

# Town and Country Planning Act 1990 Section 77 Flintshire County Council Planning Application by Welsh Development Agency

## ALYN AND DEESIDE LOCAL PLAN

PLANNING                      THE CASE  
POLICY                         FOR THE  
BACKGROUND                APPLICANTS

Alyn and Deeside Local  
6.0 Plan

6.1 The ADLP was issued for consultation in December 1991, and a revised plan placed on deposit in the summer of 1994, having received a certificate of General Conformity from Clwyd County Council on 16 May 1994. A public inquiry into objections was held by Mr Keith Smith BA(Econ) DipTP, DPA, FRTPI, ACIS between October 1995 and January 1996. Modifications were proposed in 1997, but the Welsh Office intervened in October 1997, issuing a direction to modify Policy Em15. A modification of the policy proposed in February 1998 failed to satisfy the Welsh Office and on 22 September 1998, the Council resolved to take no further action towards progressing the plan towards adoption, pending the determination of the present application. The plan is thus not part of the development plan for the purposes of Section 54A, and this led to considerable dispute at

Inquiry as to the weight it should be given.

- 6.2 In the deposit version of the plan (Core Document 35), Policy Em15 read as follows:

"OPPORTUNITY  
SITE 2  
Em15 THE LAND  
NORTH OF  
SHOTWICK ROAD  
IS DESIGNATED AS  
'OPPORTUNITY  
SITE 2' AND IS  
ALLOCATED FOR  
LARGE-SCALE  
COMPREHENSIVE  
MIXED USE  
DEVELOPMENT  
COMPRISING  
BUSINESS,  
INDUSTRIAL,  
COMMERCIAL AND  
LEISURE USES.

### **Reasons and Explanation**

This site covers about 186.2 hectares (460 acres) gross and is considered suitable for business, industrial, commercial and leisure uses in the form of a large-scale comprehensive mixed use scheme. It is within the Deeside Development Zone. When detailed proposals are prepared

for the site particular attention will be given to the impact upon the Dee Estuary and on nearby settlements in Cheshire. Proposals for commercial and leisure uses would need to comply with the appropriate policies for shopping and other commercial uses and for leisure uses, especially the requirement not to have a serious effect on the vitality and viability as a whole of any town or district centre in the Plan Area or town centres elsewhere. The Council believes that there are special circumstances which warrant the development of this land for employment uses even though the high quality of the farmland in this area would normally be safeguarded by Policy A1 in Chapter 9."

- 6.3 Two other "Opportunity Sites" were also designated by the plan, as follows:

OPPORTUNITY SITE

1

Em14 THE LAND  
NORTH WEST OF  
GARDEN CITY IS  
DESIGNATED AS  
'OPPORTUNITY  
SITE 1' AND IS  
ALLOCATED FOR  
LARGE-SCALE  
COMPREHENSIVE  
MIXED USE  
DEVELOPMENT  
COMPRISING  
INDUSTRIAL,  
COMMERCIAL,  
LEISURE AND  
SMALL-SCALE  
RESIDENTIAL USES.

OPPORTUNITY SITE  
3

Em16 THE FORMER  
CONNAH'S QUAY  
POWER STATION  
SITE IS  
DESIGNATED  
'OPPORTUNITY  
SITE 3' AND IS  
ALLOCATED FOR  
LARGESCALE  
COMPREHENSIVE  
MIXED USE  
DEVELOPMENT  
COMPRISING  
INDUSTRIAL,  
COMMERCIAL AND  
LEISURE USES.

6.4 A number of objections to the policy were considered by the Local Plan Inspector, including one from the WDA, who supported the Opportunity Site designation, but opposed the use of the site for commercial and leisure uses as this would detract from the potential to accommodate large scale industrial projects; and one from the Welsh Office, who considered that guidance should be included as to how the mix of uses on the site would be achieved. WORD (as it then was) raised a strong objection to the loss of agricultural land of Grade 2 quality. (The objections are summarised on page 133 of Core Document 36).

6.5 The Council put forward Proposed Change 73, which required the formulation of a development brief and the preparation of a formal Environmental Assessment for development proposals. The brief would make it clear that the majority of the site was for B1 and B2 uses and that commercial uses would be small in scale and ancillary to the primary use of the site for employment purposes. The Inspector considered that this would meet the concerns of the WDA and the Welsh Office, the latter objection having been withdrawn.

6.6 The Inspector did not accept that the site should be included in a Green Barrier in order to relate satisfactorily to the strategic purposes of the West Cheshire Green Belt, and did not regard the site as fulfilling any of the purposes of a Green Barrier. Nor did he consider that the site need remain

undeveloped in order to safeguard the appearance and character of the Cheshire villages.

6.7 As regards the effect on birds particularly lapwing, corn bunting and grey partridge, he considered the concerns of objectors well-founded. He noted that mitigation measures were proposed, but regarded them as damage limitation only. This was an important factor to be weighed against the proposed allocation, he concluded. On loss of good agricultural land, he said:

"5.131 The objection site, as highly productive and versatile Grade 2 agricultural land, represents a valuable national resource in the longer term. This point was accepted by the Council. As WOAD raise a strong objection to its development it appears to me that the release of the site could only be justified in the most exceptional of circumstances. This

point was accepted by WORD and the Council, though not by the Green Party. Neither WOAD nor the Council could, perhaps understandably, give me any indication as to what circumstances would be regarded as exceptional. This must, therefore, be a matter of judgement for the decision maker in the light of circumstances prevailing at the time. In the absence of any compelling justification for land release I consider that the land should be retained in productive agricultural use for as long as possible. Its contribution to national farm output should not be put at risk by measures such as land raising or recontouring as part of any speculative site preparation works. Given the availability of other allocated sites and Opportunity Sites 1 and 3, which are available for a wide range of developments, I conclude that there is no compelling case for release of the site at this time contrary to

the strong objection by WOAD".

6.8 His conclusions and recommendations were:

"5.132 The agricultural land quality objections of WOAD and the Broughton Green Party appear to me to be decisive. The objections of RSPB, NWWT and Broughton Green Party on grounds of adverse ecological impact are also of great significance and must be weighed against the proposal. I accord the other objections less weight and consider that many of the points raised are met by the preparation of the development brief and the requirement to undertake EA prior to the release of the site for development. Having regard to the foregoing I therefore conclude that Opportunity Site 2 should be recommended for deletion from the plan.

## **Recommendation**

5.133 I recommend that the plan be modified as follows:

(1) by the deletion of Opportunity Site 2 from the Proposals Map:

(2) by the deletion of Policy Em15; and

(3) by the deletion of paragraph 5.61 of the explanatory text."

6.9 These recommendations were not accepted by the Council following receipt of the Inspector's report in July 1996. What followed is set out in paragraphs 8.6 to 8.12 below. Following Welsh Office intervention, the Council produced proposed modification MD1, as follows:

"Delete the existing Policy EM.15 and Reasons and Explanation as contained in paragraph 5.61 and substitute the following policy and supporting text:

OPPORTUNITY SITE  
2

EM.15 THE LAND NORTH OF SHOTWICK ROAD, TO BE KNOWN AS 'OPPORTUNITY SITE 2', IS DESIGNATED AS A MAJOR INWARD INVESTMENT SITE RESERVED TO MEET THE NEEDS OF LARGE SCALE INDUSTRIAL AND BUSINESS USES, DEVELOPED IN A COMPREHENSIVE MANNER AND WHICH MAY INCLUDE ELEMENTS OF COMMERCIAL AND LEISURE USES.

### **Reasons and Explanation**

5.61 This site, situated within the Deeside Development Zone, covers about 186.2 hectares (460 acres) gross and is considered suitable to meet the needs of large scale inward investment projects which may include manufacturing, high technology and headquarters business functions. Within the site which includes a large area of wetland, appropriate ancillary commercial and leisure

uses would be considered acceptable provided that the commercial and leisure elements do not have a serious effect on the vitality and viability as a whole of any town or district centre in the plan area or town centres elsewhere. Development of the site will be carried out in accordance with the principles of an approved planning brief and will be subject to an environmental impact assessment. When detailed proposals are prepared for the site particular attention will be given to the impact upon the Dee Estuary and on nearby settlements in Cheshire. As part of the development significant areas will be reserved and developed as a landscape buffer zone within which new wildlife habitats and wetland areas will be created.

5.62 The Council believes that there are special circumstances which warrant the development of this land for employment uses even though the high quality of the farmland in this area would normally be safeguarded by Policies A1 and G1 (M) of the Plan. The Plan area's identification in Planning Guidance (Wales) Planning Policy as part of a major growth area and references to the need to identify and bring forward sites for large inward investment, together with a scarcity of suitable sites elsewhere in North Wales justifies the site's allocation for this type of use. The location of the site in relation to the existing transport network and other potential sustainable transport opportunities is also a significant influence on the allocation of this site."

6.10 The Welsh Office stated on 29 May 1998, that the proposed modification did not satisfy the Direction of 15 October 1997; and there the matter has rested.

*Source*

*Division:*

*Planning*

*Date: July 2002*