



## Adroddiad

Ymchwiliad a gynhaliwyd ar 07-10/03/06  
Ymweliad â safle a wnaed ar 14/03/06

## Report

Inquiry held on 07-10/03/06  
Site visit made on 14/03/06

**gan/by Stuart B Wild MRTPI MCMi**

**Arolygydd penodwyd gan Cynulliad  
Cenedlaethol Cymru**

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

Dyddiad/Date 28-04-2006

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Proposed restoration of former brickworks & quarry, development of up to 300 dwellings, creation of open space, woodland, an area of habitat creation and landscaping, construction of new and improved vehicular and pedestrian access

Former Lane End Brickworks, Church Road, Buckley, Flintshire CH7 3JQ

**File Ref: APP/A6835/A/05/1172811**

**Site address: Former Lane End Brickworks, Church Road, Buckley, Flintshire CH7 3JQ**

- 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 Redrow Homes (North West) Ltd against Flintshire County Council.
- The application Ref RMH/037558 is dated 21/04/04.
- The development proposed is restoration of former brickwork & quarry, development of up to 300 dwellings, creation of open space, woodland, an area of habitat creation and landscaping, construction of new and improved vehicular and pedestrian access.

**Summary of Recommendation: I recommend that planning permission be granted.**

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**Procedural Matters**

1. I opened the inquiry on 7/03/06. The inquiry lasted for 4 days. I made an accompanied inspection of the site and its surroundings on 14/03/06.
2. This appeal was against the failure of the Council to make a decision on the application within the prescribed period. The applicant, Redrow Homes, had submitted a second application which for all practical purposes is identical to the application subject to this appeal. Consideration of the second application had reached the stage that the Council resolved to grant planning permission subject to conditions and S106 agreements for that second application. My understanding is that the second application was referred to the National Assembly and that a direction was issued to prevent the Council issuing a decision on that second application.

**The Site and Surroundings**

3. The site is described in detail in the Statement of Common Ground (Doc 5). Generally the Site is that formerly occupied by Buckley Brickworks and associated quarry/brick pits. The site measures 19.9 ha. All the former buildings, with the exception of a small substation, have been demolished. About one third of the site where the former buildings stood is generally flat. The remainder has a variety of levels and slopes and contains two lagoons. The site has the general appearance of a derelict mineral extraction site with little vegetation other than on the western and northern boundaries. The trees along the western, Church Road, boundary are subject to a Tree Preservation Order (TPO).
4. The area of land to the immediate east of the site is an area of historic mining/quarrying activity which has been colonised with vegetation over time and is now of high ecological value. This area is designated as a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC), which is a European designation. The main ecological interest is the great crested newt habitat. The SSSI and SAC designations extend into the appeal site to include an area of recent quarrying activity in the vicinity of the large lagoon.
5. The northern boundary to the site is formed by Drury Lane; the western boundary by Church Road and the rear of frontage properties along Church Road; the southern boundary by housing and small scale industrial development off Chester Road.

## Planning Policy

6. Details of applicable planning policy are set out in section 2 of the Statement of Common Ground (Doc 5). In addition to national planning policy guidance this includes the Clwyd County Structure Plan First and Second Alterations (SP), the Alyn and Deeside Adopted Local Plan (LP) and the emerging Deposit Draft Unitary Development Plan (UDP). The existing Development Plan and the UDP identify Buckley as a settlement for additional residential development.

## Planning History

7. The previous planning history related to the site refers to several planning consents for mineral workings dating from the 1950s and 1960s. The restoration provisions of these permissions are limited to a requirement to variously spread overburden and soils over the levelled floor of the mineral workings. Consequently, in an attempt to regularise the extraction operations and achieve beneficial after use, the site owners submitted to the Council, under Schedule 9 of the Environment Act of 1995, an application for the determination of conditions for a mineral site (a ROMP application). The application was made in April 1997 and withdrawn on 17/01/06 (Doc 5 section 2.36). Although there are conditions contained in the relevant permissions requiring the spreading of overburden and soils over the levelled floor of the mineral workings, which are considered to be a minimum restoration requirement, they do not meet present day standards. In addition, there is no restoration scheme for the brickworks/quarry in place.

## The Proposals

8. The application is in outline with all matters except the means of access reserved for subsequent approval. The application as submitted has been amended by the support of the amended Environmental Statement issued in December 2005. Document 6 gives details of the consequential amendments to the application. The application is for the restoration of former brickwork & quarry, development of up to 300 dwellings, creation of open space, woodland, an area of habitat creation and landscaping, construction of new and improved vehicular and pedestrian access. The application is supported by an indicative masterplan (Fig 3A Rev 8 of Revised Environmental Statement Doc 3) which shows two areas of housing for up to 300 dwellings. One generally to the north with access off Drury Lane and one generally to the south west with access off Church Road (approx 5.5 ha). The residential areas would have separate vehicular access routes but would be linked by pedestrian and cycle routes. There would also be links to the cycle/pedestrian routes on adjacent land. An area of amenity/recreational open space (approx 3 ha) would lie between the two housing areas. The eastern part of the site (approx 7.5 ha) containing the SAC and SSSI designations would be subject to the habitat creation works.
9. The nature of the physical reclamation and habitat creation works are that, in the main, the material on the site will be used to create more gentle slopes and to fill in the deep lagoons. The phasing is designed to stage the works so that alternative newt breeding ponds and habitat are created in the first stages before the main lagoon is filled and then additional ponds and habitat created on the raised area above the location of the present main lagoon.

## Other Agreed Facts

10. It should be noted that the Statement of Common Ground was agreed by Redrow and the Council and not specifically by other parties to the appeal.

11. The SAC is primarily designated because of the presence of great crested newts. The SSSI is a more general designation relating to a number of amphibians and other species. However, it was agreed by the parties at the beginning of the inquiry that, since the SAC and great crested newts are subject to European designations they are of more importance in this case. By having regard to the great crested newts the other significant nature conservation aspects would be taken into account.

### **The Case for Redrow Homes**

12. The appeal site is previously developed land and therefore represents a brownfield site. Residential development would be consistent with sustainable development objectives. Currently there is a 2.3 year land supply and 94% of the allocations in the Buckley area are on Greenfield sites. This proposal would be a welcome windfall site wholly consistent with the Development Plan policies concerning residential development. The indicative Master Plan shows an appropriate scale of development to which there are no significant infrastructure objections or planning evidence to the contrary.
13. On the ecological issues the evidence was that there would be no adverse effect on the integrity of the SAC. At present the SAC is in an unfavourable and declining condition with no management. The site is unsafe in its present condition and the lagoon cannot be allowed to remain as it is. There is no effective mechanism for the restoration of the site without development. The proposal would result in significant benefits to the quantitative and qualitative nature of the SAC. The provisions for management in perpetuity will ensure the long term conservation and enhancement of this SAC as a breeding ground for the great crested newt and associated amphibians. The detailed design of the drainage was accepted by the witnesses as being sustainable. There was nothing between Redrow and the Council on these issues subject to conditions and agreements and the scheme is acceptable to the North East Wales Wildlife Trust who are likely to be the long term operators of the nature habitat. Following the cross examination of their witnesses CCW's position supports that of Redrow and the Council in that there is no ecology issue to consider further.
14. The only significant issue between Redrow and the Council is that of the amount of affordable housing. All the advice suggests early negotiation. This was done in this case. The negotiations started before the production of the Council's housing needs assessment document (Doc 31 app AR6). The position of 15% was agreed with the officers after considerable negotiation. The Council's policies do not say 30%. Policy HSG10 mentions 30% but it is not an exact scale and is a matter for negotiation taking into account the nature of the site. In any event the policy in the UDP is subject to objections and therefore at this stage it should be afforded little weight.
15. Planning Policy Wales guidance at paragraph 9.2.15 says that a uniform quota should not be imposed on development regardless of market and site conditions. In this case the uncontested evidence was that the abnormal site costs are about £11.59 million. An increase of affordable housing from 15% to 30% would result in a revenue loss of £1.28 million. That would render the scheme unviable to Redrow. In this case the officers were correct to propose 15% affordable housing on this site.

### **The Case for Flintshire County Council**

16. Negotiations between Redrow and the Council had continued on the second application. That application was considered by the Council on 23/01/06 when it resolved to grant permission subject to appropriate conditions and S106 agreement/unilateral undertaking. It also resolved that they take the same view on the appeal proposal. In essence the Council were satisfied

that, subject to appropriate conditions and S106 agreements, planning permission should be granted for the appeal proposal.

17. In respect of the effect on the SAC the Council took the view that this proposal would not affect the integrity of the SAC and therefore permission could be granted under Regulation 48. The only issue which was not resolved was the amount of affordable housing to be provided on the site. In line with the policy included in the emerging UDP and the housing needs assessment document (Doc 31 app AR6), the Council resolved that the amount should be 30% not the 15% offered by Redrow.

### **The Case for Countryside Council for Wales (CCW)**

18. At the opening of the inquiry CCW pointed out that they are an independent specialist advisor. They take a neutral position regarding plans and projects on which they are consulted. They were not pursuing a planning case subject to one or two nature conservation aspects. Their primary concern is for the SAC and great crested newts, a protected species throughout Europe. The decision taker must apply the law under the Habitats Directive and the 1994 Regulations. This is a legal obligation which CCW emphasise. Regulation 48 of the Habitats Regulations sets out a series of tests. In this case housing development is not directly connected with the management of the site for nature conservation. The next test is whether it would be likely to have a significant effect on the SAC. It is appropriate to assess the implications of the project in view of the conservation objectives of the SAC. One of these is the retention of breeding ponds. The destruction of the main lagoon is a bleak scenario when considering the implications of this project. The decision taker must have certainty that the proposal would not affect the integrity of the SAC. CCW's view was that the destruction of the main lagoon would affect the integrity of the SAC.
19. Regulation 48 (6) allows the decision maker to take into account additional conditions or restrictions to enable the project not to affect the integrity. However in this case, following the destruction of the main lagoon, the entirety of these measures were compensatory in nature. In CCW's view the decision on Dibden Bay correctly applied European law in this respect. In a case where a proposal fails the Regulation 48 tests then further factors would need to be considered. These were set out in the evidence.
20. However, as a result of concessions made by both witnesses under cross examination, particularly in respect of whether aspects of this whole proposal could be considered as mitigatory or compensatory works and hence whether the whole proposal was the appropriate matter to be taken into account in assessing whether the project affected the integrity of the SAC rather than just the element of the destruction of the main lagoon, CCW requested an adjournment to consider its position.
21. After the adjournment CCW stated that its position at the inquiry was that on the basis of the evidence as it came out in this particular case, CCW advise that the proposal would have no adverse effect on the integrity of the SAC. Also in the particular circumstances of this case CCW advances no objection in respect of any effect on a protected species or on the SSSI.

### **The Case for North Wales Wildlife Trust**

22. The stance of the North Wales Wildlife Trust was that the site should not be developed at all. It should be left as it is so that it would regenerate naturally in a similar manner to the former mineral workings to the east of the application site. The additional land could be added to the existing SAC and SSSI.

### The Case for Local Residents

23. Local residents raised a large number of general and/or specific concerns. In addition to the nature conservation aspects these covered a wide range of those concerns normally associated with a large residential proposal. The representations made to the Council at the application stage are clearly set out in the officer's report to the Council dated 23/01/06 (Doc 31 app AR1).
24. At the inquiry Cllr Peers, ward member on Flintshire County Council, and Cllr Connah, chair of planning Buckley Town Council, both spoke on behalf of local residents. They raised most of the generally shared concerns and their participation was most helpful in focussing the inquiry's attention on the main concerns and avoiding repetition. Their concerns are set out in full in Documents 34 & 35 but the main areas of concern included the following matters.
25. The effect of the proposal on traffic congestion in the area and at a number of specific local points; the density of development; the capacity of local education and health services; car parking provision on Church Road and in the new development; hours of operation and times and routes for delivery vehicles; effect on the trees subject to the TPO along Church Road frontage; the effect on local footpaths, cycle ways and the need for a link across Drury Lane along the line of the Heritage Trail; the effect on the skyline along Drury Lane and the effect on ground water drainage particularly between Mount Pool and the large lagoon. One final point of general concern was the effect of traffic from the development site on the annual Jubilee day parade on the 2<sup>nd</sup> Tuesday in July. A number of other detailed matters were raised but in the main they related to matters of detail which would normally be considered at reserved matters stage.
26. Mr Cain expressed the view that the scale of development was frightening for a place the size of Buckley but that if one had to have the houses then the scheme was generally good. He was particularly concerned about the traffic danger to pedestrians where the pavements are very narrow in the vicinity of the Church Road Drury Lane junction which is very well used by children on the way to school. Mrs Atkinson was particularly concerned about the likely levels of traffic generation. Miss Schofield was similarly concerned about traffic but to the east along Drury Lane.

### Written Representations

27. The essence of the written representations made at application stage were encompassed by the comments of local residents above. There were no other significant additional points made in individual written representations.

### Conditions and Obligations

28. A list of suggested conditions was prepared by the Council in consultation with Redrow (Doc 9).
29. A S106 Planning Agreement (Doc 7) was signed by the Council, Redrow and Hanson (the site owners). This covers the habitat creation works; the funding of maintenance and management of the nature reserve; the creation of a management company to manage and administer the public open space and collect the rent charge including the nature reserve element to fund the warden post; to provide the open space and equipped children's play area; the ceasing of effect of any extant permissions for mineral extraction and the provision of off-site highway improvements.

30. A Unilateral Undertaking (Doc 8) was signed by Redrow and Hanson in respect of the provision of affordable housing at 15% of the total housing provision of 300 on the site.

## Conclusions

***The references in brackets are to paragraph numbers in my report or to documents which are the source of information on which my conclusions are based.***

31. The main issues in this case are firstly the effect of the proposal on the SAC and SSSI and in particular the effect on the great crested newts and their habitat; and secondly the appropriate level for the provision of affordable housing on the site. In addition there are the wide range of normal planning considerations for a proposal for residential development on this scale.
32. Buckley is a settlement identified in the Development Plan and the UDP as a location for additional residential development (6). This site is a brownfield site which generally performs well against the Development Plan policies (12). It is a sustainable location and the release of this site for residential development would reduce pressure on other greenfield sites in the Buckley area. There is general support from most parties for some form of residential use on this site.
33. The site is derelict and in my view the large lagoon represents a hazard to local children in such a location close to a built up area. There is no realistic alternative means for the reclamation and restoration of this site without some form of commercially viable redevelopment (7).
34. Turning to the first main issue there was general agreement between the main parties following cross examination of the various witnesses that the proposal would not affect the integrity of the SAC (13, 17, 20). Therefore in the circumstances of this case the proposal satisfies the tests under Regulation 48 and there is no need to consider the proposal against the further criteria identified under Regulation 49 etc. My understanding is that under Regulation 48(6) it is open to the decision maker to grant planning permission subject to the additional conditions and restrictions which are applicable in this case through the S106 Agreement (Doc 7) and the imposition of appropriate planning conditions (Appendix 1). In this case it is clear that the overall package of physical works, together with funding for a warden and long term maintenance, will result in considerable gains for the long term enhancement of this site as a breeding site for great crested newts (13). The overall nature conservation proposals are sustainable and will be of significant benefit to all species and habitats covered by the SAC and SSSI, both within the development site and on the associated adjoining areas to the east.
35. Whilst the objection of the North Wales Wildlife Trust (22) to the effect that the site should remain undeveloped and allowed to regenerate naturally may appear as an alternative it fails to take into account the location of such a hazardous site immediately adjoining a built up area and provides no prospect of long term management and enhancement.
36. In my view the proposal, subject to appropriate conditions and agreements, would be of benefit to the great crested newt population and enhance their habitat.
37. On the second issue there is agreement between the parties that affordable housing should be included within the scheme. Following negotiations with the Council's officers Redrow propose a 15% contribution which is backed by a Unilateral Undertaking (Doc 8). The Council resolved that 30% should be provided on the basis of the wording of Policy HSG10 in the UDP and the housing needs assessment document (Doc 31 app AR6).
38. I note that Policy HSG10 is subject to outstanding objections (Doc 31 app AR7). The main objections appear to relate to whether the policy is consistent with national advice contained



in Planning Policy Wales. Whilst the existing Development Plan policies and Planning Policy Wales clearly indicate that affordable housing should be provided on sites such as this, the exact amount is open to debate. The data in the housing needs assessment document may indicate the general level of need throughout Flintshire but it does not appear to have been refined into the type of Supplementary Planning Guidance referred to in the UDP.

39. The local inquiry into the objections to the UDP has yet to be held and as such I attach relatively little weight to the precise wording of that policy. In any event the wording of the policy does refer to negotiations with developers to provide 30% affordable housing. Planning Policy Wales guidance at paragraph 9.2.15 says that a uniform quota should not be imposed on development regardless of market and site conditions. In this case the evidence was that the abnormal site costs are about £11.59 million. An increase of affordable housing from 15% to 30% would result in a revenue loss of £1.28 million (15).
40. This evidence was not contested and I have no grounds to question Redrow's view that an increase in affordable housing from 15% to 30% would render the scheme unviable. In addition I have no doubt that this will be an unusually expensive site to develop. There are a number of benefits to the general community in the restoration and reclamation of this derelict site and the provision of improvements to the SAC and SSSI. In my view these are the type of site specific considerations which should be taken into account for any particular site. Given the circumstances of this case I consider that the provision of 15% affordable housing is appropriate and acceptable for this proposal.
41. Turning now to the other matters raised in evidence and representations (25, 26). A major area of concern is traffic. It is clear from the evidence of local residents that there are existing problems in the area. Buckley has been identified in the Development Plan as a settlement for further growth. In these circumstances some general increase in traffic would seem inevitable. In the specific circumstances of this site I note that the Council as highway authority do not object to the proposal. The conditions suggested together with the aspects covered by the S106 Agreement will substantially lessen the possible harmful effects of the traffic generated by this proposal on the immediate area. That is not to say that there will be no additional problems but in my view the likely additional traffic on the local highway network is not sufficient to justify refusing permission. No doubt the Council will continue to monitor local traffic conditions and there are the various powers under the Highways Acts to take further action on such matters as traffic calming, or restrictions on heavy goods vehicles etc as appropriate.
42. The density of the proposed development appears reasonable for a site of this size. It is generally in accord with national advice intended to make the best use of available development land.
43. Concern about the effect on health and education facilities is understandable. However the appropriate authorities have raised no objections. Extra population in Buckley in accord with the growth identified in the Development Plan (6) would equally generate additional demand. The exact location of dwellings on this site would not, in my view, make the situation significantly different in respect of these social facilities.
44. The existing trees along the Church Road frontage are subject to a TPO (3). As such only those immediately affected by the vehicular access and its visibility splays will be affected. I see no reason why the vast majority of these trees will not remain on the site.
45. The local footpaths and cycle ways which are existing public rights of way are not affected by the proposal. The Master Plan shows how these will be incorporated into the nature area

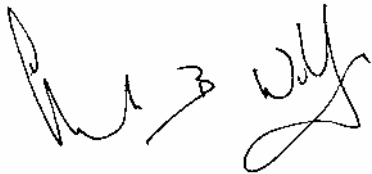
and the development generally. The Heritage Trail and associated Ancient Monument is similarly unaffected (Doc 3 ES Fig 3a Rev8 Masterplan). The location of the crossing of the Heritage Trail and Drury Lane is not directly affected by this proposal and I see no justification to make improvements to that crossing a requirement of this development even if it were desirable.

46. Given the levels of the site and that of Drury Lane (Doc 3 ES Fig 3b Rev1 Cross Sections) it appears to me that any new dwellings on the site are most unlikely to impinge on the views of Drury Lane on the skyline or of views from Drury Lane over open countryside to the east. The improved pedestrian routes and general open space provision are likely to enhance the opportunities for local residents to enjoy these views.
47. The relationship of the large lagoon to Mount Pool in respect of ground water drainage was a concern to a number of people (25). It appears to me that there is some degree of natural seepage of water from Mount Pool below Drury Lane and into the large lagoon. However in the absence of any detailed technical evidence from objectors I see nothing in this proposal which would be likely to significantly affect the ground stability and natural movement of ground water which is likely to take place well below the finished levels of any development on the site.
48. The only other specific point was the wish to avoid construction traffic from conflicting with local road closures and diversions on Buckley Jubilee day (2<sup>nd</sup> Tuesday in July each year). No doubt Redrow, as a local company, would be equally keen to avoid unnecessary conflict and congestion. However I do not consider that it is a matter which justifies the imposition of a specific condition. The general conditions concerning access routes etc could cover this point if necessary. Many of the other more detailed concerns raised by local residents are covered by the suggested planning conditions (28), although I see no justification to further restrict the working hours to ones shorter than those suggested by the Council.
49. I note that there are no outstanding infrastructure objections regarding the provision of public services for the proposal. Subject to normal conditions there is no reason to withhold permission on these grounds.
50. The suggested planning conditions (Doc 9) had been subject to considerable discussion and agreement between Redrow and the Council. These were discussed at the inquiry. A number of minor refinements to the text were suggested which I have incorporated in those included in Appendix 1. I have also considered the conditions in accord with the advice in Circular 35/95 on the use of conditions. The use of phrases such as 'written approval of the local planning authority' is not generally advised. It is only necessary to require completion in accordance with an approved scheme or details. Many of the conditions are deficient in that they do not require the approved scheme to be implemented. I have made appropriate amendments to the conditions suggested in appendix 1.
51. Generally the conditions are necessary to ensure the proper completion of the whole scheme in accordance with the Masterplan and the ES. They are also necessary to ensure that the amenities of local residents are generally respected and adverse effects minimised during the construction phase.
52. Conditions 18-20 in Doc 9 refer to surface water drainage. They relate to detailed considerations which in my view would be better included in a scheme to be agreed. I have combined the surface water with the foul water considerations in a replacement for condition 21 in Doc 9.

53. The only other condition which I have deleted was condition 14 in Doc 9 which defined the level of affordable housing. In my view that condition is unnecessary given my view on the appropriate level being 15% which is effectively controlled by the Unilateral Undertaking (Doc 8).
54. Finally I have added the condition recommended in paragraph 6.2.1 of draft Tan 5 in respect of the need to obtain the grant of a licence to disturb European protected species.
55. The S106 Agreement and the Unilateral Undertaking appear soundly drafted and are necessary to cover those aspects of the overall scheme outlined in paragraphs 29 and 30 above.

### Recommendation

56. I recommend that planning permission be granted subject to the conditions set out in appendix 1 to this report.

A handwritten signature in black ink, appearing to be 'W. J. Wolf' or similar, written in a cursive style.

Inspector

## APPENDIX 1: SUGGESTED CONDITIONS

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), for each Phase of development,(see Condition 4) shall be obtained from the Local Planning Authority in writing before any development of that phase is commenced and shall be carried out as approved.

2. (i) Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(ii) The development hereby permitted shall be begun 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, whichever is the later.

3. The scale of development shall not exceed 300 dwellings and all development shall generally conform with the Design Statement/Masterplan (included within the Environmental Statement (ES)) approved as part of this permission and any associated revisions as may be subsequently approved in writing by the Local Planning Authority.

4. The development shall be undertaken in accordance with a phasing strategy to be submitted to and agreed in writing by the Local Planning Authority prior to commencement of development. The phasing strategy shall include the following:-

- Site access
- Foul and surface water drainage
- Site reclamation/earthworks
- Details of the protection and enhancement of the RIGS sites (Sites of proposed geological exposures)
- Drain down of the existing lagoon following approval of a scheme for the creation of the new great crested newt habitat and other amphibian habitats.
- Structural landscaping
- Housing and the associated public open space/landscaping
- Provision of reasonable avoidance measures to safeguard the amphibians, reptiles, badgers and nesting birds.

The strategy will explain the timescale for each aspect of the development and their inter-relationship.

5. No dwelling shall be occupied until the off site highway improvement works referred to below have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

a) Church Road/Brunswick Road Junction - Provision of new directional signage, traffic signage and road markings.

b) Church Road/Drury Lane/Knowle Road Junction

- Provision of new zebra crossing point to the south of the junction

- Provision of off street parking facilities for existing residential properties to the east of Church Road between Drury Lane and Maxwell Close.

- Provision of new directional signage, traffic signage and road markings.

- Undertaking improvements to the bus pick up/set down facilities at The Parrott, Drury Lane, and at Lane End.

c) Windmill Road/Mill Lane Junction

- Provision of new directional signage, traffic signage and road markings.

d) Liverpool Road/Church Road/Ewloe Place Junction

- Provision of new traffic signal installation operating as three stage system.

- Provision of new directional signage, traffic signage and road markings.

e) Church Road/Linthorpe Gardens

- Provision of new zebra crossing point to the south of the junction.

6. The works associated with the forming of the means of site access shall be kerbed and completed to carriageway base course layer up to the internal tangent point of the entrance radii prior to the commencement of any other site building operations.

7. The proposed points of access shall have visibility splays of 4.5 m x 90 m in both directions measured along the nearside edge of the adjoining carriageway over land within the control of the applicant and/or highway authority and within which there shall be no significant obstruction to visibility over 1.0m in height.

8. No dwelling shall be occupied within a particular phase of development until the detailed layout, design, means of traffic calming and signing, surface water drainage (incorporating suitable amphibian friendly adoptable designs), street lighting and construction of the internal estate roads, cycle ways/footpaths/footways for that phase of development have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

9. Before commencement of development the public rights of way shown on the Definitive Map of Public Rights of Way that affect the site must be marked out on site in accordance with details to be submitted to and approved in writing by the Local Planning Authority

10. The reserved matters landscaping details submitted in accordance with Condition No. 1 of this permission shall include the following details:-

a. A survey of all trees and hedgerows within and on the boundary of the site, identifying those to be retained, together with measures for their protection in the course of development.

b. Proposed planting details which includes a schedule of all new proposed trees, shrubs or other forms of vegetation (comprising where possible native species of known local provenance) with details of their size and numbers and a suitably scaled plan identifying their location.

c. Details of materials to be used or other treatment of all ground surfaces.

d. Details of the precise positions, design and materials of all proposed boundary means of enclosure.

11. All works comprised in the approved details of landscaping for each phase of development shall be carried out in the first planting season following the commencement of the development or within such other timescale as may be agreed in writing with the Local Planning Authority. Any trees or plants which, within a period of five years of complying with this condition, die are removed or become seriously damaged or diseased, shall be replaced during the following planting season with others of a similar size or species.

12. No hedgerows or trees shall be removed, lopped or topped until the Local Planning Authority has given its written approval to the relevant landscaping details specified in Condition No. 10 of this permission in writing.

13. Notwithstanding the requirements of Condition No. 1 of this permission the submission of reserved matters shall include for open space of no less than 1.7 ha incorporating the installation of an equipped children's play area of no less than 0.12 ha together with measures for their maintenance.

14. No development shall commence until details for the draining down of the existing lagoon within the site have been submitted for the consideration and written approval of the Local Planning Authority. The details to be submitted shall include:-

a. Details for the formation of new Great Crested Newt breeding habitats including cross sections that illustrate the development in relation to the surroundings for each phase of the ponds construction and the draining down of the existing lagoon.

b. The discharge flow rate of water from the site and for the drain down from the existing lagoon must ensure that it will not cause flooding or pollution to existing watercourses.

c. A scheme detailing the relationship between the replacement newt ponds and associated surface water from roofed areas only and to specifically exclude drainage from any proposed patio areas.

This scheme (see (c) above) shall include details of the following items for approval:

- (i) The infiltration system to control the top water level of the lowest pond.
- (ii) The connections between ponds.
- (iii) The connectivity of the individual pond systems.
- (iv) The provisions for water quality inspection and accidental pollution control at the head of each pond system.
- (v) The provisions for attenuating flood flows at the head of each pond system.

Connection of water from the development into the individual pond systems shall not occur until items (i) – (v) for each pond system have been completed in accordance with the scheme to be submitted to and approved in writing by the Local Planning Authority

15. A plan showing details of the proposed surface water sewer within the SAC, including manholes and details of the “no dig” method of construction shall be submitted within 12 months of the commencement of development. The proposed surface water sewer shall be constructed in accordance with those details.

16. No development shall commence until the procedures for dealing with protected species and smooth newts, palmate newts, common frogs and common toads, house sparrows, linnets, song thrushes and bullfinches as identified and established by the ES supporting this application have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with those procedures.

17. No dwelling shall be occupied until surface and foul water drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

18. No development shall commence until a delivery/construction traffic management programme has been submitted to and approved in writing by the Local Planning Authority. The programme shall address:-

- a. Site access and egress routes with appropriate traffic monitoring in order to control site traffic movements.
- b. Means of avoiding depositing mud, dust or other debris on the surrounding highways by incorporating appropriate wheelwash and dust suppression equipment.

- c. Timing of deliveries and main construction traffic arrivals and departures to avoid periods such as school arrival/leaving times.
- d. Site notices informing construction workers and other site operators of agreed working hours.

The development shall be carried out in accordance with that programme.

19. No development shall be commenced until:

a) A desktop study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. And using this information a diagrammatical representation (Conceptual model) for the site of all potential contaminant sources, pathways and receptors has been produced.

b) A site investigation has been designed for the site using the information obtained from the desktop study and any diagrammatical representations (Conceptual Model). This should be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable:

- A risk assessment to be undertaken relating to groundwater and surface waters associated on and off site that may be affected and;

- Refinement of the Conceptual Model, and;

- The development of a Method Statement detailing the remediation requirements

c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been undertaken.

d) A Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on site in accordance with that Method Statement.

20. If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with and it shall be carried out in accordance with that addendum.

21. Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.



22. Development shall not be commenced until the method for piling foundations where required has been submitted to and approved in writing by the Local Planning Authority. The piling shall be undertaken only in accordance with the approved details.

23. No development on the site of the former brickworks shall commence until the presence of a contracted archaeologist has been secured on site according to the prescriptions set out in a curatorial design brief, to be prepared in accordance with the ES submitted with this application, and as approved by the Local Planning Authority. Access, at any reasonable time, should be given to the archaeologist to enable the examination and recording of any archaeological remains uncovered during the early stages of development. A report of any archaeological remains must be deposited within the County Sites and Monuments Record, Clwyd Powys Archaeological Trust, 7a Church Street, Welshpool, Powys within one month of the completion of this work.

24. All construction work, demolitions and site clearance and deliveries to the site in connection with the development hereby permitted shall only be carried out between the hours of 07.30 and 18.30 hours Mondays to Fridays and 08.00 to 13.00 hours on Saturdays and not all on Sundays or Bank Holidays. In addition:

a) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS5228 Part 1: 1997, a code of practise for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of Noise and Vibration".

b) All plant and machinery shall be operated, sited and maintained in order to minimise disturbance to occupiers of neighbouring dwellings. All items of machinery powered by internal combustion engines must be silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers' instructions.

c) Any piling operations shall be carried out using the quietest practicable method available. Local residents should be notified of the dates, times, likely duration and works to be undertaken.

d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

25. No dwellings on the Church Road frontage shall be occupied until a scheme for any noise mitigation for those dwellings within the development which are within Noise Exposure Categories B & C as set out in TAN11 has been submitted to and approved in writing by the Local Planning Authority. The dwellings shall be constructed in accordance with that scheme.

26. No works of site clearance, demolition or construction shall take place on that part of the site designated at an SAC unless a licence to disturb any European protected species has been granted in accordance with the Habitats Regulations.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY: FLINTSHIRE CC

Colin Crawford Of Counsel, instructed by Flintshire CC

He called

Mr A Roberts BA MSc Head of Planning Policy  
MCD MRTPI

Dr G A Carson BSc(Hons) County Ecologist  
MIEEM

### FOR THE APPELLANT: REDROW HOMES

Roger Lancaster Of Counsel, instructed by J C Planning Consultants

He called

Mr J Chambers BA DipTP Planning witness  
MRTPI

Mr P Brown BEng MSc Ground Engineering witness  
MICE CEng CEnv

Mr M Elliott BSc MSc Drainage witness  
CEng MICE FCI Arb

Mr F Hesketh BSc(Hons) Ecology witness  
MLI MICFor MIEEM

Mr R Brocklehurst FRICS Viability witness  
MCI Arb

Mr C J Wiles BSc(Hons) Highways witness  
MSc MIHT

### FOR CCW:

Richard Barlow Partner with Brownjacobsen Solicitors Instructed by  
CCW

He called

Dr E Howe BSc PhD Species Team Leader and Herpetologist in the Terrestrial  
Sciences Group CCW

Dr A Cole-King BSc (Hons) International Sites Team Leader in the Operational  
PhD Support Group CCW

INTERESTED PERSONS:

Cllr M Peers	Ward Councillor Flintshire CC
Cllr J Connah	Chair of Planning, Buckley Town Council
Mr S M Cain	41 Church Road, Buckley
Mrs Atkinson	47 Church Road, Buckley
Miss Schofield	49 Drury Lane, Drury, Buckley
Mr A Lloyd Jones	North Wales Wildlife Trust

DOCUMENTS

Document	1	Lists of persons present at the inquiry
Document	2	Council's letter of notification of the inquiry
Document	3	Environmental Statement Dec 2005
Document	4	Appendices to Doc 3
Document	5	Statement of Common Ground
Document	6	Addition to Doc 5
Document	7	Planning Agreement
Document	8	Unilateral Undertaking
Document	9	Suggested conditions
		REDROW DOCS
Document	10	Proof of evidence (POE) of Mr Chambers
Document	11	Appendices to Doc 10
Document	12	Supplementary/Rebuttal evidence of Mr Chambers
Document	13	POE of Mr Brown
Document	14	POE of Mr Elliott
Document	15	Appendices to Doc 14
Document	16	POE of Mr Hesketh
Document	17	Appendices to Doc 16
Document	18	POE of Mr Brocklehurst
Document	19	Appendices to Doc 18

Document	20	POE of Mr Wiles
Document	21	Appendices to Doc 20 CCW DOCS
Document	22	POE of Dr Howe
Document	23	POE of Dr Cole-King
Document	24	Appendices to Doc 22 and 23 Vol 1
Document	25	Appendices to Doc 22 and 23 Vol 2
Document	26	Appendices to Doc 22 and 23 Vol 3
Document	27	Guidelines on Management Agreement Payments and other related matters, National Assembly for Wales Oct 2001
Document	28	Letter dated 6/03/06 from Centre of Ecology and Hydrology re rainfall and evaporation
Document	29	Bundle of Docs and plan concerning licence for amphibian fence on site FLINTSHIRE DOCS
Document	30	POE of Mr Roberts
Document	31	Appendices to Doc 30
Document	32	POE of Dr Carson
Document	33	Appendices to Doc 32 INTERESTED PERSONS DOCS
Document	34	Statement of Cllr Peers and enclosures
Document	35	Statement of Cllr Connah and enclosures
Document	36	Letter from Miss Schofield