.4.4 The Applicants do not dispute the Grade 2 status of the land (7.11.1), but I should deal here with the suggestion that the land quality is, to a degree, discounted by three factors; that there is a fair amount of such land within a 10km radius, that about half the land has only been in Grade 2 for some 10 years and that the landscaping proposals would conserve some of the soil resource. It is also convenient to deal here with the point that the number of jobs to be generated by development would inevitably exceed those lost in agriculture, although that is a point that perhaps goes to need rather than land quality (7.10.6: 7.11.3 to 5: 7.14.6).

17.4.5 The land quality within the arbitrarily-chosen 10km radius does not seem to me to be a relevant consideration. I find nothing in national policy to support any contention that best and most versatile agricultural land is less valuable when part of a large block of such land. Common sense, indeed, would seem to suggest the opposite, since it must be difficult to make best use of such land when it comes in penny packets. I prefer the view of NAWAD (10.8) that, from a regional perspective, such land quality is outstanding. Nor does it seem to me of any significance that about half the land has been raised to Grade 2 by drainage works: it is its present grade which counts (10.11). On the third point, policy is directed to conserving agricultural land, not soil.

17.4.6 It is acknowledged that, although the number of jobs that might be created by development cannot be exactly determined, it will very substantially exceed the number employed in agriculture. However, that is not a very exacting test to apply, since it must necessarily be true of almost any employment development on good agricultural land anywhere. If much weight were to be given to such a consideration, national policy in respect of best and most versatile agricultural land would speedily be undermined. There was no suggestion that such a test was stated, or implied, by national policy.

17.4.7 All the evidence is that this is a substantial block of best and most versatile agricultural land, efficiently farmed and highly productive (9.6.5: 10.4). I see absolutely no reason why the paragraph 5.2.1 'test' of need and lower grade land should not be imposed here in its fullest extent.

17.4.8 Two other relevant considerations should be mentioned here. The first is the 'conversion factor', ie. that some 188ha (17.4.1) of best agricultural land would be taken to produce 81 hectares of employment land (ie. some 60% of the land lost to agriculture would not be directly gained by employment uses). Some such loss is inevitable in all cases, but the ratio proposed here seems particularly unfavourable, and must be a reflection of the extensive works necessary to bring the site forward for development. It is a serious consideration as to whether the use of this site in the way proposed, even if need were considered to have been established, would be unduly wasteful of good agricultural land.

17.4.9 The second point to be borne in mind is that the grant of planning permission would be quite

speedily followed by the commissioning of the site preparation works necessary to facilitate employment use, in order to have a site ready to offer to potential users, and that this would involve the irreversible loss of the site to agriculture (1.11: 7.5.5iii: 7.7.5).

4. The Loss of Good Agricultural Land

17.5.1. I now move on to consider the paragraph 5.2.1. 'test', ie. whether it has been demonstrated that there is over-riding need, and a lack of alternative sites, sufficient to constitute the exceptional circumstances necessary to justify loss of best and most versatile agricultural land. This is, in my view, the single most important factor in determining this application.

17.5.2. It has to be said at the outset that establishing a planning balance here is a most difficult exercise, since it involves weighing a doubt against a certainty. The doubt is about the type of development which might occupy the site, when it might occur, and what economic benefits it might bring with it. The certainty is the irreversible loss of good agricultural land if planning permission is granted.

17.5.3. The WDA's evidence on the economic context, the role of inward investment, and their expectations of the site have been reported at length, as has that of the County Council on the planning context. I have commented on this above, and on the availability of alternative sites. In my judgement, the case for over-riding need has not been made out, and there are sites which, whilst not the equal of the application site, could provide for at least some of the employment uses which might otherwise locate at Shotwick Road. The situation does not differ in essence from that at the time of the Local Plan Inquiry and my view is the same as that of the Inspector at that time. I conclude that:

- i. the site is highly productive and versatile Grade 2 agricultural land which represents a national resource
- ii. NAWAD raises a strong objection to its loss
- iii. only exceptional circumstances would justify that loss
 - iv) those exceptional circumstances have not been demonstrated
- i. the contribution of the site should not be put at risk by land raising or recontouring as part of site preparation works in advance of an identified end user
 - vi) there is no compelling case for release of the site at this time.

17.5.4. It is very difficult to specify what might constitute such exceptional circumstances, although clearly the prospect of a large, single advanced technology inward investment might very well do so, and that is how the site appears to have been identified in the first place (9.1.8). I am not convinced that the provision of two discrete sites, of 62 ha and 18 ha, the larger perhaps to be further sub-divided, available for general B2 and B8 uses, albeit large scale, is sufficiently special to justify release of the site. Elements of this mix, particularly B8, could potentially be accommodated elsewhere. There must be a concern, particularly if the site was vacant for some time after preparation, that its end-users would simply not be such as to justify the loss of such a site to

agriculture.

17.5.5. I understand fully the point stressed by the Applicants that it is necessary to have sites available to take advantage of opportunities as they arise, and to be in a position to respond quickly and positively to expressions of interest. However, it is precisely that lack of an identified user that makes the weighing of the economic gain against the agricultural loss so difficult. There might not be such a problem on sites of lower agricultural quality, and/or sites requiring less extensive and time-consuming advanced preparation works and hence capable of being brought forward more quickly. Here, however, the site must be subject to the test set out in PGW, paragraph 5.2.1. In my view it fails that test, and for that reason the application should be dismissed.

17.6 Effect on Farming

17.6.1. Having considered policy in respect of good agricultural land, I turn now to the effect that loss of the site to agriculture would have on the farming enterprise, W T Banks, and on slurry disposal from the adjacent pig rearing unit run by JSR.

17.6.2. It is not in dispute that the site is being profitably farmed, and makes more than a marginal contribution to the farming enterprise (7.11.7: 9.6.8) The site constitutes 28% of the core land holdings of the business, and its loss would result (in the farmer's figures) in a 40% reduction in core turnover. However, it is clear that the business does not rely solely on its core land holdings, ie owned land plus that held on a secure agricultural tenancy. Important land holdings are based on shorter tenancies, and seasonal potato land, and contracts entered into on the basis that such land will be available (7.11.9: 9.6.6).

17.6.3. Nor is the core land holding static over time. In recent years, land has been acquired (eg 57ha at Bank Fm, Sealand in 1997) or disposed of (eg 149ha at West Cranton Fm, Southport) (7.11.8). It is clear, therefore, that the business is used to both a fluctuating core holding, and to the use of seasonal land, making contracts on the basis that the latter will be available. Any estimate of the impact of the loss of the application site on the business should, therefore, look beyond simply the core land holding. There is no evidence that it is difficult to come by seasonal land.

17.6.4. It is not disputed that the farming enterprise will remain viable and profitable if the application site is lost, even if no replacement land is acquired. Without such replacement land, there would certainly be retrenchment on a not inconsiderable scale, and some loss of employment (9.6.8). My conclusion, therefore, is that some harm could well be caused to a profitable and efficient farming enterprise, and that weighs in the balance against the application proposals, although it would not in itself be sufficient justification for refusal.

17.6.5. In terms of slurry disposal from the JSR land, two facilities are currently available: spreading on the application site by means of a piped system, and the use of tankers to take slurry off-site to Banks' land elsewhere. It appears that over 40% of slurry is currently tankered off-site to land not covered by the legal agreement between Banks and JSR (9.6.11).

17.6.6. Whilst accepting that the piped disposal system on the application site may have some deficiencies (7.11.17), it functions, and is obviously a useful facility for JSR. Its loss would lead to increased use of tankers, if other land for disposal could be found in the vicinity: and/or to a

reduction in the number of animals at Gun Park, eg by importing less finishers (7.11.15). In the short term, therefore, loss of the disposal facilities on the application site could have some adverse effects on JSR's operations at Puddington.

17.6.7. However, two factors need to be considered that mitigate that adverse effect. The first is that JSR is a substantial company operating on a large scale (9.6.9). The other, and more important, factor is that, under the terms of the Integrated Pollution Prevention and Control Regulations (2000), the unit's current exemption from the effects of the 1990 Regulations would come to an end anyway in a few years (7.11.16). Hence, the effective life of the present regime is limited in any case. For that reason, I do not consider that the effect of the application proposals on JSR is of overriding weight in this case.

17.7 Highway Effect

Generated Traffic

17.7.1 Highway effects can be considered under three sub-headings, namely the effect on highways in England; the effect on highways in Wales; and the effect on sustainable development. On a preliminary point, however, it is appropriate to consider the number of people who could be employed on the application site and, related to this, the amount of traffic that could be generated by the development.

17.7.2 The WDA's highways and transportation witness calculated that, by 2019, the number of employees on the application site would be 3,916. This would give rise to a maximum of some 781 vehicles entering or leaving the site in the peak hours. For his part, the Transport Directorate's witness considered that the proposed development could generate considerably more traffic than is forecast (7.13.21; 7.13.22; 11.6; 11.18).

17.7.3 The WDA's calculations are based on a stated methodology. Certain adjustments to the working method were carried out in order to reflect the circumstances of the case. The robustness of the estimates was tested against employment figures arrived at by other means. The figure of 3,916 is, effectively, at the top of the range. Bearing in mind also that no reduction has been made for the effects of modal shift, it is concluded that the WDA's figures are a reasonable basis for considering the highway effects (7.13.20; 7.13.21; 7.13.41).

The Effect on Highways in England

17.7.4 By 2019, even without the development, the flows forecast for parts of the A550(T) would be above what could be considered to be the traffic capacity of the road (3,600 vph). The southbound flow, Woodbank to Deeside Park, would be 3,700 vph in the morning peak hour. The equivalent northbound figure in the afternoon peak hour would be 3,915 vph. With development, the respective figures would be 4,022 and 4,229 vph (7.13.18; 7.13.19; 7.13.25).

17.7.5 With regard to junctions, Woodbank Junction is already close to capacity in peak periods and is a source of some queuing. Traffic growth and the traffic that would be generated by the

development would exacerbate the problem. The Little Chef Roundabout would be overloaded by 2004 and seriously overloaded by 2019 even without development traffic. In addition, there are a high number of accidents on the A5117(T) (7.13.7; 7.13.31).

17.7.6 Various improvements to the trunk road network in England have been agreed with the Highways Agency. At Woodbank Junction, the capacity of all approaches to the junction, as well as that of the link towards Deeside Park Interchange, would be increased such that the severity of queuing would be reduced and the situation would be no worse with the implementation of the development. The Little Chef Roundabout would be converted to a signal-controlled junction that would be no worse off. Queues would be less than they would be with a roundabout. Further, safety improvements would be carried out, principally between Woodbank Junction and the M56 (7.13.32 to 7.13.33).

17.7.7 In the light of the above, it is concluded that there would be no significant detrimental effects on highways in England. Implementation of the safety improvements would be likely to give rise to net safety benefits.

The Effect on Highways in Wales

17.7.8 In 2004, morning peak hour flows on the link between Drome Corner and Queensferry are projected to be 3,830 vph. This flow would be close to or even in excess of the capacity of this section of highway. In 2019, the without development flows would exceed 3,600 vph on three links in the network. In the morning peak hour, the northbound flows would be 4,286 vph on Aston Hill; 4,344 vph between Queensferry and Drome Corner; and 3,868 vph between Drome Corner and Deeside Park. The respective southbound flows for the afternoon peak hour would be 4,125, 4,738 and 3,899 vph (7.13.16 to 7.13.19).

17.7.9 The Queensferry and Deeside Park junctions are likely to experience problems even without the development. Taking into account the effects of merging and diverging traffic, the 2019 forecasts indicate that, as a result of the additional development traffic, a change in standard would be required at both Queensferry and Drome Corner (7.13.27; 11.18).

17.7.10 It is envisaged that problems on the roundabout and approaches to Deeside Park Interchange would be effectively mitigated by a scheme of signalisation to be implemented on behalf of the WDA. However, capacity problems on critical links along the A494(T)/A550(T), as well as at the Drome Corner and Queensferry interchanges, would require major road widening in order for the recommended standards to be met. At least three lanes in each direction would be needed (7.13.30; 7.13.35; 7.13.38; 11.17).

17.7.11 Two trunk road schemes, known as the A494/A550 Deeside Park-Ewloe and the A55/A494 Ewloe Interchange, are awaiting further consideration by the National Assembly for Wales. Implementation of the Deeside Park-Ewloe scheme would provide the capacity necessary to accommodate the anticipated development traffic. However, the National Assembly is currently developing an integrated transport framework. This will inform decisions such as the inclusion of any widening scheme in the trunk roads programme. Until this has been completed, no decision can be taken on the provision of additional capacity (7.13.13; 7.13.38; 11.16).

17.7.12 The busiest section of the trunk road in Wales would be the A494 between Drome Corner and Queensferry. Flows in 2019 would rise from a maximum of 4,738 vph without the development to 5,044 vph with the development, an increase of 6%. Given that the flows would be well above the capacity of the road (3,600-4,000 vph) in any event, it is concluded that increases of that order would not, of themselves, justify the major expense of widening to three lanes. However, bearing in mind that there is no commitment to a widening scheme, the key question is whether the proposed development would have an unacceptable effect upon traffic conditions (7.13.17; 7.13.25; 7.13.38).

17.7.13 It is likely that, without widening, worsening traffic conditions would force many travellers to adopt the sort of actions referred to in Paragraph 7.13.39 above. Reduced reliance on the private car would be highly desirable. However, a very substantial reduction in peak hour traffic would be needed if future flows were to approach the traffic capacity of the trunk road. The most likely result is that traffic conditions would worsen particularly in the peak hours. The proposed development would exacerbate the situation.

17.7.14 It has been argued that the implication of rejecting the application proposal on highway grounds would be that there should be no major development in that area which might place even a small amount of additional traffic on the A550(T)/A494(T). Further, given that other parts of the trunk road network in England and Wales are experiencing regular congestion, future development across large swathes of the country would also have to be refused. Such proposals would have to be considered on their individual merits. In the present case, it is concluded that the development would compound worsening conditions on the trunk road network. As such, whilst not in itself sufficient to justify refusal, weight would be added to other objections to the proposals (7.13.45; 7.13.46).

The Effect on Sustainable Development

17.7.15 The existing DIP development is heavily car-dependent, with some 95% of workers using car or private mini-bus (9.4.1).

17.7.16 Existing public transport is summarised above. In terms of rail, there are two lines in the vicinity of the application site along which a limited service is available. However, Shotton Station, which serves both lines, is some 3km away. Hawarden Bridge Station, on the Wrexham-Bidston line, is marginally closer but access from both stations is poor. With regard to buses, there is only one regular bus link, hourly for the most part, in the vicinity of the Deeside Industrial Park. All in all, public transport can be considered to be relatively poor.

17.7.17 Residential areas including Queensferry, Shotton and Connah's Quay are at least 3km from the application site. In addition, such areas would only provide a proportion of the workforce likely to be employed on the application site. However, the WDA are proposing a package of measures that would include a much enhanced bus service, the provision of cycleway links and the services of a Travel Plan Officer. Such measures would benefit those living relatively near the site (7.13.41 to 7.13.43).

17.7.18 It is recognised that the appointment of a Travel Plan Officer, and the drawing-up of a green travel plan, would happen in any event. It is also recognised that, with the siting of major employment-generating activity at Shotwick Road, there would be a significant increase in the

amount of car travel. Nevertheless, there is the potential to maximise travel to and from the application site by non-car modes; also the incidence of car sharing. In these terms, the Applicants' target of 15% does not seem unreasonable or unattainable. Bearing in mind also initiatives such as the Deeside Integrated Transport Strategy, it is concluded that there would be a meaningful extension of choice in transport and that mobility would be secured, both in a way that would support sustainable development (7.13.2; 7.13.9; 7.13.12).

19. The application site has the capability to provide more sustainable travel modes. None of the alternative sites discussed at the Inquiry was notably better placed in this respect; and many were clearly worse. Unless all major development is to be suspended pending a major shift in public attitudes to sustainable travel patterns, the application site is as good as, or better than, any other in this respect.

17.8 Effect on Burton Mere Fisheries

17.8.1. I do not consider that the impact of development on the fisheries would be such as to justify refusal of planning permission. Some of the concerns expressed (e.g. hydrology) would be addressed by the proposed conditions, and some others, e.g. predating birds, seem overstated when the fisheries are considered in their wider context. Yet others (bikers, travellers) are simply the kind of objections that could be made to a great deal of development anywhere, and can be given little weight. Concern is expressed about visual impact, but the distance from the nearest fishing lake to Plateau A exceeds 900m, and a suitable landscaping condition could be imposed. Views to the south would remain undisturbed. Taken in context, such concerns, whilst perhaps understandable, cannot be considered as of great weight (Section 13 of this report).

17.9 Effect on Ecology

Introduction

17.9.1 Ecology is not a matter about which the Assembly specifically asked to be advised. Nevertheless, the topic was dealt with in the Environmental Statement; and the subject was an area of concern to certain participants at the inquiry.

The Applicants' Proposals

17.9.2 There are a number of elements of the Applicants' proposals that are relevant from an ecological point of view:

- Fill material, necessary to form the two development plateaux, would be pumped from the area generally northwest of the existing Shotwick Reservoir. A large deep lake would be created in this location.
- The agricultural land southeast of Shotwick Reservoir would be lost to the development plateaux. The agricultural land is a habitat to birds that include corn bunting, lapwing, yellow wagtail, grey partridge and quail.

- A border landscape zone would be created along the northeastern edge of the site.
- An area of agricultural land in Cheshire would be managed for nature conservation purposes.

17.9.3 It is intended that the new lake would enhance the site's wildlife potential. It would provide an extension to the habitats of the adjoining RSPB nature reserve. Floating islands, that would be useful for breeding waterfowl and resting areas during storms, would be provided. The land surrounding the lake would be managed as seasonally wet agricultural land. It would provide winter feeding habitat for waterfowl and breeding habitat for priority Biodiversity Action Plan (BAP) breeding birds (7.12.27 to 7.12.28).

17.9.4 Extensive areas of nature conservation interest would be created in the border landscape zone. High quality habitat features would be included. These would be of value to a range of flora and fauna (7.12.29).

17.9.5 The agricultural land within Cheshire would be managed for nature conservation by the RSPB. This would include the maintenance of set-aside land as seasonal wetland for the benefit of breeding, overwintering and migrating waterfowl; also implementation of appropriate farming practices in the remaining area for the benefit of farmland birds. The management of the larger part of this area as a seasonal wetland would be aimed at attracting wintering waterfowl and waders as well as providing a valuable breeding site for declining species (7.12.30).

Discussion

17.9.6 Dealing first with protected areas, it is important to note that the application site is close to the internationally important Dee Estuary Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar Site as well as abutting the Inner Marsh Farm SSSI. However, no statutorily designated site of landscape or nature conservation interest would be directly affected. The Countryside Council for Wales has not objected to the principle of industrial development on this land although the matter of hydrological monitoring has been raised. Given the implementation of a hydrological package, it is concluded that there would be no significant effects on protected areas. (7.12.2; 15.4 to 15.5)

17.9.7 Regarding the general nature of the Applicants' mitigation proposals, it is appreciated that, in terms of the Dee Estuary waterfowl populations, a series of shallow pools/scrapes would be preferable for feeding and roosting. However, that is not the proposal before the Assembly nor would such an alternative be consistent with the site preparation proposals. Taking into account the proposed floating islands and shallow margins to the deep lake, it is considered that there would be undoubted conservation interest in this aspect of the WDA's proposals. Bearing in mind also the RSPB's conclusions to the effect that there would be a substantial increase in the overall ornithological value for the waterfowl species for which the Dee is internationally important, it is considered that the Applicants' proposals in this regard are acceptable (7.12.26; 7.12.27; 15.4 to 15.5).

17.9.8 Turning to protected birds, a number of species are given special protection through the Wildlife and Countryside Act 1981, as amended, and the EC directive on the conservation of wild birds. Relevant birds that were the subject of particular interest at the Inquiry include quail. The common quail is included in Schedule 1 of the 1981 Act. In addition, it was indicated that corn bunting are covered by the provision of Article 3.1 of the Birds Directive (7.12.2; 7.12.14; 12.5).

17.9.9 With regard to quail, the technical evidence was that quail are not dependent upon the available habitat and that the population would be unaffected. No points of concern with regard to this species were raised by CCW or the RSPB (7.12.14; 7.12.26; 15.4; to 15.5).

17.9.10 In terms of corn bunting, it was acknowledged that, in 2000, the one known remaining Welsh territory was on the application site. This territory would be directly affected by the proposed development. However, numbers are declining throughout northern Europe. Further, as acknowledged by the Grouped Objectors, the decline in Wales may well be irreversible irrespective of what happens on the application site. On the other hand, the provision of an area of managed arable farmland, as proposed by the WDA, could support about seven breeding pairs of corn bunting. Such provision would be in England rather than in Wales. Nevertheless, it is considered that implementation of the proposals would preserve, maintain or re-establish a sufficient diversity and area of habitat for corn bunting (7.12.9; 7.12.23; 7.12.31; 15.5).

17.9.11 Other BAP priority species that breed on the application site and that were the focus of interest at the Inquiry include grey partridge, skylark and linnet. With regard to yellowhammers, the breeding population was not considered by the WDA to be of conservation importance in a Welsh or Cheshire context. Species of "medium conservation concern" that were of particular interest included lapwing and yellow wagtail (7.12.10; 7.12.11).

17.9.12 The main evidence with regard to grey partridge, skylark and linnet is that the open farmland habitat of birds such as these would be lost to the development. However, the application site holds less than 1% of the Welsh populations of these species. Bearing in mind that the managed agricultural land in England and the open wet grassland lake edges would provide habitat for such birds, it is not considered that the effects would be significant (7.12.10; 7.12.23).

17.9.13 With regard to yellow wagtail, approximately 20% of the Welsh population of yellow wagtails breed on the reclaimed Dee Marshes with a high proportion on the application site. Thirty-three pairs bred on the application site in 1994. There was a reduction in the numbers in 1999 but a return to the 1994 numbers in 2000. Breeding sites would be lost to the development. It is likely that the Inner Marsh Farm and other mitigation land would support several new territories. However, the numbers recently recorded could not be sustained. Bearing in mind that yellow wagtail are of "medium" conservation concern, and that there is no comment regarding this species from CCW and the RSPB, it is considered that a reduction in the number of such birds supported by land under the control of the WDA would not be significant. (7.12.12; 7.12.23; 7.12.25; 7.12.26; 7.12.30; 15.4 to 15.5).

17.9.14 As many as 3,000 wintering lapwing have been recorded on the field north of Shotwick Reservoir. The birds usually feed for some part of their stay on the arable fields of the application site. The arable fields would be lost as a result of the development. Other land used would be partially lost to the borrow pit. It is likely that feeding birds would be forced to make greater use of other areas including Inner Marsh Farm and other parts of the estuary and its surrounding area. Intermittent use of the application site suggests that such use already occurs. The local wintering population is unlikely to decline. Alternative habitat would be provided on the managed farmland (7.12.16; 7.12.23).

17.9.15 In terms of breeding lapwing, the population has declined more rapidly in Wales than in the remainder of the UK. Numbers on the application site have varied depending, in part, on the state of the vegetation on the Inner Marsh Farm RSPB reserve. There were 10 pairs in 1994, 63 pairs or

about 6% of the Welsh population in 1999 and 38 pairs in 2000. The development would remove the arable land on which the species breeds. However, it is likely that, with careful management, breeding lapwing would be attracted to areas to be provided by way of mitigation. Such areas would have increased relative carrying capacity but numbers of lapwing breeding on the application site are nevertheless likely to decline. (7.12.13; 7.12.23; 7.12.31).

17.9.16 The evidence of the Flintshire Green Party asserted that the development would also increase the rate of decline of around 50 other UK priority species of birds that are subject to European protection. However, these species of birds were not identified at the inquiry nor was there any direct or indirect evidence that would support this statement. In this context, it is worth noting that CCW has described the site as intensively farmed agricultural land the ecological value of which is considered to be generally low (12.5: 15.4).

17.9.17 Turning to the possible effect on badgers, there is known to be an active sett some 100m north of the application site and a subsidiary active sett within the site. Foraging ground and dispersal routes would be affected, notably during the construction period. However, it is concluded that, given ecological best practices and appropriate mitigation, the welfare of the badgers would be unlikely to be significantly affected (7.12.17; 7.12.34; 15.13).

17.9.18 Other protected animals include great crested newts and water vole. No great crested newts have been found on the application site and it is unlikely that they would occur. Nevertheless, the imposition of an appropriate condition would secure a further survey and mitigation in respect of any such amphibians within or adjoining the site. With regard to water vole, confirmation of their presence at two locations on the application site has now been recorded. Mitigation measures acceptable to the competent authorities would need to be carried out (7.12.7; 7.12.18; 7.12.33).

Concluding Comments

17.9.19 In terms of overall biodiversity, the WDA's mitigation proposals would be likely to give rise to an increased number of habitats and greater habitat complexity. This, in turn, would support greater species diversity. As such, there would be a probable gain in biodiversity (7.12.38).

17.9.20 It is considered that:

- There would be no significant effects on protected areas such as the Dee Estuary SPA.
 - Quail are not dependent on the habitat available at the application site. The population would be unaffected.
 - The loss of corn bunting in Wales is likely to occur irrespective of what happens on the application site. The WDA's mitigation proposals would encourage corn bunting and would be a positive benefit.
 - An area significant for large numbers of wintering lapwing would be lost. Some alternative habitat would be provided. However, it is likely that the majority of birds would be displaced to other parts of the surrounding area with no significant related change in population numbers.
 - Yellow wagtail and lapwing breeding sites would be lost as a result of the development.

Although there would be some compensatory mitigation, the numbers recently recorded could not be sustained.

- There would be loss of habitat for breeding grey partridge, skylark, linnet and yellowhammer. However, the numbers involved would not be significant in the context of Wales or Cheshire. Further, some compensatory habitat would be provided.
- In respect of water vole, suitable mitigation measures would need to be agreed and implemented.
- It is unlikely that the welfare of badgers would be significantly affected.

17.9.21 It is recognised that modern farming techniques presently co-exist with a wide range of birds and animals. However, the WDA's proposals are considered to incorporate a reasonable set of mitigation measure. Some of these measures, such as the large lake, would be a necessary consequence of the intended development. The mitigation measures would also encourage the wintering and breeding of what could be regarded as "common" waterfowl. Nevertheless, farmland birds would also be attracted to the application site. It is concluded that a reasonable balance would be struck and that, with the proposed mitigation, the overall effect upon ecology would be neutral.

17.10 Landscape and Visual Impact

17.10.1 An assessment of visual impact and affect on landscape can only, at this stage, be based on two factors: firstly, the general effect of any development on the application site on the landscape; and, secondly and more particularly, on the illustrative material accompanying the application. As far as the second goes, a different proposal would, of course, have a different effect, the degree of change depending upon the nature of the scheme proposed. I have carried out a programme of site visits including, as far as possible, those which objectors wished me to make to gauge the effect on the Cheshire villages. The foot and mouth outbreak, however, meant that some viewpoints were not fully accessible because of the closure of footpaths. I am satisfied, nevertheless, that sufficient views of the site and its setting were available for me to reach general conclusions on the visual impact of the proposed development.

17.10.2 Any consideration of the general effect must begin with an analysis of the landscape role of the site as it now is. The Applicants have described it as a transition zone between the large-scale industrial structures to the west and the rural Cheshire landscape on rising ground to the east (7.10.11). This is correct to a degree, but tends to under-value the qualities of the site itself. It also tends to draw too clear a distinction between the site and rural Cheshire.

17.10.3 The application site is flat, open and exposed, with few hedgerows or other significant vegetation. The rising land to the east is composed of smaller scale elements of field and woods, and traditional villages in a rural setting. The application site is, indeed, part of the estuarine plan, but its agricultural character associates it visually-much more with rural Cheshire than with DIP. The visual contrast between the larger-scale industrial structures on the west side of Shotwick Road and the rural aspect to the east of the road is very marked. This contrast is also readily apparent when seen from the A550, which is elevated at this point. Looking from Shotwick Road, attractive views are available across the site to the rising rural landscape beyond. I consider that the open,

agricultural aspect of the site is an important visual element at this "gateway" to Wales (2.1: 2.2: 9.3.3).

17.10.4 Shotwick Road itself provides a firm and visually logical eastern boundary to the industrial area. By contrast, the national/county boundary, which is not marked on the ground by any such distinguishing feature, would appear completely arbitrary if the site were developed for industry. The proposed planting belt along that boundary would in itself be quite out of visual character with either the application site or with rural Cheshire and would, particularly when seen from the east, call attention to that which it is intended to hide (9.3.7.).

17.10.5 I consider, therefore, that there are cogent landscape reasons for retaining the open rural character of the application site. It should not be developed for major industrial uses without compelling reason, and I do not consider that proper cause has been shown.

17.10.6 In assessing the impact on the Cheshire villages, one has to have regard to the illustrative material, including the photo-montages. There is no doubt that the buildings modelled would intrude on some views from the higher ground to the east but, given the visual prominence of the existing structures on DIP, I do not consider that the degree of such visual intrusion would justify a refusal of planning permission in its own right. I agree with the Local Plan Inspector that keeping the application site open and undeveloped is not essential to retain the identity, appearance or character of the villages, whose Conservation Area status I recognise (2.2: 7.9.5)

17.10.7 Some point was made by objectors that raising the level of the application site would destroy historic relationships in the landscape, eg. the relationship of Shotwick Church and Shotwick Castle to the old shoreline (9.3.4: 12.8). I see very little substance in such arguments in this case, since the historic relationship was effectively destroyed long since by infilling of the estuary. The changes proposed here would be minor compared with those that have already occurred.

17.11 Green Belt Status

17.11.1 One of the matters on which the National Assembly wished to be informed was the potential need for Green Belt designation in North-East Wales (2). I find myself in some difficulty here. Such designation would come forward through the UDP process, and not as the result of Public Inquiries into particular planning applications. The question of such a designation is a wide-ranging one that goes far beyond the consideration of one particular site. I have no evidential basis for making any conclusions about potential Green Belts, even if it were appropriate for me to do so. The UDP process is at an early stage, but the County Council is not minded to declare any Green Belt in Flintshire (8.36 and 37: 8.39). No doubt the matter will be considered in the normal course of UDP preparation, and liaison between the County Council and the National Assembly. Similar considerations apply to the potential for Green Barrier designation. I note the views of the Local Plan Inspector in 1995 in this regard (7.7.37: 8.33), but I have no proper basis for reaching any conclusions on the point which is not, in any case, critical to making a recommendation in respect of this application.