

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

THE CASE FOR GROUPED OBJECTORS

**THE CASE
FOR
FLINTSHIRE
COUNTY
COUNCIL**

**THE CASE
FOR NAW
AGRICULTURE
DEPARTMENT**

**9.0 The Case for Grouped
Objectors**

(note: this section of the report summarises the case on behalf of: Puddington and District Parish Council; Burton Residents Association; W T Banks and Co (Farming) Ltd; JSR Farming Group; and the Trustees of the Shotwick Estate. It was stated that all 5 parties lodged separate objections to the planning application, but that the evidence given was on behalf of all the parties).

The material points were:

- 9.1 **Development Plan background**
- 9.2 **The Need for the Proposed Development**
- 9.3 **Landscape**
- 9.4 **Sustainable Transport Policy**
- 9.5 **Effects on Ecology**
- 9.6 **The Harm to Farming Interests**
- 9.7 **Green Belt**

- 9.1 **Development Plan background**

- 9.1.1 The only relevant statutory development plan was the Clwyd Structure Plan: First Alteration, approved in October 1991. It was now virtually ten years old, and was intended to provide strategic policy for the area until 1996. Its policies still had the force of S54A behind them, but that must be balanced against other material considerations, including the policy and economic changes that had occurred since its preparation. It was not, of course, site specific. Even the boundaries of the DDZ were left to be defined in a subsequent local plan.
- 9.1.2 The Clwyd Structure Plan 2nd Alteration: Flintshire Edition was not part of the approved development plan, and would never be carried forward to adoption/ approval. Whilst it was a material consideration, it should carry relatively little weight in the light of paragraphs 4.15.1 and 4.15.2 of "Planning Guidance: Wales". Similarly, the emerging UDP could carry little weight, bearing in mind that it had only reached

an early stage.

- 9.1.3 The weight to be attributed to the Alyn and Deeside Local Plan was difficult to establish. Clearly, no weight could be given to Policy Em15. The Local Plan Inspector had recommended its deletion (and since the plan had not been adopted, his recommendation was still relevant), and it remained the subject of a direction, and objection, from the National Assembly. Whether it would ever be included in an adopted plan depended, in part, upon the outcome of the present application.
- 9.1.4 The weight to be given to other policies and proposals of the plan should, on the face of it, be greater than that attributed to Policy Em15, since the plan had reached an advanced stage, and there were no outstanding objections to them. However, paragraph 4.15.1 of PGW made it clear that local plans gained weight depending upon

their progress towards adoption. It was impossible to say if this plan would ever be adopted. The Council's policy witness had given it as his opinion that the plan would proceed to adoption once the result of the present application was known, but that could only be a personal view, and there was no Committee resolution to support it. The weight to be given must be limited by this uncertainty.

- 9.1.5 The Council's stated position was that they had been unwilling to adopt the plan without Policy Em15. The importance they attached to the policy would presumably be the same once the present application had been determined. It could not be assumed, therefore, that the Council, which had already declined to take the plan forward to adoption once without Em15, would do so if the present application did not succeed. They had not wished to adopt a plan without Em15 previously, and it was not self-evident that they

would be prepared to do so in the future. It appeared, therefore, that the fate of the entire plan, and hence the weight to be given to its policies, was dependant upon the present application.

9.1.6 This was, of course, at variance with the logic of a plan-led system. The County Council had chosen to suspend local plan preparation pending the outcome of the present application. Rather than providing a local plan context for the consideration of the application, they had chosen to sacrifice the plan, and the weight that would normally be accorded to it, to their desire to avoid prejudicing their position at the Inquiry.

9.1.7 The Council was currently preparing a UDP to cover the years 2000-2016, thereby overlapping the final 3 years of ADLP. If the future of the application site was as strategically important as the Council thought, ie of sufficient importance to lead them not to progress the ADLP without it, then

the question must arise as to whether a decision on the present application would prejudice the outcome of the UDP process, ie. whether it would be premature in terms of paragraph 4.15.2 of PGW.

- 9.1.8 A further relevant consideration in evaluating the weight to be given to ADLP was the length of time that had elapsed since the application site was first proposed for employment uses. The site was first considered in the context of the Nissan proposal of 1984. The context for ADLP was set by the Structure Plan: First Alteration, which reflected the policy background of the late 1980's. Its origins dated back to a period of very different economic circumstances, when there was a perceived economic imperative to have a large showpiece site capable of attracting major overseas investors. Both the economic circumstances and the policy background had subsequently developed.

9.1.9 The economic situation in Flintshire had improved considerably in recent years (see 9.2.9 below), even without a strategic site identified for major incoming investment. Meanwhile, National Assembly policy had focussed increasingly on an east/west economic split within Wales. West Wales and the valleys were falling further behind the more prosperous parts of Wales, and there was an increased emphasis on a fairer distribution of jobs within Wales, with particular emphasis on job creation in rural areas and the South Wales valleys. National policy no longer emphasised Deeside as it had done in 1991 when the Structure Plan was approved. This application failed to reflect the changed policy emphasis.

9.1.10 Policy A10 of the Structure Plan; First Alteration did not specifically identify the application site, which was to be defined in the local plan: there was, of course, no adopted local plan. The site was thus not specifically identified in any adopted plan. An employment allocation in line with Policy A10 would have to balance competing factors including structure plan policies in respect of landscape and the protection of good agricultural land. It was apparent that the balance struck by ADLP had not convinced the Local Plan Inspector. Nor had the description of the proposals in Em15 (as it appeared in the Deposit Draft) clearly identified the site as being for major employment uses. It was described as a mixed-use site in terms rather similar to the other two opportunity sites, which was surprising given that the Council subsequently laid such stress on this aspect.

9.1.11 ADLP Policy Em4 dealt with industrial uses in settlements or development zones which did not have planning permission or were not allocated. These would normally be allowed where there was a proven shortage, and the development complied with Policy G1. The Council could arguably have deleted Policy Em15, left the application site within the DDZ, and relied on Policy Em4. This would have allowed them to adopt ADLP, but they chose not to do so. Similarly, any B8 element could have been covered by Policy Em6. Policy G1 would have required consideration of the agricultural land test in Policy A1.

9.1.12 The draft Regional Guidance was of limited weight at this stage, and did not specifically identify the application site in any event. "Planning Guidance: Wales" was of very considerable weight, however, especially where local and strategy policy was so ill-defined.

9.1.13 The Dee Estuary Strategy (Core Document 59), with its emphasis on sustainability and biodiversity, was relevant as supplementary guidance, although the WDA and the County Council made little reference to it.

9.2 **The Need for the Proposed Development**

9.2.1 The quality of the agricultural land forming the application site was not disputed and both the Structure Plan and Planning Guidance: Wales (paragraph 5.2) set out the tests to be applied. Structure Plan Policy A10 identified the general area, but recognised that even within the DDZ major employment development projects would have to take account of other relevant policies. These must include H1 and A3B so far as agricultural land was concerned. Policy A10 must require that even within the DDZ (as defined in the subsequent Local Plan)

there must be a strong presumption against using Grade 2 agricultural land unless there was no other suitable land.

- 9.2.2 The nationally applicable test set out in PGW was that the best and most versatile agricultural land should only be developed exceptionally where there was an overriding need, and a lack of lower grade land. There were therefore two criteria, and over-riding need had to be shown before going on to consider availability of lower-grade sites.
- 9.2.3 It was not claimed that there was any overall shortage of employment land in Flintshire. On the Council's own figures, there was 89ha of land serviced and immediately available and 137ha that could be developed in the short term (to 2004). A further 212ha was only likely to become available after 2005, giving a total of 438ha. Even at the take-up rates assumed by the emerging UDP, which were towards the upper end of the achieved

range, there was upwards of a 20 year supply, and the UDP was considering if some of the identified sites could be used for housing. Even if the MOD site (40 ha net) was removed as being doubtful, there was still an 18 year supply.

- 9.2.4 There was no evidence of any particular occupier seeking to take up any or all of the site, only references to general expressions of interest. It was argued that a prepared, immediately available site was necessary before (a) potential occupier(s) could be attracted. However, the grant of planning permission would inevitably result in the loss of the whole site to agriculture and its irreversible alteration to produce the two plateaux (totalling only 81ha), without any certainty when, if or how the site would be developed. This would result in the loss to speculative development of a large area of high-quality agricultural land.

9.2.5 Immediately before, and during, the Inquiry the WDA had sought to limit the nature of the application in very specific ways, e.g floor areas, heights, limitation on B1 uses. These restrictions were not related to any specifically identified requirements of potential users, but had been introduced to ensure that any consent granted was in accordance with the Environmental Statement, in an attempt to avoid the problems that arose in *R v Rochdale ex p Tew* (Document WDA14). This would limit the range of occupiers that the site could satisfy. The variations in the proposed heights of the buildings, from 6m to 40m, did not demonstrate any firm understanding of the likely needs of potential occupiers. The Council no longer sought (as in the Deposit Draft Em15) commercial or leisure use. None of this suggested a clearly defined need.

9.2.6 The evidence presented relied on the general attractiveness of this part of Wales to inward investment but did not indicate any pressing demand for a site of the size sought. The figures showed a decline in the number of potential investors requiring large sites. In 1999-2000, there were 5 inquiries to the WDA for sites over 20ha in North-East Wales of which two were in excess of 40 ha. This did not give enough confidence that the site would be taken up to justify the loss of some 188ha of Grade 2 agricultural land.

9.2.7 The total of 81ha of developable land was not arrived at from a consideration of defined requirements. It just happened to be the maximum amount of developable land that could be achieved once the site had been raised above the flood plain. The presence of the overhead 400kV line, which was too expensive to move, divided the total area into two plateaux, of 62.2ha and 18.1ha, thus limiting its usefulness.

The limitation to three users would allow for the sub-division of the larger plateau provided only that the smallest project size was 46,000 sq.m, which could be accommodated on 16-20 hectares.

9.2.8 The WDA had argued that the site was required to meet economic and social targets set by the National Assembly, in terms of GDP and employment levels. Clearly, development of the site would have a positive effect towards meeting such targets, but that was not the same as demonstrating that the site was needed to ensure that the targets were met.

9.2.9 Unemployment levels nationally and in Flintshire were falling. The improved situation was reflected in the review of Assisted Areas undertaken in 1993, when such areas in Clwyd were substantially reduced and their status down-graded. From an unemployment rate of 19% at the time of the closure of Shotton steelworks, the rate had

fallen to 3.7% (2449 people) in September 1999. It was now 3.4%, according to the WDA. This was below the rates for the UK (3.9%) and North West England (4.7%).

- 9.2.10 The WDA preferred to consider employment (rather than unemployment) rates. However, the employment rate for Flintshire was better than that of NW England, Wales, Wrexham, Chester (just), and all the surrounding areas, and only marginally below the UK average. The WDA argued that 6000 additional Flintshire residents would need to be employed in order to achieve full employment, but did not say how realistic it was. However, the land availability figures showed that land supply would not be an inhibiting factor, even without the application site.

9.2.11 In terms of GDP, Flintshire and Wrexham were 30% above the Welsh average, and 8% above the UK average. It was national policy that Welsh GDP should grow (development on any site would contribute towards that objective) and that the differing rates in Wales should converge. It was accepted that nothing in national policy said that the WDA should not be promoting sites in NE Wales; but neither did it demonstrate any over-riding need to release best and most versatile agricultural land there for employment purposes. Such development would enhance the Welsh GDP, but not help to remove economic disparities within Wales and might indeed increase them.

9.2.12 The WDA had thus failed to satisfy the first test of PGW by not demonstrating overriding need to take best and most versatile agricultural land for development. The second test related to the availability of alternative sites, but only once the first test had been satisfied.

Alternative Sites

9.2.13 A wide range of potential alternative sites had been discussed at inquiry, including sites in North East England. The WDA estimated that 40% of workers on the application site would live in England, which would enhance Welsh GDP figures, but do less for job creation in Wales, and for the convergence of GDP rates between Welsh regions. Nor would a site in Deeside enhance the attractiveness of sites in North-West Wales to incomers. On the other hand, if the Ince glassworks project near Ellesmere Port went ahead, it would doubtless provide Welsh jobs, without enhancing Welsh GDP.

9.2.14 The WDA had proposed a condition limiting to 3 users. Since the 62 ha site could be split, it might be that a site of 20ha could be considered elsewhere (see 9.2.7 above). The application was primarily for B2 and B8 uses, although there had been very little discussion of the latter at inquiry. Possible alternative sites in North Wales were:

- (i) Garden City: the uncertainty over the MOD land was recognised, but they did not object to its inclusion as an Opportunity Site.
- (ii) Powergen site, Connah's Quay: not attractive for B2 uses, but could be developed for B8. Good accessibility by public transport.

- (iii) Site A6, Deeside Industrial Park; narrow and with foundation problems, but could be used for B8 plus open storage.
- (iv) Ty Mawr, Anglesey: a large accessible site in an area of high unemployment. The WDA described it as complementary to the application site, but it would suffer from the competition if the latter were allowed.
- (v) Firestone, Wrexham: a large site, available and in WDA ownership. Road access was to be improved. The site could be intensively developed, and was a strong contender. It did not have Assisted Area status, which PGW stated to

be "preferable"
for large sites.
Little weight
should be given
to the WDA's
desire to break it
up.

- (vi) Gaerwen,
Anglesey:
should not be
ruled out.
- (vii) Bangor: good
access from A55.
- (viii) Owens-Corning,
Wrexham: could
be suitable for
inward
investment if
released
(currently held
for firm's own
expansion). Did
not require the
massive
investment of
the application
site.

9.2.15 Of sites in North-West
England within an
appropriate travel
distance, the clear front-
runner as an alternative
to the application site
was accepted to be
Omega 600 at
Warrington. Other
possible sites were:

(i) Hooton Park, Ellesmere Port: immediately available, for development of up to 64,500 sq. m floorspace. Good motorway access (M53). In an established employment location, with an adjacent 30ha site used for open car storage.

(ii) Estuary Business Park, Speke: a superb and highly successful site, although it was accepted that the private owner was likely to subdivide it.

(iii) Cronton Colliery: Some possibilities, although it was accepted that there were planning problems.

(iv) Axis, Liverpool: suitable for a single user.

9.2.16 Creation of jobs could not of itself be a sufficient reason for developing on Grade 2 agricultural land. Development would always create more jobs than those displaced in agriculture. Land lost to agriculture would never be regained. The Applicants' evidence on demand was very general, and not site specific. There was a sufficient quantity of employment land available for the foreseeable future, and a range of alternative sites providing sufficient choice.

9.3 **Landscape**

9.3.1 Any development of the application site in the way proposed would be unacceptable in landscape terms, would harm the setting of the Cheshire villages of Burton, Shotwick and Puddington, and would have an unacceptable visual impact on those villages.

9.3.2 The present application was in outline, and it remained an issue as to whether there was sufficient evidence on which to judge the visual impact of large structures which had not yet been designed. The WDA's landscape evidence was very generalised and had not been re-written during the brief period when 40m high structures were proposed, the WDA's evidence treating 40m high buildings as having a similar impact to 23m high buildings. The WDA's landscape assessment understated the significance of the application site within the wider landscape of this part of the Dee Estuary, and underestimated the impact of the large extension of the industrial park across the landscape. It was not simply a transition zone between more dramatic landscapes; featureless in itself.

9.3.3 The flat arable landscape portrayed its physical origin as part of the estuary, distinct from the rising land above the old shoreline. It was a landscape large enough to function alongside both the mixed rural landscape above it, and the industrial landscape along Shotwick Road. Its flatness derived from its estuarine origin, and would all originally have been under water. Burton Point was reputed to have provided a sheltered anchorage in those times, whilst boats would tie up at the wall below Shotwick Church, which in itself was a building providing a fine reminder of this former relationship with the estuary. The old shoreline was clearly visible from Shotwick Road, from where the church was seen nestling between woodland in a narrow valley.

9.3.4 This historic relationship would be entirely lost by the considerable raising of land levels necessary to prepare the site for development. As the WDA accepted, development of the site would mean that views of Shotwick Church and the Conservation Area would be lost, the precise extent depending upon the siting of buildings. There was, therefore, a landscape impact of some magnitude. Raising the land in two plateaux would not reflect or preserve the ancient relationship between the coastline and the estuary, whilst removing or restricting views of the historic villages as seen from Shotwick Road.

9.3.5 The proposed landscaping consisted of five elements: i) the lake; ii) the 150m landscaped strip on the north-eastern boundary; iii) the balancing ponds; iv) the Shotwick Road frontage; iv) the plateau.

9.3.6 The lake would be a large, irregularly shaped open sheet of water about twice the size of Shotwick Lake, and entirely out of character with the existing nature reserve. No trees or ground cover could be planted on its margins since this would assist predators, so it could not be screened from either Burton or the existing nature reserve.

9.3.7 The landscaped boundary strip, which the WDA claimed would integrate the site with its surroundings, would in fact create instead a band of landscaping completely out of character with its setting, where nothing of that scale and length currently existed. The landscaping proposed would be as alien to the character of Cheshire as the industrial development it was intended to screen, and would appear artificial. Nor would it effectively screen the villages from the visual effects of development: it was notable that the photo montages did not model the effect of a 23m high building on plateau B,

particularly when seen from the closest point, Shotwick Church, from which it was accepted that such a building would be visible.

- 9.3.8 The visual effect from the village was of considerable concern to residents (Paddington: about 230 people; Shotwick: about 30 people; Burton; 282 households). In recent years, residents had seen large buildings erected at Deeside, light in colour and substantially lighted after dark. The new power station was blatantly visible, not just from the Wirral but from further into Cheshire. It advertised its presence by frequently creating a very tall plume of steam. The lighting along the perimeter of the industrial park was very bright, creating light pollution. The existing industrial area was very poorly landscaped.

- 9.3.9 Flintshire County Council had resolved to support the application on the basis that off-site landscaping would be provided via a S106 Agreement. This was also a specific concern of the Countryside Council for Wales. Whilst the WDA offered a sum of money to provide off-site landscaping no site had been identified, and no agreement existed with any landowners. Hence there were no guarantees that effective off-site planting could be achieved.
- 9.3.10 Planting along the Shotwick Road frontage was intended to soften the impact of the development rather than to screen it. The effect on views into Cheshire had already been mentioned (9.3.7 above). The WDA had produced no photomontages to show the impact on views from Shotwick Road. No details were given of location and scale of landscaping on the plateaux themselves.

9.3.11 The views of the Local Plan Inspector on environmental objections made by Cheshire, Chester and Ellesmere Port were noted. He concluded that adequate environmental safeguards existed in the development brief. However, that brief stated that large buildings should not in the main exceed 6m to eaves level. The Inspector could not, therefore, have envisaged buildings of the scale and height now proposed in reaching his conclusions.

9.4 **Sustainable Transport Policy**

9.4.1 The application site was inherently unsustainable, as was demonstrated by the extremely small proportion of existing employees of the Deeside Industrial Park who used other modes of travel than the private car. The DDZ Feasibility Study of May 2000 (Core Document 44) gave the current workforce as 8866, of whom 47% worked shifts. 95% travelled to work by car or private minibus, about 1.5%

walked or cycled and less than 1.3% travelled by bus or rail. The WDA assumed that the workforce for the proposed development would be drawn from the same catchment area as the existing workforce, and there was no reason to assume a markedly different travel pattern for the new workforce.

9.4.2 In the Feasibility Study, the consultants had worried that in the absence of countervailing measures the intended growth of employment in the zone would exacerbate the problems to the point where the compatibility of that growth with the objectives of sustainability would be brought into question. They advised that "expansion of the DDZ cannot therefore be considered in isolation from its transport impacts", and that the view that job-creation should over-ride all other considerations was a short-term palliative and "the very antithesis of environmental responsibility."

9.4.3 The consultants recommended that planning policy for the DDZ should incorporate a strict policy that employment growth should only be permitted in conjunction with a determined programme to gradually transfer trips to non-car modes, to shorten journeys and to reduce the need to travel such that the total quantity of car journeys was, at most, held at its 1999 level, if not reduced. They recognised the real difficulty of achieving this in an entrenched car culture. The report considered the feasibility of a new station on the Wrexham-Bidston line to serve the DDZ, and also of a guided bus-route from Chester to the DDZ, but found the case for both too weak, and focused instead on "superlative", subsidised bus services. It concluded, however, that there was no easy, simple or quick solution to the enormous dependence on the private car.

9.4.4 A subsequent document, the draft Flintshire Local Transport Plan of August 2000 (Core Document 40o,), summarised the assessment of the Feasibility Study into the proposed new railway station as follows:

"[The Study] stated that in the short term the provision of a new station was not viable and that other transport improvements such as `superlative' bus services and the implementation of travel plans should be pursued. In the medium term other infrastructure improvements to the DDZ were proposed. New railway stations together with other major infrastructure improvements to the railway network and within the DDZ were considered to be viable proposals for the long term once a more sustainable travel culture had been engendered in the DDZ."

9.4.5 The LTP did not foresee a new station or a guided bus route until after 2011, and did not allocate any funding for "superlative" bus services. If development of the application site went ahead, there was therefore little likelihood that the necessary public transport infrastructure could be in place to serve the new workforce.

9.4.6 The AIDA had put forward modest transport proposals which were welcome as far as they went. The appointment of a Travel Plan Officer was a belated step to take after 20 years of WDA involvement in the DDZ, and did not anyway depend upon the present application. Additional bus services would only benefit the nearest areas, and not those furthest away. In this respect it should be noted that the support of the North West Development Agency was specifically dependant upon the provision of appropriate public transport links with Cheshire and Merseyside, to ensure that residents there had

access to potential jobs. In particular, a new station on the Wrexham-Bidston line was specifically mentioned, but had now been ruled out except perhaps in the longer term.

- 9.4.7 The target of 15% public transport use, cyclists and pedestrians (7.1-3.12) was extremely modest. It was not shown that even this could be achieved, even in the longer term. That still allowed for 85% car usage, and to increase the number of employees by some 3000 whilst achieving a 15% modal split in favour of non-car transport was, of course, to significantly increase the overall amount of car travel. This was "the very antithesis of environmental responsibility"(paragraph 9.4.2 above). This was unsustainable, and it should be resisted.

9.5 **Effects on Ecology**

9.5.1 The WDA's offered mitigation measures had three elements; i) the water area; ii) inner Marsh Farm (and other margins); iii) the landscaped boundary strips.

9.5.2 The water area was a necessary product of the development itself, rather than a discrete attempt at mitigation. The necessary extraction of fill material for the plateau created a large, flooded borrow pit immediately adjacent to the existing RSPB reserve and the SSSI. The lake would be deep, but the only areas of it that would be valuable to wildlife were those not exceeding 2m in depth, together with the floating islands. It was in itself wasteful of good agricultural land, and in habitat terms it offered a water area for species of birds already plentiful in the estuary.

9.5.3 The engineered profiles of the lake that would actually produce habitats similar to those already provided by the RSPB through their scrapes would be confined to a narrow margin averaging about 26m into the excavated area. The lake would have an average width of 500 metres, thereby leaving a large stretch of open water with little direct ecological value, prone to choppy water and strong wave action. The RSPB had stated that a series of shallow lakes would be of greater conservation value.

9.5.4 Inner Marsh Farm would offer mitigation, but it needed to be borne in mind that the application site already supported a substantial bird population. There would be an impact on the numbers of lapwing (50% decline), Yellow wagtail (50% decline), grey partridge (lost) and quail (lost). The new species of which the WDA spoke could go anywhere, whereas the ones lost needed an estuarine location. The objectors did not rely on the loss of corn bunting,

since it appeared to be in irreversible decline in any event. The agreement with the RSPB had still not been concluded at the end of the inquiry (Document WDA28).

9.5.5 The landscaped boundary strips did not appear to be of much interest to the RSPB whose only role would be to monitor and advise, but it was conceded that they would have some limited ecological value.

9.5.6 In considering this issue, it had to be borne in mind that this was not a case where the existing site was derelict, or in need of environmental improvement. It was well-used, high quality farmland, where modern farming techniques co-existed successfully with a wide range of birds and animals. Even the mitigation measures proposed arose out of the requirements of the proposed development. There would be overall harm to the ecology and biodiversity of the site.

The Harm to Farming

9.6 Interests

a) W T Banks and Co (Farming) Ltd

9.6.1 W T Banks of Home Farm, Chapel House, Puddington was the tenant farmer of all the agricultural land within the application site, together with those parts of Inner Marsh Farm situated in Cheshire and excluded from the application site. This consisted of (refer to Plan 24 in Core Document 4):

- (i) Holdings 1 and 2 Sealand, 93.04 ha (229.9 acres) and 64.85 ha (160.24 acres) respectively;
- (ii) Inner Marsh Farm, 55.06 ha (136.05 acres) in total.

9.6.2 Holdings 1 and 2, Sealand were tenanted from Corus (formerly British Steel) under two separate Agricultural Holdings Act Tenancies. Inner Marsh Farm was held on a Farm Business Tenancy from Cheshire County Council until 29 September 1998, when the land was acquired by the WDA. It was then rented under a two year FBT until 29 September 2000, and was then let for a further one year period until 29 September 2001. It had been indicated that it was unlikely to be renewed.

9.6.3 Holdings 1 and 2 were within the area designated as Opportunity Site 2 in ADLP, apart from a small area of land west of Shotwick Lake. Inner Marsh Farm straddled the national boundary, 30.75ha (75.98 acres) lying within Wales. That part of the farm, together with the land west of Shotwick Lake, was within the application site and was required for sand extraction. The remaining 24.31 ha (60.07 acres) of Inner

Marsh Farm was in England, and was proposed as a nature reserve.

9.6.4 The land was part of the River Dee estuary flood plain, and had been reclaimed. It was recognised as Grade 2 agricultural land: i.e. 'best and most versatile'. The soil was a silty loam, stone free and free draining, ideal for cultivation of a wide range of agricultural and horticultural crops. There were no crop limitations from either environmental salinity or exposure. Pig slurry was accepted onto the land from JSR's holdings at Chapel House and Gun Park.

9.6.5 In recent years, crops included potatoes, winter wheat, carrots, cabbage, leaks and linseed. All crop yields were consistently above average. Crops were grown under contract for supermarkets and other outlets requiring high quality produce.

9.6.6 W T Banks currently farmed 926 hectares (including the application site), broken down as follows:

436 ha owned (at Wood Farm and Deeside Farms, Sealand; Home Farm, Puddington; and Bank Farm);

158 ha held on an Agricultural Holding Act Tenancy (Holdings 1 and 2, Sealand);

119 ha held on a Farm Business Tenancy (8 years unexpired, at Monument Farm, Farndon);

158 ha of seasonal potato land;

55 ha at Inner Marsh Farm on 1 yr. FBT.

9.6.7 The core of the business consisted of 594ha, comprising the 436 hectares of land owned, together with 158ha at 1 & 2 Holdings, Sealand. The other land was held on arrangements of short duration, and could not be relied upon for the purposes of viability if the Sealand land was lost to development.

Considerable investment had taken place in recent years on the owned land. The present labour force comprised 4 full-time workers, a part-time employee, a student and 3 family members.

- 9.6.8 W T Banks was a good-sized, efficient family business, but it was not a large company. The loss of 158ha out of the core of 594ha would be significant; 28% of the land area would be lost, with a 40% reduction in turnover. This showed the high value of the crops grown at Sealand. The labour force requirement would be reduced by 25%, as would the requirement for machinery. Building utilisation would be reduced to 69%. Whilst it would not render the business non-viable, it would lead to some considerable retrenchment and potential loss of employment.

b) **JSR Farming Group**

9.6.9 JSR Farming Group was the largest privately-owned farming company in the UK. It purchased the pig breeding interests of J Bibby plc in 1989, including Chapel House and Gun Park pig units at Puddington, along with Home Farm, as well as taking over the tenancy of Holdings 1 and 2, Sealand and the licence to farm Inner Marsh Farm. Subsequently the pig units were retained and the other interests disposed of to W T Banks. At that time, a 25 year agreement was reached between JSR and Banks covering the disposal of slurry on the land acquired by Banks.

9.6.10 JSR Farming Group was the largest privately-owned farming company in the UK. It purchased the pig breeding interests of J Bibby plc in 1989, including Chapel House and Gun Park pig units at Puddington, along with Home Farm, as well as taking over the tenancy of Holdings 1 and 2, Sealand and the licence to farm Inner Marsh Farm. Subsequently the pig units were retained

and the other interests disposed of to W T Banks. At that time, a 25 year agreement was reached between JSR and Banks covering the disposal of slurry on the land acquired by Banks.

- 9.6.11 Pig farms required a considerable area for disposal of muck and slurry. JSR lacked that land, and the arrangement with Banks benefited both parties as the waste product was a useful fertiliser. The system had worked well from the point of view of both parties. There was a fixed system of pipes for disposal of slurry. In addition to the slurry disposal of the land covered by the agreement, slurry was also taken by tanker to Banks land elsewhere by "gentleman's agreement". About 47% of the slurry produced was removed by tanker to land not covered by the slurry agreement.

9.6.12 Currently an average of 2.6 tanker loads per day (573 per annum) was taken off site. If these proposals went ahead, that would increase to about 6 tanker loads per day. Whilst that might not initially appear to be a great deal of additional agricultural traffic, it would occur on heavily used public roads, with many of the journeys, by slow-moving vehicles, occurring at peak periods. There was also the question of finding alternative sites for disposal: none had been identified so far, and so the distances to be travelled were not known. Farms in the immediate vicinity were dairy farms, and so unable to take the additional slurry. Costs of disposal would, of course, be increased.

9.6.13 The WDA had at Inquiry made criticisms of the piped disposal system, suggesting breaches of the Water Code (Documents WDA20 and WDA30). However, there was no suggestion that the Environment Agency had expressed any concerns over the

current arrangements, and no evidence of water pollution. The system worked, and was consistent with high quality produce acceptable to supermarket chains.

9.6.14 The WDA had suggested the use of a mechanical system of disposal (Funki Manura). It was worth evaluating, and JSR had visited Holland (December 2000) to see the only one currently operating anywhere in the world, which had only operated for 4 months at the time of the visit. It was expensive (about £400,000) and might make the unit uncompetitive.

9.6.15 If alternative economical disposal methods could not be found, there could be a reduction in herd size of approximately 40% and a consequent loss of jobs. A number of properties and buildings would become surplus to requirements. Inefficiencies of scale would result which might eventually lead to closure, with a loss to the cost efficiency of the

group, and future redundancies elsewhere.

- 9.6.16 The existing methods worked, were satisfactory to both parties, and would be expected to continue to the end of their legal agreement if not disturbed. The development of the application site would throw the burden of funding new methods of disposal on to JSR, and the WDA had done nothing to assist.

9.7 **Green Belt**

- 9.7.1 In approving the Clwyd Structure Plan in 1991, the Secretary of State mentioned that he would wish to see the question of Green Belt designation considered in any review. "Planning Guidance (Wales): Planning Policy" (1996) mentioned that Green Belts should only be considered in the most highly populated parts of Wales which were subjected to very significant development pressure. The 1999 revision re-stated those criteria but stated that Green Belts might be an

effective way of preventing urban sprawl and keeping land open permanently in some areas.

9.7.2 In his 1997 and 1998 letters to all local authorities in Wales, Wyn Griffiths MP stated that he believed there were areas where Green Belts might be effective, and he specifically mentioned "urban encroachments along the border of north-east Wales".

9.7.3 There was clearly a policy move towards Green Belts in Wales in the 1990s without them being seen as conflicting with the traditional Welsh device of green barriers. It was significant that the National Assembly had specifically mentioned the potential for Green Belts as an issue in the present case. It was accepted that Green Belts were to be designated through the development plan process. However, it was relevant to the present case to consider whether the grant of planning permission, at a time when the UDP

was at an early stage, would prejudice proper consideration of Green Belt designation through the UDP process.

9.7.4 In locational terms, the site fell within one of the two areas in Wales specifically identified in Wyn Griffiths' letters. Whilst Green Belt designation would not be necessary to prevent coalescence (because of the West Cheshire Green Belt) it would certainly meet his concern about urban encroachment along the border, specifically mentioned in both letters.

9.7.5 The site was subject to significant pressure for development, from both Flintshire County Council and the WDA. There could be no doubt that it was open countryside, and that designation as a Green Belt would keep it permanently open.

9.7.6 It was agreed that designation was not necessary to prevent the coalescence of Queensferry/Shotton with the Cheshire villages, because of the West Cheshire Green Belt. However, its designation would represent a logical and limited extension of that Green Belt, and help to divert development pressure to urban land such as Opportunity Sites 1 and 3, thus assisting in urban regeneration. Green Belts were more effective here, in that they were seen as having greater permanency than green barriers.

9.7.7 It was considered, therefore, that the land could fulfil Green Belt purposes, and should be designated. Planning permission should therefore be refused to allow the matter to be considered through the development plan process.