



Adroddiad

Ymchwiliad a gynhaliwyd ar 08,09&10/11/05
Ymweliad safle a wnaed ar 10/11/05

Report

Inquiry held on 08,09&10/11/05
Site visit made on 10/11/05

gan/by Emyr Jones BSc(Hons) CEng MICE MCMI

**Arolygydd a benodwyd gan Gynulliad
Cenedlaethol Cymru**

**an Inspector appointed by the National
Assembly for Wales**

Dyddiad/Date

TOWN AND COUNTRY PLANNING ACT 1990

FLINTSHIRE COUNTY COUNCIL

APPEAL BY THE NATIONAL ASSEMBLY FOR WALES

MEADOWSLEA HOSPITAL, PENYFFORDD

Cyf ffeil/File ref: APP/A6835/A/05/1178924

File Ref: APP/A6835/A/05/1178924

Site address: Meadowslea Hospital, Penyffordd CH4 0EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by The National Assembly for Wales against Flintshire County Council.
- The application Ref 038451 is dated 16 September 2004.
- The development proposed is residential development following the demolition of the existing buildings.

Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.

Procedural Matters

1. The planning application and the appeal have been made in the name of The National Assembly for Wales. Nonetheless, a letter dated 17 November 2004 from the Assembly Government's Planning Division (Appendix 8 to Document 10) notes that the site is the responsibility of Welsh Health Estates. Welsh Health Estates operates at arms-length from the Assembly Government, in a manner similar to the Welsh Development Agency.
2. The appeal relates to a failure to give notice within the prescribed period, but the Council resolved on 25 May 2005 (Committee Report at Appendix 2 to Document 10 or Appendix 4 to Document 16) that it is opposed to the proposal. The reasons given being:
 - (i) 'The proposed development is located within the open countryside and a green barrier outside the settlement boundary of Buckley as defined in the adopted Alyn and Deeside Local Plan and Flintshire Unitary Development Plan Deposit Draft. In such locations new development will only be permitted if it can be established that the dwelling(s) is/are essential to house farm/forestry workers who must live on the spot rather than in a nearby settlement. No special circumstances have been advanced in this instance and the Local Planning Authority consider that the development would be contrary to Policy B8 of the Clwyd Structure Plan First Alteration, Policy HSG6 of the Structure Plan Second Alteration Flintshire Edition, Policies H6 and G1 of the Alyn and Deeside Local Plan and Policies GEN3, GEN4, HSG4 and HSG5 of the Flintshire Unitary Development Plan Deposit Draft.'
 - (ii) 'It is the view of the Local Planning Authority that the proposed development of the site for residential purposes in the absence of a marketing exercise to seek to establish a suitable business re-use would be contrary to Policy CF11 of the adopted Alyn and Deeside Local Plan and Policy CF7 of the Flintshire Unitary Development Plan Deposit Draft.'
 - (iii) 'In the opinion of the Local Planning Authority, the proposal is premature in the context of the emerging Flintshire Unitary Development Plan in that, to grant planning permission on a site of this size and nature would pre-determine discussions about the scale and location of new development which ought properly to be taken through the UDP process.'
 - (iv) 'It is the view of the Local Planning Authority that the proposed development would require the acquisition of land currently in third party ownership. In the absence of this land forming part of the application site it is the view of the Local Planning Authority that development would be contrary to Criterion c of the Alyn and Deeside Local Plan, Criterion e and f of Policy GEN1 and Policy AC13 of the Flintshire Unitary Development Plan Deposit Draft.'

- (v) 'It is the view of the Local Planning Authority that the width of the existing access at its junction with the classified route is insufficient to accommodate the laying out of a standard priority junction with 10.5m kerbed radii. This it is considered would be contrary to Criterion c of the Alyn and Deeside Local Plan, Criterion e and f of Policy GEN1 and Policy AC13 of the Flintshire Unitary Development Plan Deposit Draft.'
 - (vi) 'It is the view of the Local Planning Authority that the existing access is of inadequate width to accommodate the laying out of a road in compliance with the adoption standards of the County Council to serve the potential number of dwellings which could be accommodated on site. This it is considered would be contrary to Criterion c of Policy G1 of the Alyn and Deeside Local Plan, Criterion e and f of Policy GEN1 and Policy AC13 of the Flintshire Unitary Development Plan Deposit Draft.'
3. A Pre-Inquiry meeting was held on 10 October 2005 (Notes of Meeting at Document 5). At the meeting, the Council confirmed that the reference in reason (i) above to the site being in a green barrier was an error.
 4. Apart from the specific exceptions described below, I have attached all documents and plans submitted to the Inquiry, including statements of evidence and closing submissions. These documents are generally as originally submitted, in other words they do not take account of how the evidence may have been affected by cross-examination or other aspects of the Inquiry, or reflect any deviations from or additions to the text when the closing submissions were read out.
 5. I have not attached the evidence of the Council's property witness, insofar as it relates to a Development Appraisal or the appellants' response thereto, because the former was withdrawn during the Inquiry. Neither have I attached the appellants' highways' evidence as this was superseded by a *Joint Statement Dealing with Traffic and Access Issues* (Document 7).
 6. At the Inquiry an application for costs was made by The National Assembly for Wales against Flintshire County Council. This application is the subject of a separate Report.

The Site and Surroundings

(Plan A1, further plans at Appendices 2 & 3 of Document 18 and Appendices 1 & 3 of Document 10, Document 6, photographs at Appendix 16 of Document 16 and Appendix 4 of Document 18)

7. The site comprises the former Meadowslea Hospital, which ceased operating at the end of 2004 when its activities were transferred elsewhere, together with adjoining undeveloped land. It has an area of approximately 2.91Ha and the existing buildings on the site have combined footprint coverage of some 2,913m². The redundant buildings are of a variety of styles and ages, including primarily single and two storey accommodation with the former Meadowslea House (Tudor House) being three storeys in height. The chimney to the boiler house is also a prominent feature.
8. At the time of its closure, the Hospital was operating as a community hospital providing care primarily for the elderly. There were 43 beds for in-patients with a further 20 beds for day patients, an Alzheimer's day centre, together with ancillary accommodation such as a laundry and catering facilities. In addition, an office building on the site (Dynam House) was used by the NHS Trust Estates Department. A total of 62 persons were employed on the site with only a very small staff of approximately 8 persons now remaining within the office building.

These are temporary staff employed on an NHS project that will end in March 2006 and whose presence on this site is primarily for security purposes.

Planning Policy

9. The development plan comprises the *Clwyd Structure Plan First Alteration* (Document 27), approved in 1991, and the *Alyn and Deeside Local Plan* (Document 29A), adopted in 2003. Structure Plan policy H3 seeks to protect and enhance the landscape and natural environment of the countryside. Policy B4 indicates that outside the main settlements, housing development will be located mostly within or on the edge of main villages. Policy B5 lists a number of factors to which regard should be had before land is given planning permission for housing development. These include not using sites which would be better utilised for employment purposes and using vacant, derelict or underutilised land in preference to agricultural land. Policy B8 states that new dwellings in the open countryside will be permitted only in special circumstances, in particular where a dwelling is essential to house a farm/forestry worker who must live on the spot rather than in a nearby settlement. Policy A6 is generally supportive of the conversion of existing buildings for small-scale employment purposes in the open countryside whilst policy A7 notes that office developments will primarily be located in existing town centres.
10. The site lies outside the Local Plan's settlement boundary for Penyffordd and Penymynydd, as shown on Inset Map 22 of the *Proposals Map* (Document 29B). Local Plan policy CF11 is generally supportive of proposals for the re-use of either the whole or part of redundant hospitals in the countryside, subject to one of two requirements and complying with policy G1. The second of these requirements is that the development involves the redevelopment of the whole or part of the site because the existing buildings are unsuitable for conversion, renovation or change of use; and the proposal must be of a scale and character similar to that which already exists. The policy is intended to ensure that new uses will normally be allowed if one or both of the hospitals at Dobshell and Penyffordd become wholly or partly redundant. The supporting text acknowledges a need to safeguard the countryside in which both hospitals are situated, but states that change of use will normally be allowed with redevelopment also being supported in exceptional circumstances.
11. The supporting text also notes that policy G1 sets out the general requirements, such as access and design, which will be used to assess schemes. The general requirements listed in policy G1 also include being compatible with other relevant planning policies. Policy H6 states that new dwellings will be permitted in the open countryside only in special circumstances, where a dwelling is essential to house a farm/forestry worker who must live on the spot rather than in a nearby settlement. Policy EM9 is generally supportive of the renovation, conversion and change of use of a building or group of buildings located in the open countryside for small-scale employment purposes.
12. The *Structure Plan Second Alteration: Flintshire Edition* (Document 28) has not been formally adopted, but is used for development control purposes. Policy GEN 2 requires that new development should seek to make the best use of resources, amongst the examples cited is using vacant, derelict or underused land. Policy CONS 5 states that development in the open countryside will not be permitted unless it is essential for agriculture, forestry, suitable outdoor sport and recreation or other uses appropriate to the rural area. Policies EMP 5 and EMP 7 effectively repeat First Alteration policies A6 and A7, respectively.
13. Policy HSG 4 states that outside the main settlements, housing development will be located mostly within or on the edge of main villages. Policy HSG 5 lists a number of requirements

relevant to land given planning permission for housing development. These include protecting sites which would be better utilised for employment purposes and using vacant, derelict or under-utilised land in preference to agricultural land. Policy HSG 6 states that, in rural settlements other than main villages, limited housing development may be permitted in the form of small scale development, including rounding off and infill, related to the size of the settlement. Policy HSG 7 indicates that new dwellings in the open countryside will be permitted only in exceptional circumstances, in particular where a dwelling is essential to house a farm/forestry worker who must live on the spot rather than in a nearby settlement.

14. The emerging *Flintshire Unitary Development Plan* (UDP) (Document 30A) is also of relevance. It has completed its deposit stage and pre-inquiry changes will be published as early as possible in 2006 with a view to an Inquiry in the autumn of 2006; the expected date for adoption being early 2008 (Document 9). The site lies outside the emerging UDP's settlement boundary for Penyffordd & Penymynydd, as shown on Inset Map 50 of the *Proposals Map* (Document 30B). Policy CF7 states that proposals for the re-use of redundant hospitals in the countryside will normally be allowed if the development involves the conversion, renovation or change of use of a redundant building or group of buildings and provided that the primary use of the site is for employment purposes. The supporting text notes that partial redevelopment will be supported in exceptional circumstances if the buildings are unsuitable for conversion and the proposed development is of a scale and character similar to that which already exists. Any residential development should be ancillary to the main use, and require specific justification.
15. Emerging policy STR1 requires new development, amongst other matters, to be generally located within existing settlement boundaries and principal employment areas and will only be permitted outside defined settlement boundaries where it is essential to have an open countryside location. Policy GEN1 lists various general requirements for development, including not prejudicing land or buildings safeguarded for other uses. Policy GEN3 notes that development proposals outside settlement boundaries will not be permitted, except for eight specific categories listed. Policy GEN4 restricts development outside allocated sites or settlement boundaries only to uses which are appropriate to the open countryside or uses which are essential to a particular rural location and cannot be sited elsewhere.
16. Emerging policy HSG4 states that new dwellings in the open countryside will only be permitted where it is essential to house a farm or forestry worker who must live at or very close to their place of work and not in a nearby dwelling or settlement. Policy HSG7 indicates that the change of use to a dwelling of an existing non-residential building in the open countryside will only be permitted where, amongst other matters, if suitable for employment use, the building has been advertised at a reasonable price for sale or lease for an employment generating use, for a period of at least one year without success.
17. National planning policy is found in *Planning Policy Wales* (PPW) and this is supplemented by various Technical Advice Notes including *Technical Advice Note (Wales) 1: Joint Housing Land Availability Studies* (TAN 1). *People, Places, Futures: The Wales Spatial Plan* provides strategic high-level guidance.

The Proposal

18. The appeal relates to an outline application with siting, design, external appearance and landscaping reserved for subsequent detailed approval.

Other Agreed Facts

19. The April 2004 *Joint Housing Land Availability Study* (Appendix 5 to Document 10 or Appendix 10 to Document 16) identifies that the housing land supply in Flintshire was 2.33 years based on the Structure Plan Second Alteration requirements. Using the emerging UDP requirements increases this figure to 3.16 years. When unadopted plan sites and Section 106 sites are included, the land supply figures become 3.1 years and 4.21 years, respectively, but TAN 1 advises that the contribution that such sites might make to the land supply situation must not be incorporated into the agreed land supply calculations.
20. The *Joint Statement Dealing with Traffic and Access Issues* (Document 7), notes that the deemed reasons for refusal relating to the substandard access arrangements can be withdrawn on the basis that the proposed residential development would be restricted to a level whereby the traffic generating potential would not exceed that of the lawful hospital use of the site. A response to a query that I raised (Document 8), signed on behalf of both of the main parties, accepts that the specialist hospital use could have a higher level of traffic movements than 58 houses in the AM peak hour and that 58 houses could generate more traffic movements in the PM peak hour than the specialist hospital. However, the figure of 38 vehicle movements in the busiest hour of the day is not exceeded by either use and this allows both parties to be satisfied that no highway or traffic harm would arise from the proposal. The *Statement of Common Ground* (SOCG) (Document 6) and the Statement of Evidence of the Council's planning witness (Document 9) confirm that the local planning authority no longer pursue the highway reasons for refusal.
21. The SOCG also notes that, in the event of planning permission being granted, the extent of the development should be restricted to an area of around 1.39Ha (shown edged in red on drawing No. P16_01S/2 attached to the SOCG), which reflects the existing curtilage of the presently developed part of the site. The principal parties agree that the reports prepared by Byrom Clark Roberts and submitted with the planning application provide an accurate assessment of the amount of work that would be involved in converting the existing buildings to either office, light industrial or residential use at January 2004 prices.
22. The emerging UDP indicates that 381 Ha of land is available for new build employment development. The Council's Economic Development Department records the availability of 15,551m² (167,399 square feet) of office accommodation and 163,740m² (1,762,547 square feet) of industrial/storage premises in September 2005. These figures are underestimates because a significant number of entries in the schedules have no floorspace figures. An updated list (November 2005) (Document 12) from the same source, also with floorspace omissions, records a supply of 14,693m² (158,168 square feet) of office accommodation, of which 2,860m² (30,793 square feet) was in premises of less than 232m² (2,500 square feet). It is agreed in the SOCG that when considered in isolation the proposal would not compromise the supply of employment land in the County as a whole.
23. DŌr Cymru/Welsh Water had objected to the proposal on the basis that it would overload the Waste Water Treatment Works (Document 5). However, the appellants pointed out that the development provides an opportunity to introduce separate surface and foul water drainage systems, as opposed to the present combined system (Appendix 17 to Document 16). DŌr Cymru/Welsh Water now accept that the principle of discharging foul flow from the proposed development less than or equal to the existing foul flow appears to be satisfactory (Appendix 17 to Document 16 and Document 20).

THE CASE FOR THE APPELLANTS

The material points are:

Feasibility, land supply, and sustainability considerations (Documents 15, 18 and 32)

24. The buildings are in varying states of repair with some being described as poor. An investigation of the feasibility of reusing the buildings and the site for commercial purposes was undertaken in an extremely comprehensive fashion. Each building was considered in terms of its current condition and the works that would be needed to convert it to either office, industrial or residential use. The works were then costed and appraised in relation to market conditions and viability, and all such options were found to be uneconomic. The site was then considered in relation to its redevelopment potential following demolition and the office and industrial options were concluded to be uneconomic at this location, with residential redevelopment being the only practical use.
25. The September 2004 Feasibility Study (Appendix 1 to Document 18) reveals that office use would have deficits of £791,786, as a refurbishment project, and £2,333,105, as a redevelopment project. The equivalent figures for light industrial use being deficits of £376,012 and £2,923,631, respectively, and refurbishment for residential use shows a deficit of £143,389. These figures are unchallenged and have not improved over time, and show clear, as opposed to merely marginal, non-viability. The commentary in the relevant committee report (Appendix 4 of Document 16) that residential development was the most cost effective option for the site is not an accurate reflection of the conclusions reached, it was the only viable option.
26. The Council suggests that the acid test of viability would be a full marketing exercise, but there is no absolute policy requirement to carry out a marketing exercise. Furthermore, the feasibility exercise was carried out at great cost and at the Council's request. Marketing would be a necessary next stage if the figures showed that a site would be a viable or a marginal proposition for a particular use, but in this case it would be a waste of time and resources.
27. It could be argued that a developer might 'cherry pick' individual units which could, potentially, be refurbished on a commercial basis. However, the appraisal apportions the cost of upgrading services and remodelling the site as a whole across the net floor area. Reducing the net floor area by selecting individual buildings to refurbish would increase the unit cost and impact on the commercial viability of their refurbishment. Furthermore, such an approach would result in the residue falling into disrepair and this would impact on the marketability of the refurbished buildings. The Council also advocates a mixed use, but this is a recent suggestion and one that the appellants were not asked to investigate. In any event, such a proposal would be unworkable in commercial, design and amenity terms on this modestly sized site. Although Dinam House is currently in office use, it is in need of substantial refurbishment. Its continued use as offices, unless used as one unit, would require sub-division, including the provision of a lift to provide disabled access to the first floor, but sub-divided units are less attractive to purchasers than self contained units.
28. On the basis of past annual take up rates of between 12Ha and 19Ha, the 381Ha of employment land allocated in the emerging UDP equates to a supply of between just over 20 years to slightly less than 32 years. In contrast, there is a significant shortfall in the 5-year housing land supply required by PPW (2.33 years or 3.16 years) (Appendix 10 to Document 16). The office market in Flintshire is also one where supply exceeds demand. By way of example, St. David's Park has 16,396m² (176,500 square feet) of office accommodation, with

just over one third being currently available for occupation and quoting rents have been reduced to stimulate demand. A further 1.3Ha and 1.21Ha are available for development at St. David's Park and Northop Country Park, respectively, and the Council has released 4.45Ha at Mold Business Park. In addition, a 28.7Ha office development by the Welsh Development Agency at Warren Hall is imminent. The Inspector who determined Appeal Ref: APP/A6835/A/02/1090348 (Appendix 5 to Document 18) considered that the residual level at St. David's Park, together with the land at Northop Country Park and Warren Hall, provide an adequate range of sites and sufficient total land provision to meet the needs of the area through the UDP plan period.

29. Appeal Decision APP/A6835/A/04/1160448 (Appendix 3 to Document 16) concluded that the housing land supply was insufficient and that this was a cause for concern. This shortfall is an important material consideration which weighs in favour of the proposal. In a further Appeal Decision, Ref: APP/A6835/A/01/1063728 (Appendix 11 to Document 16), it was noted that there is quite clearly a serious and pressing need to provide additional housing land and it was concluded that the re-use of the industrial site to meet the pressing need was evidently sensible, bearing in mind that there is sufficient industrial land to last well beyond the UDP period. Similar conclusions were reached in Appeal Decision Ref: APP/A6835/A/03/1126182 (Appendix 12 to Document 16).
30. The site is previously developed land and is a significant resource which needs to be used. The Council's preferred solution of economic redevelopment has no realistic prospect of being fulfilled within the foreseeable future, because it is unviable. This would effectively perpetuate the site's present vacant state and is a wholly unsustainable approach. In addition, employment use would generate more traffic movements than residential use. Bus services are available within a reasonable distance and provide for access to the key centres, with approximately half hourly services between Mold and Chester and other services providing access to Buckley and Wrexham. The site is immediately adjacent to the settlement boundary and there are parts of the settlement further to the south, on the opposite side of the road, that are actually further from the centre of the settlement. Penyffordd and Penymynydd have a broad range of facilities and services, including primary schools, health care facilities, community buildings, and shops within walking distance of the site.

Planning Policies (Documents 15, 27, 28, 29A, 30A and 32)

31. Approved Structure Plan policy A7 and Second Alteration policy EMP 7 sound against employment use of the site in the absence of demonstrable local need, of which there is no evidence. The site is on the edge of the settlement and approved policy B4 applies, with policy B5 giving specific priority to the use of vacant, derelict or underused land. In comparison, policy B8 imposes strict controls on housing in open countryside, i.e. away from established settlements. In any event, this is a sterile debate in view of the Council's desire to see the site redeveloped/reused.
32. Being site specific, Local Plan policy CF11 is the key development plan policy and it was inserted as far back as 1994, in recognition that Meadowslea Hospital had outdated facilities and was likely to close once replacement facilities were provided. This presumes in favour of reuse, but permits redevelopment if the buildings are unsuitable for reuse, and no specific end use is specified or preferred. The requirement to be of a similar scale and character to that which already exists could be secured by a condition that reflects this wording. Whilst this does not necessarily require that the existing footprint is not exceeded, the existing footprint would be roughly equivalent to 31 average sized dwellings with garages. Furthermore, the

proposal could introduce more breaks into the built form than the existing layout which presents an almost unbroken line of development over a length of some 150m.

33. It cannot be sensibly said that Local Plan policy H6, or other general Structure Plan policies which presume against housing in the countryside, override a site specific allocation. This is particularly so when the Council's position is that there are circumstances in which it would contemplate housing on the site. Unsuitability has been demonstrated and the proposal is, therefore, compliant with the development plan. Policy EM9 acknowledges the potential of renovating, converting and changes of use of existing buildings in the countryside for small-scale employment purposes. However, it does not address how one deals with a site which cannot be reused and the site has a gross ground floor area of 2913m² of buildings, which would amount to a very substantial amount of employment development in the countryside.
34. The emerging UDP allows for a windfall contribution of 750 dwellings, which the site could potentially contribute towards, and only 18% of the new allocations are on brownfield land. Although emerging policies STR1, HSG4 and CF7 are relevant, they carry little weight because the plan is at an early stage and policies STR1 and CF7 are the subject of objection (Appendix 9 to document 16). In addition, policy CF7 was not informed by any viability assessment, it appears to be unworkable, and it does not address what is to be done by way of fall-back. Furthermore, it has no basis in national policy. Emerging policy CF7 only envisages residential use as ancillary and requiring special justification. A level of use which is simply incidental to employment use is not mixed as commonly understood. Given the very high levels of financial deficit on the site for office re-use, it is very difficult to see how such a level of residential use could be viable.
35. PPW, in paragraphs 2.5.2, 2.7.1, 9.1.1 and 9.2.6, is quite clear that maximising brownfield reuse and minimising greenfield release is a general aim. The use of previously developed land in and around settlements for development is also an aim, as stated in paragraphs 2.5.6, 2.5.7 and 2.7.2. Paragraph 9.2.9 presumes that previously developed sites will be allocated before greenfield sites unless they perform so poorly in relation to the criteria at paragraph 9.2.8 as to preclude their use for housing. The site conforms entirely with these criteria, and it is close to village facilities and public transport. In general terms, PPW, therefore, favours development of sites such as the appeal site.
36. That would be qualified in policy terms if paragraph 7.6.10, which notes that residential conversions of rural buildings which have ceased to be used for industrial or economic purposes, including agriculture may have a minimal economic impact, applied. It allows local planning authorities to include policies which do not allow residential re-use unless one of three requirements is satisfied. The first two being that every reasonable attempt has been made to secure suitable business re-use, and residential use being a subordinate part of a scheme for business re-use. However, the paragraph as written only applies to rural buildings; the buildings on the site are not rural buildings, being institutional buildings in a semi-rural area and they have never been used for industrial or commercial purposes. In addition, the proposal relates to redevelopment rather than the re-use of existing buildings. As a result, the paragraph does not apply, but even if did apply, it requires every reasonable attempt to secure a business re-use and does not expressly require marketing. Any qualification would disappear, in any event, if it was concluded that employment use is non-viable or otherwise unnecessary or even undesirable.
37. Whilst there is a policy objective of enhancing the rural economy, it is only one of many and the relative merits of competing options need to be weighed. Given that there is no shortage of employment land, that such a use is unviable on this site, and the serious shortfall in

housing land (especially on brownfield sites), the weight of national policy is in favour of the appeal proposal.

38. PPW talks of mixed use being desirable in town centres, in suburban centres close to transport nodes, and, where appropriate, adjoining settlements. The first two do not apply and, as it is the Council's case that the site does not adjoin Penyffordd, neither would the third. Even if the site did adjoin Penyffordd, such a proposal would have to be appropriate and reference has already been made in paragraph 27 above to such a proposal being unworkable on this modestly sized site.

Prematurity (Documents 15 and 32)

39. PPW advice is clear that a reason for refusal on prematurity grounds must be made out by the local planning authority and can only bite if a proposal goes to the heart of the plan. The UDP is seeking to address a shortfall of over 4,400 dwellings beyond current supply. The appeal proposal would not affect this objective in any material sense and is complimentary to the objective of securing 750 dwellings on windfall sites. Housing supply is at a very low level and Inspectors in other appeals have considered it appropriate to release land in advance of the UDP to supplement supply in the interim. Adoption of the UDP is still 2-3 years off and one should be slow to reject a development plan compliant proposal on such grounds.
40. The Council's case seems to be that there are allocations and objection sites awaiting the UDP Inquiry and this site should join that process. Insofar as Penyffordd and Penymynydd are concerned, one allocated site is entirely greenfield and the other predominantly so (Appendix 3 to Document 10), with most of the omission sites also falling into this category (Appendix 4 to Document 10). Such an argument would have some force if the site was greenfield, but it is the only brownfield site and it has good access to facilities such that it is plainly sequentially preferable to the other sites. Furthermore, the site, which the Council wishes to see in beneficial use, is an ongoing liability with 24-hour security having to be deployed during school holidays. In any event, allowing the site to come forward would not pre-empt anything, the indicative limits for development are not ceilings and will be examined in the UDP Inquiry.

Conditions

41. In general, no objections are raised to the Council's suggested conditions or the modifications and additions discussed at the Inquiry (Document 14). However, attention is drawn to the fact that, where there is a demonstrable need for affordable housing to meet local needs, the UDP only requires a 30% provision on developments within settlement boundaries. It is not possible to determine whether or not there is an identified local need from the Council's Housing Needs Study, as this is based on the analysis of a much larger area. A fundamental concern is raised as to the Study's identification of a net requirement of 880 dwellings per annum to tackle the existing backlog and newly arising need, when the UDP only envisages an overall average of 433 dwellings per annum.

THE CASE FOR FLINTSHIRE COUNTY COUNCIL

The material points are:

Background, preferred use, and housing land supply (Documents 9, 11 and 31)

42. The site and the principal buildings are located on the eastern outskirts of Penyffordd within an area of open countryside; they are significantly elevated above Penyffordd and form a prominent and isolated built feature in an otherwise rural landscape. Vehicular access is gained along a track some 140 metres in length. There is no objection to development on the site as such and it is not argued that the site is unsuitable for residential development. If the proposed development respected the agreed area of previously developed land and was sensitively designed, it could be acceptable.
43. The Council does not believe that wholesale demolition and re-development for residential use is the only viable use for the site and consideration of alternative uses has been limited to a single use rather than a more sustainable mixed-use development with an element of housing contributing towards overall viability. The appellants have dismissed the notion of residential conversion being a subordinate part of a scheme for business use and the possibility of retaining any of the existing buildings. One of the buildings on the site is currently in use as offices, yet the opportunity of improving or expanding upon that use has not been embraced. The local planning authority's pragmatic and flexible approach to the re-use of redundant hospital sites is reflected by the UDP which advocates a mixed use development, including 70 dwellings, at Llesty Hospital, Holywell. In that case, it was considered appropriate to include a significant amount of residential development as the site is well related to the existing settlement.
44. In this case, offices would be preferable to any other form of employment use and would complement the largely residential and agricultural surroundings. There is currently an increasing demand for offices in edge of town and rural locations, particularly smaller units, with numerous examples of buildings being either constructed from new or converted from redundant agricultural properties or similar structures. A sub-regional study for West Cheshire and North-East Wales points to a lack of employment land, with site readiness and quality being constraints, particularly in Flintshire, Wrexham and Chester. Whilst developments such as those at St. David's Park and Warren Hall will accommodate the larger office requirements there is also a demand from those looking for smaller offices. Meadowslea could provide a focal point for an office village concept with renovation of the existing buildings providing a number of smaller offices that would appeal to a wide range of potential occupiers. The site is also an ideal location for owner-occupiers, with low interest rates fuelling demand, as there are a variety of buildings that could be converted and others where the space could be counted towards new buildings.
45. It is accepted that the Council does not have a 5-year supply of housing land (Appendix 5 of document 10), but it is seeking to address this deficiency by progressing the UDP in accordance with the advice in PPW and TAN 1. The situation has improved steadily from a low point of 1.7 years supply in 2001 with the increase resulting from the Council progressing applications on suitable windfall sites, including brownfield sites, and working to bring forward sites in existing plans. This approach has been supported in Appeal Decisions Refs: APP/A6835/A/05/1175165, APP/A6835/A/04/1160448 and APP/A6835/A/03/1125022 (Appendix 6 of Document 10).

Planning Policies (Documents 9, 27, 28, 29A, 30A and 31)

46. Notwithstanding paragraph 42 above, there is a policy objection to development for housing on a site which is isolated from the main settlement in visual and policy terms. The logic of a policy which seeks to have the site redeveloped is that housing development on the site would

be acceptable if no employment use could be forthcoming. Nonetheless, there is no Council resolution to that effect; it is the Council's opinion that such a position has not been reached and that the site can be used for employment either in whole or in part. There is an intermediate stage, between all housing and all employment, of a mixed use scheme consisting primarily of employment use with some housing to assist with viability.

47. When considered in isolation, the proposal would not compromise the employment land supply in the County as a whole. Neither would it compromise the availability of employment land locally since the Council has not sought to allocate rural employment sites, relying instead on windfall sites and general policy in relation to rural areas. However, the preferred use for redundant buildings in the countryside is business re-use and allowing the appeal would run counter to national and local planning policies that aim to allow the diversification of the rural economy through the re-use of sites such as the appeal site.
48. Whilst the starting point is the development plan, the weight to be attached to it is modified by two factors. Firstly, it is not completely up to date in that it does not take full account of PPW which supports re-use of rural buildings for employment purposes. Secondly, the emerging UDP does take account of PPW such that significant weight can be attached to it and is to be preferred to development plan policies in so far as they pre-date PPW and are inconsistent with it.
49. There are no exceptional circumstances in this case within the meaning of approved Structure Plan policy B8 and Second Alteration policy HSG 7, which are specifically aimed at allowing those cases where a single dwelling could be allowed as an exception. Furthermore, Local Plan policy H6, and emerging policy HSG4, clarify that the exceptional circumstances are limited to those where a rural dwelling is required to house workers who must live on the spot. Local Plan policy CF11 should not be read in isolation and it does not override the other policies relating to development in the open countryside. It includes a requirement to comply with policy G1 which, in turn, requires compatibility with other relevant planning policies, including H6. Whilst approved policy A7 directs office development to town centres, that must be read alongside policy A6 which supports small-scale employment uses of buildings located in the open countryside.
50. Emerging policy CF7 reflects national policy, in particular paragraph 7.6.10 of PPW, which emphasises that the preferred and most sustainable re-uses of previously developed land and buildings outside settlement limits are commercial or business uses. This does not allow residential re-use unless every reasonable attempt has been made to secure suitable business re-use. In most cases this will require an active marketing exercise since that is a reasonable way of testing the market. Furthermore, although policy GEN3 would allow conversion, extension and adaptation, it does not allow redevelopment, and policy GEN4 only allows development in the open countryside where it is appropriate to the open countryside or essential to a particular location.
51. In sheer quantitative size, the site is not small scale, but proper interpretation of the policy approach, as seen in Second Alteration policy EMP 5 and paragraph 7.3.1 of PPW, is that what is important is the nature of what goes on, not the absolute size of a development. Paragraph 7.6.10 makes it clear that residential use may be allowed if it is a subordinate part of a scheme for business re-use. Whilst there is some ambiguity in policy CF7, with the supporting text stating that residential development should be ancillary to the main use, more weight should be given to the policy itself which makes it clear that employment purposes must be the primary use.

52. Paragraph 2.2.1 of PPW sets out broad principles which are developed as more detailed objectives in paragraphs 2.3.1 and 2.3.2. Paragraph 2.5.2 sets out the requirements in relation to locating new development in order to facilitate sustainable settlements and paragraph 9.1.2 applies these more specifically to housing. These are then put in a development control context by paragraphs 9.3.1 to 9.3.4. At paragraph 2.7.1, it states that previously developed land should, wherever possible, be used in preference to greenfield sites. However, that is not a blanket endorsement and the Assembly Government recognises that not all previously developed land is suitable for development. This may be, for example, because of, amongst other factors, its location.
53. Paragraph 9.3.1 requires new housing to be well integrated with and connected to the existing pattern of settlements. Given the site area, the proposal would be of a significant scale, yielding at least 42 dwellings at 30 dwellings/Ha, and it would not be well integrated with existing facilities. The emphasis on location emphasises the search sequence found in PPW with priority being given in paragraph 9.2.7 to previously developed land within settlements. Even if the site is 'around' the settlement and has good public transport links, it would only be third in the sequence. This would be behind settlement extensions, with the two sites allocated in the emerging UDP being more logical extensions than the appeal site. The appeal site is accessible to facilities, but sustainability is a broader concept which includes not permitting isolated development in the countryside without a solid policy base and justification. The policy base permits re-use of buildings for employment purposes as an appropriate balance, thus providing an overall sustainable use.
54. In conclusion, whether one starts with the development plan or the more up to date PPW and UDP, there is no policy support for the proposed development.

Prematurity (Documents 9 and 31)

55. The relevant advice is found in paragraph 3.5.2 of PPW. It is a common approach adopted by Inspectors that although one application may be insignificant in purely numerical terms when measured against overall need, the cumulative impact of all such decisions would be significant such that they should be examined comprehensively within the UDP process. That is what the plan led system requires and is the approach adopted at paragraph 15 of Appeal Decision Ref: APP/A6835/A/05/1175165 (Appendix 6 to Document 10), albeit in relation to a greenfield site within the Green Barrier. In that case, the Inspector concluded that the proposal would prejudice the outcome of the UDP process, despite the fact that on a purely numerical basis a proposal for 21 dwellings could hardly be described as significant when compared to the emerging UDP's residual requirement. This proposal, for around 42 dwellings, would be significant in setting a precedent for isolated groups of housing in the open countryside and result in pressure for the release of further omission site's, including the appellant's Dobshill Hospital site.
56. Furthermore, it is no answer to say that this site is different because it is brownfield and there are few redundant hospitals such that there is no precedent argument. To conform with PPW, the process should be about assessing the appropriate use of all land, both green and brownfield in a comprehensive fashion. The emerging plan identifies the site as being suitable for the re-use of existing buildings for business use and there may be other more suitable and sequentially preferable sites allocated in Penyffordd for housing (Appendix 3 of Document 10). In addition, numerous omission sites have been put forward by objectors (Appendix 4 of Document 10). The two allocated sites would provide 268 dwellings, giving a growth rate of around 20% which would exceed the 8 – 15% indicative figure for a category B village. Furthermore, meeting the overall level of need requires that the effect of

the development on the indicative growth rates for Penyffordd should be considered as a whole with the proposed allocations. In that sense, the proposal would have a significant impact on the settlement as a whole and a similar situation was recognised in paragraph 15 of Appeal Decision Ref: APP/A6835/A/04/1160448 (Appendix 6 to Document 10).

57. Considering the future use of the site at the UDP Inquiry would enable the proper marketing of the site for commercial uses in the meantime to ensure that every reasonable attempt had been made to secure a business re-use. The UDP Inspector would then be fully informed as to whether or not residential development was the only feasible option. Although the Inspector queried the degree of slippage in the UDP process, the timescale can now be given more credibility since contact has been made with the Planning Inspectorate with regard to arranging the UDP Inquiry. The appeal decisions cited above, and Appeal Decision Ref: APP/A6835/A/03/1125022 (also relating to a greenfield site within the Green Barrier) (Appendix 6 to Document 10), are to be preferred to those cited by the appellants since the latter relate to a position when the UDP was not as advanced and the housing land supply figures much worse.

Conditions

58. A list of proposed conditions is supplied (Document 14). At the Inquiry, the Council suggested a revised condition to safeguard aerodrome safety, accepted that the affordable housing condition requires expanding upon and that there is no need to refer to individual species in the protected species condition. It also agreed that specific reference to establishing a management company to ensure future maintenance of the access and estate roads is unnecessary and would prevent the developer from submitting other equally acceptable solutions. The suggested condition limiting the development to the curtilage of the presently developed part of the site should be extended to limit the proportion of this area to be covered by the footprints of buildings to no more than the existing footprint to ensure that the proposal would be of a scale and character similar to that which already exists.
59. The removal of permitted development rights in relation to the enlargement, improvement or other alteration of a dwellinghouse is justified by the site's visual prominence. The removal of permitted development rights relating to the provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure is also required for the same reason. However, it was accepted that the removal of such rights relating to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof was unnecessary.

THE CASE FOR INTERESTED PARTIES OBJECTING TO THE PROPOSAL

60. **Cllr C Bithell**, one of the two ward members for the area, spoke at the Inquiry (Document 22). He does not oppose some residential development in the village, as this would support the two primary schools which have falling pupil numbers, but this should be addressed through the UDP process. He is opposed to the use of the site for offices, as the Warren Hall development would provide more than sufficient provision, and advocates a medical re-use. There is an urgent need and support for an Elderly Mental Infirm Unit in the area and the

appeal site, or the Dobshill site, would be suitable for such a use with senior citizen bungalows also being incorporated. The site would also be an ideal location for a small retirement village.

61. **Cllr D Darlington**, the other ward member, also spoke at the Inquiry and supported the Council's objections on policy and prematurity grounds. Pen-y-ffordd is a Category B Settlement with an indicative growth range of 8-15%, which is already exceeded by the two sites allocated in the emerging UDP. Further development would put tremendous pressure on the infrastructure and services of the village. The Planning Committee opposed the proposal with 20 out of 21 voting against and one abstention, it is also believed that the Community Council's opposition was unanimous. Concern was also expressed that the consultant who undertook the appellants' Feasibility and Marketing Study did not approach the County Council's Economic Development Unit.
62. **Mr G N I Jones**, the Clerk to Pen-y-ffordd Community Council, confirmed the Community Council's view that the appeal should be dismissed (Document 3), because the site is outside the UDP development limits and the Urban Envelope, and the proposal is most certainly premature.
63. **Cllr J Connah** (Document 23) spoke on behalf of Buckley Town Council and emphasised that the Town Council does not make a habit of passing observations on applications in neighbouring settlements, but does so in this case because it casts a wider shadow. The Town Council maintains that the application is premature in that the residential need is not identified and that it is contrary to the UDP. Furthermore, it would create two precedents in allowing further development on the remainder of the Meadowslea site and that all the surrounding areas of open countryside would be liable to large scale sporadic development. The UDP is the right and proper place for strategic planning to be made, allowing the appeal would prejudice many of the policies and undermine the UDP.
64. **Cllr C Hinds** is a member of Pen-y-ffordd Community Council and spoke at the Inquiry on behalf of a number of local residents. These residents are particularly concerned at the ongoing flooding problems in the village with raw sewage overflowing onto individual properties. After seeing the Dŵr Cymru/Welsh Water letter (Document 20) on the first day of the Inquiry, she spoke to two persons at Dŵr Cymru/Welsh Water who confirmed that the original objection stands and that no new housing should be built until the system has been updated. In terms of accessibility to public transport, buses only operate every 2 hours with different bus stops having to be used for different services. Whilst there is an hourly rail link to Wrexham and Liverpool, reaching the station involves a lengthy walk. Although there is a need for first time buyers to get on the housing ladder, the infrastructure and amenities should be sorted out first.
65. **Mr D Williams**, a lifelong resident of Pen-y-ffordd, explained his objection to the proposal (Document 3) on the grounds of non-compliance with the development plan, increase in traffic, and the loss of existing buildings of local recent historical interest which represent one of Pen-y-ffordd's few remaining landmarks. He has witnessed over development and bad planning in the last 20-30 years which has resulted in an unreasonable growth of some 400% (Plan B) with inadequate recreation facilities and a loss of character and identity. This has all but destroyed the foundations of the village community and resulted in very severe social problems involving drugs and vandalism. He advocated that the buildings be retained as a convalescent home, day care centre, or as a student campus for the local college. Local people are being forced out because of the lack of affordable homes in the village and the proposal would be likely to result in executive homes which would only attract commuters.

66. **Mr D R Parry** spoke on behalf of the Pen-y-ffordd and Penymynydd Branch of the Labour Party which he chairs. The UDP is proposing up to 2000 additional dwellings in Pen-y-ffordd and Penymynydd and the neighbouring settlements of Broughton, Buckley, Hope and Caergwrle, and the community cannot embrace this amount of development. The hospital is closed, yet the flooding problems continue and the local treatment works is absolutely to capacity. No development should take place until this has been brought up to modern standards. Heavy traffic and congestion is experienced in the peak hours, with drivers using the village as a rat run, and further development would exacerbate existing problems. Attention was drawn to the *Wales Spatial Plan* which emphasises the need to look at the whole area and to build sustainable communities rather than allow piecemeal development. It was suggested (Document 24) that any decision on the application be deferred pending a decision on future hospital developments, discussions on how to overcome the overwhelming problems of flooding and sewage flows, marketing the site, and fast-tracking the UDP process.
67. **Mrs A C Wrench** spoke on behalf of her husband, Mr J S Wrench, and her father in law, Mr J Wrench, who farm the land surrounding the site as tenants (Document 25). She drew attention to the wildlife habitats provided by the undeveloped part of the site, with a thriving colony of badgers living there and bats having been observed coming from the site. A preference was expressed for conversion, rather than demolition, of the buildings, particularly the old house which is an integral part of the area's history, to be of benefit to the community. The proposal would exacerbate existing sewage and drainage problems, which already results in regular overflows to the fields below, causing a severe health hazard. Housing would damage and destroy the wildlife habitat on the undeveloped part of the site and put farm livestock at risk from dogs worrying sheep or spreading disease. The proposal would also create a precedent for further development in the immediate area.
68. **Mr R C Aubusson** spoke on behalf of his father, Mr E Aubusson, who lives at Oakfield immediately to the south of the site entrance. His concerns relate to vibration from any increase in traffic, the lack of capacity in the sewerage system, exacerbating existing problems of water overflowing from the ditch adjacent to the drive, the possibility that underground workings from the Llay Main Colliery extend under the site and that restrictive covenants may inhibit development of the site.
69. **Mr J & Mrs J Shone**, who live at Kobe Villa, the third dwelling to the south of the site entrance, did not speak at the Inquiry but they also object to the proposal (Document 26). This is based on a significant increase in traffic volumes, increase in noise and light pollution throughout the day and night, reduced privacy, loss of wildlife habitat, a loss of a historical village landmark and the erosion of the village community make-up. Attention is also drawn to the likelihood that the development would be executive housing which would be out of reach of local residents.

INSPECTOR'S CONCLUSIONS

The figures in brackets [] refer to paragraphs elsewhere in the Report.

Main Issues

70. Notwithstanding the main issues identified at the Pre-Inquiry Meeting [3], having heard the evidence, I now consider the main issues in this case to be:
- (i) Whether the proposal is in line with local and national planning policies that seek to strictly control residential development outside development limits; and,

- (ii) Whether allowing the appeal would predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the context of the emerging UDP.

Viability, land supply, and marketing

71. On the basis of the thorough and unchallenged analysis in the September 2004 Feasibility Study, I have no doubt that reusing the existing buildings as offices, for light industrial purposes, or for a residential use, or redeveloping the site for an office or a light industrial use, would not be a viable proposition [25]. Given the very high levels of financial deficit on the site for office re-use, I also agree that it is very difficult to see how a predominantly office use with only an ancillary level of residential use could be viable [34]. No evidence was presented that a more balanced mixed-use development would be a practicable proposition [43]. Although one of the buildings is currently used as offices, it is in need of substantial refurbishment [27]. The agreed developable area is quite small, and it is likely that a mixed employment and residential use on such a modest area would be unworkable in commercial, design and amenity terms [21 & 27].
72. The Council's preference is for an offices development on the site [44]. Insofar as demand for office space is concerned, figures from the Council's Economic Development Department and those with knowledge of the local market should be given greater weight than an anecdotal reference to a sub-regional study that was not submitted to the Inquiry [22, 28, & 44]. On this basis, there appears to be an ample supply of available office space in the area, including smaller units, with further development in the pipeline and additional land allocated. This view is supported by one of the ward members and a similar view was reached by the Inspector who determined Appeal Ref: APP/A6835/A/02/1090348 [28 & 60]. I have no doubt that, if offices were to be built on the site, tenants could be found, subject to rents being competitive [44]. However, that is a somewhat academic consideration given that such a proposal would not be a viable proposition.
73. Against the above background, a marketing exercise would not be of any practical benefit and would indeed be a waste of time and resources [26 & 57]. In reality, I accept that residential use is the only viable and practical option for bringing the site back into beneficial use [25].

Planning Policies

74. The site is well set back from Wrexham Road/Vounog Hill, which forms the settlement boundary for Penyffordd and Penymynydd [42]. In my view, it appears as an isolated feature, surrounded by farmland, unrelated to the built form of the settlement. I do not, therefore, consider that it could be reasonably described as being on the edge of the village, and for the purpose of applying planning policies it lies in open countryside [31].
75. Starting with the approved Structure Plan, subject to limiting the development to the previously developed part of the site and not exceeding the footprint of the existing buildings, the proposal would, at worst, have a neutral impact on the character and appearance of the surrounding countryside [32, 42 & 58]. Furthermore, it would also result in the removal of the prominent and obtrusive boiler house chimney, subject to approval of the reserved matters, it could introduce more breaks into the built form than the existing layout, and landscaping would serve to further soften the visual impact [7, 18 & 32]. Each of which would enhance the landscape of the surrounding countryside. The proposal does not, therefore, conflict with policy H3 [9].

76. I interpret policy B8, and Second Alteration policy HSG 7, to the effect that an agricultural/forestry need is a particular, but not the only, special circumstance where new dwellings will be permitted in the open countryside [13, 49]. In this case, the site is previously developed (which is effectively one of the factors cited in policy B5 and Second Alteration policies GEN 2 and HSG 5), there is no economically viable alternative, and the site lies within reasonable proximity to Penyffordd and its facilities and services [7, 12, 21, 30 & 72]. I am of the opinion that these factors and the lack of a 5-year housing supply in Flintshire, when considered in total also amount to special circumstances [19, 29 & 45]. For the above reasons, I find no conflict with the approved Structure Plan.
77. Turning to the Local Plan, the existing buildings are unsuitable for conversion, renovation or change of use and the redevelopment could be restricted to being of a scale and character similar to that which already exists [10, 32 & 72]. Although not conclusive, on the basis of the wording of the supporting text, I interpret policy CF11 as making an exception to more general policies on development in the countryside, with the reference to policy G1 intended to cover matters such as access and design rather than points of principle [11 & 49]. I gain support for this interpretation from the fact that the policy does not specify or preclude any end use, and other policies cover industrial or commercial development in the open countryside. This would negate the need for a specific policy, unless a broader range of end uses was envisaged as being acceptable. The proposal does not, therefore, conflict with the policy objective of ensuring new uses for the site when it becomes wholly or partly redundant.
78. Local plan policy H6 is more restrictive than the equivalent Structure Plan policy such that an agricultural/forestry need is, effectively, the only special circumstance where new dwellings will be permitted in the open countryside [11 & 49]. No such need is identified and the proposal conflicts with this policy, but it is not uncommon to find individual planning policies pulling in different directions. In such situations specific policies, such as CF11, should take precedence over general policies, such as H6 [33].
79. In the absence of any specific reference in PPW to institutional buildings, I see no reason to treat the existing buildings on the site any differently to rural buildings which have ceased to be used for industrial or commercial purposes [38 & 50]. Whilst paragraph 7.6.10 only applies to the re-use and conversion of such buildings, subject to their being no in-principle objection to re-development, it would be reasonable to extend the principle of giving priority to suitable business uses over residential use to situations where the buildings are unsuitable for conversion or re-use. In this case, the reasoning in paragraph 72 above shows that redevelopment for a business use would not be viable and allowing the appeal would not go against the above principle.
80. The search sequence in paragraph 9.2.7 of PPW does not specifically refer to previously developed land outside settlements [35 & 53]. Nonetheless, sustainability is an overarching aim of PPW and I am satisfied that, when the document is read as a whole, it favours the re-use of previously developed land in sustainable locations over development of greenfield sites [52]. Whilst paragraph 2.7.1 recognises that not all previously developed land is suitable for development, for example, because of its location, I take that to mean unsustainable or otherwise unsuitable locations.
81. In this case, a business use would not be viable and the site is reasonably well located to services and facilities, more so than some areas within development limits at the southern extremity of the village, and within walking distance of bus routes which provide services to a number of towns [30 & 64]. It, therefore, constitutes previously developed land in a reasonably sustainable location and the proposal accords with the overarching aim identified

above. I acknowledge that the Council's efforts have led to an increase in the housing land supply, but it still falls well short of the PPW requirement for a 5-year supply and that remains a cause for concern [19, 28, 29 & 45]. The appeal proposal would make a modest contribution in that respect.

82. The emerging UDP also contains a specific policy relating to redundant hospitals in the countryside, but the proposal does not involve a primary use of the site for employment purposes [14]. As a result, it conflicts with policy CF7, and it also conflicts with general policies STR1, GEN3, GEN4 and HSG4 [15 & 16]. Nonetheless, this should only be given limited weight because the UDP is not at a particularly advanced stage, there are objections to policies CF7 and STR1, and policy CF7 is not comprehensive in that it gives no guidance as to situations where primary use for employment purposes would not be viable [34, 48 & 50]. Whether or not policy CF7 reflects national policy is a matter for the UDP Inquiry, but I note that it makes no reference to residential re-use being acceptable after every reasonable attempt has been made to securing suitable business re-use. The appeal proposal would also contribute towards the UDP's estimate of 750 dwellings on windfall sites [39].

Prematurity

83. Against a shortfall of over 4,400 dwellings and an anticipation that 750 of these would be on windfall sites, a proposal for around 31 to 42 dwellings can hardly be described as substantial [32, 39 & 55]. Furthermore, it would make a modest contribution towards reducing the need to release greenfield sites to address the above shortfall [34].
84. In a more local context, the UDP envisages an indicative growth rate of 8 – 15% for Penyffordd and Penymynydd. The appeal proposal would only represent growth of a few percent and would not have a significant impact on the settlement as a whole [56]. In contrast, the two allocated sites, if carried forward to the adopted UDP, would provide in a growth rate of some 20%, which would be well above the top of the range cited, although this is only indicative. Nonetheless, the UDP Inquiry can consider whether or not Penyffordd and Penymynydd can cope with this level of growth. If not, the UDP Inspector would be free to recommend the deletion of one or both of the allocations, one of which is entirely greenfield and the other predominantly so, and that no greenfield omission sites are included within the adopted settlement boundary [40]. As a result, the proposal would not prejudice the outcome of the UDP process [55].
85. It is a well accepted principle that planning applications are considered on their individual merits. If the appeal was allowed, the Council would be free to consider future applications for the release of further omission sites in advance of adopting the UDP on their merits, having regard to, amongst other matters, local and national planning policies, the site's status and location, and the housing land supply at the time. On this basis, the cumulative impact of this case and any others that may arise would not be significant [55].
86. For the above reasons, allowing the appeal would not go to the heart of the plan or predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the context of the emerging UDP.

Other Matters

87. Both principal parties have submitted previous Appeal Decisions to support their cases [28, 29, 45, 55, 56 & 57]. However, I have considered the proposal on its individual planning merits, in accordance with the principle outlined in paragraph 85 above, in formulating my recommendations. Whilst those cited by the Council are generally more recent, there are significant differences between this case and two of those cited in that the latter relate to

greenfield locations within the Green Barrier, and there is no suggestion that the other relates to a previously developed site [55, 56 & 57].

88. A number of interested parties referred to various possible alternative uses for the site, but these are not part of the proposal before the Inquiry [60, 65 & 67]. Some of these relate to uses within the health care area and, if there was any real prospect of such a use within the NHS, it is unlikely that the site would have been declared surplus in the first place [8]. Insofar as these suggestions relate to re-use, it can be inferred from the substantial deficits identified in the September 2004 Feasibility Study, in respect of the three uses considered, that any re-use would not be viable [25].
89. I appreciate the concerns about flooding in the village, but I take the Dŵr Cymru/Welsh Water letter of 18 October 2005 as being their current official stance and can give very little weight to anecdotal evidence of a different stance by individuals within that organisation [23, 61, 64, 66, 67 & 68]. The site has a right to discharge flows from the lawful hospital use to the public sewer and it is a valid argument that any future development should be allowed to discharge equivalent or lesser flows. The hospital is closed and this results in no foul discharges from the site to the public sewer, apart from that arising from the limited office use. However, it would appear that the connection is a combined one with foul and surface water being discharged and, as the buildings and hardstandings remain, the surface water discharge continues during and after periods of rain [23]. Development of the site would provide the opportunity to separate the foul and surface water systems on the site with only the foul element being connected to the public sewer, thereby alleviating some of the pressure on the sewerage system in the village, and the waste water treatment works in particular, during and after heavy rain.
90. The primary role of *People, Places, Futures: The Wales Spatial Plan* is to provide strategic high-level guidance, rather than to inform decisions on individual planning applications and appeals [17 & 66]. The *Joint Statement Dealing with Traffic and Access Issues*, effectively, indicates that a development of up to 58 dwellings would have no worse an impact than the lawful hospital use [20, 65, 66, 68 & 69]. In practice, site constraints are likely to result in a development of between approximately 31 and 42 dwellings which would generate less traffic than the hospital [32 & 55]. I have no evidence to suggest that the proposal would exacerbate existing problems of farming on the urban fringe [67]. Given the site's topography, any underground workings are likely to be at some depth; at worst this would influence the foundation design to be adopted [68]. Any covenants are private matters between the site's owners and those deriving benefit from them [68]. The concerns expressed relating to lack of affordable housing and protected species can be covered by planning conditions, which I address in the following section [64, 65, 67 & 69].

Conditions

91. The Council submitted a list of suggested conditions and reasons and amendments and additions thereto were discussed at the Inquiry [41, 58 & 59]. Subject to the following specific matters, and minor modifications in the interests of clarity and precision, I agree that these conditions should be imposed for the reasons given, should the appeal be allowed. A schedule of recommended planning conditions that comply with Circular 35/95 on *The Use of Conditions in Planning Permissions* is set out in the Annex to this Report.
92. Insofar as affordable housing is concerned, a copy of the Housing Needs Study was not submitted to the Inquiry and I am unable to reconcile the apparent inconsistency between the

Study and the emerging UDP [41]. It would appear that the Study identifies a need in a larger area encompassing Penyffordd and Penymynydd and I have no reason to believe that some of this need does not relate to the immediate area. Interested parties submitted anecdotal evidence of such a need and, in my experience, the increases in house prices in recent years has resulted in a demand for affordable housing in most parts of the country [64, 65 & 69]. I do not consider that the site's location outside settlement limits is sufficient reason for it not to make a contribution towards this need for affordable housing.

93. As discussed at the Inquiry, an additional condition relating to prior approval of the boundary between the developed and undeveloped parts of the site is necessary to protect the undeveloped part of the site from disturbance, if the Countryside Council for Wales consider that this is required to safeguard protected species, or the ecological value of the undeveloped part of the site, in the longer term [67].
94. Circular 35/95 notes that development orders are designed to give or confirm a freedom from detailed control which will be acceptable in the great majority of cases. Save in exceptional circumstances, conditions which restrict permitted development rights granted by development orders should not be imposed. Although the site is in a prominent location, I am of the opinion that any of the permitted developments allowed by the *Town and Country Planning (General Permitted Development) Order 1995* should not be restricted because they would not harm the character and appearance of the surrounding area [59 & 74].

Overall Conclusions

95. Subject to my interpretation of Local Plan policy CF11, the proposal is broadly in line with development plan and national planning policies that seek to strictly control residential development outside development limits [76, 77, 78, 79 & 81]. Furthermore, allowing the appeal would not predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the context of the emerging UDP [86].
96. If my interpretation of policy CF11 is not accepted, the proposal conflicts with development plan policies that seek to strictly control residential development outside development limits [77 & 78]. It also conflicts with emerging UDP policies in this respect, but the UDP can be given little weight [82]. The site is a significant resource and the Council does not object to development on it as such [30 & 42]. The site is previously developed land, it is within walking distance of Penyffordd and its facilities and services, there are no economically viable alternatives, and the housing land supply in Flintshire remains at less than the required 5-years [28, 30, 45 & 73]. When these factors are considered together, they amount to material considerations sufficient to outweigh any conflict with local policies such that the proposal should be allowed as an exception to these policies.
97. For the above reasons, I conclude that the appeal should be allowed.

RECOMMENDATION

98. For the above reasons, I recommend that the appeal be allowed and planning permission be granted subject to conditions.

Inspector

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Mr G N I Jones (Clerk to Pen-y- 4 Howards Close, Wood Lane Farm, Pen-y-ffordd,
ffordd Community Council) Chester CH4 0GG

Cllr C Hinds 38 Berwyn Avenue, Pen-y-ffordd, Chester CH4

Mr D Williams Cae Derw, Wrexham Road, Pen-y-ffordd, Chester CH4
0HT

Mr D R Parry 38 Berwyn Avenue, Pen-y-ffordd, Chester CH4

Mrs A C Wrench Beeches Farm, Flint Road, Saltney Ferry, Chester CH4
0BW

Mr R C Aubusson 42 Yew Tree Road, Moreton, Wirral CH46 8UB

DOCUMENTS

Document	1A – 1C	Lists of persons present at the Inquiry
Document	2	Council's Notification of Inquiry and list of persons notified
Document	3	Two letters of response
Document	4	Lists of persons present at the Pre-Inquiry Meeting
Document	5	Notes of the Pre-Inquiry Meeting
Document	6	Statement of Common Ground
Document	7	Joint Statement Dealing with Traffic and Access Issues
Document	8	Response to Inspector's query on above
Document	9	Mr Davies' Statement of Evidence
Document	10	Appendices to Mr Davies' Statement of Evidence
Document	11	Mr Bruce's Statement of Evidence
Document	12	Council's Vacant Property List as at 4 November 2005 and Mr Bruce's summary sheet showing properties listed of less than 232m ² (2,500 square feet)
Document	13	Note from Council's Chief Regeneration Officer on Supply of Vacant Office Floor Space in Flintshire (October 2005)
Document	14	Council's suggested conditions
Document	15	Mr Gilbert's Statement of Evidence
Document	16	Appendices to Mr Gilbert's Statement of Evidence
Document	17	Mr Welch's Statement of Evidence
Document	18	Mr Wade's Statement of Evidence
Document	19	Mr Wade's Supplementary Notes
Document	20	Letter dated 18 October 2005 from DŌr Cymru/Welsh Water to Mr Gilbert
Document	21	Planning Statement relating to Lluesty, Holywell, submitted by the appellants
Document	22	Cllr Bithell's Outline Statement
Document	23	Cllr Connah's Statement
Document	24	Mr Parry's Proposals
Document	25	Mrs Wrench's Statement
Document	26	Letter to Inquiry from J & J Shone, Kobe Villa, Wrexham Road, Penyffordd

Document	27	Clwyd Structure Plan: First Alteration
Document	28	Structure Plan Second Alteration: Flintshire Edition
Document	29A & B	Alyn and Deeside Local Plan
Document	30A & B	Flintshire Unitary Development Plan
Document	31	Council's Closing Submissions
Document	32	Appellants' Closing Submissions

PLANS

Plan	A	Application plan
Plan	B	Plan submitted by Mr Williams showing Development Sites in Pen-y-ffordd since 1965

ANNEX

PLANNING CONDITIONS RECOMMENDED BY THE INSPECTOR

- 1) Approval of the details of the siting, design and external appearance of the buildings, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained in writing from the local planning authority before any development begins.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 3) The development hereby permitted shall begin either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) Notwithstanding the fact that siting of the buildings is a reserved matter, the extent of the proposed redevelopment of the site shall be restricted to the curtilage of the presently developed part of the site as shown edged in red on drawing No. P16_01S/2 and the combined footprints of the proposed buildings shall not exceed 2913m² in area.
- 5) Notwithstanding the requirement of condition 1, development shall not commence until details showing that the height of any of the buildings, the landscaping of the site and any lighting proposed would not compromise aerodrome safety have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the requirement of condition 1, the development shall include for the provision of open space in accordance with details submitted to and approved in writing by the local authority prior to the commencement of development. The details to be submitted shall include a timetable for the provision of the open space. The open space shall be provided in accordance with the approved details.
- 7) The development shall not begin until the details of the arrangements for the provision of 30% of the dwellings on the site as affordable housing have been submitted to and approved in writing by the local planning authority. Such details shall include:
 - i) The type and location on the site of the affordable housing provision to be made;
 - ii) The timing of the construction of the affordable housing;
 - iii) The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
 - iv) The occupancy criteria to be used in determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be provided in accordance with the approved arrangements.

- 8) No development shall commence until the existing site access has been improved in accordance with details previously submitted to and approved in writing by the local planning authority.
- 9) No development shall commence until measures are in place to secure the future maintenance of the access and estate roads in accordance with details previously submitted to and approved in writing by the local planning authority.

- 10) No development shall commence until a detailed scheme for the disposal of foul sewage and surface water drainage has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details which shall be completed prior to the occupation of any dwelling.
- 11) Prior to the commencement of development, a survey of the site shall be carried out by a licensed ecologist to identify the presence of any protected species. A copy of the survey shall be submitted to the local planning authority. If any protected species are found, a scheme for the protection during the course of development of any such species shall be submitted to and approved in writing by the local planning authority before works of development commence on site. Development shall take place in accordance with the approved scheme.
- 12) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected, between the previously developed part of the site (including the access) as shown on drawing No. P16-01S/2 and the remainder of the site together with a timetable for the erection of the boundary treatment. Development shall be carried out in accordance with the approved details, and the approved boundary treatment thereafter be maintained.
- 13) Prior to the commencement of development a detailed report shall be submitted to and approved in writing by the local planning authority identifying any contamination on the site and any measures necessary for its treatment and/or remediation. Development shall be carried out in accordance with the approved details.