

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **WEDNESDAY, 3 SEPTEMBER 2014**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **GENERAL MATTERS - APPEAL AGAINST NON-DETERMINATION OF OUTLINE APPLICATION FOR THE ERECTION OF MEDICAL CENTRE, COUNCIL CONTACT CENTRE, HOTEL (UPTO 90 BEDROOMS), PUBLIC HOUSE/RESTAURANT AND FOUR CLASS A3 FOOD AND DRINK UNITS TOGETHER WITH CAR PARKING (UPTO 381 SPACES, LANDSCAPING AND ANCILLARY WORKS AT LAND TO THE NORTH OF BROUGHTON SHOPPING PARK, BROUGHTON.**

APPLICATION NUMBER: **051484**

APPLICANT: **DEVELOPMENT SECURITIES PLC**

SITE: **LAND TO THE NORTH OF BROUGHTON SHOPPING PARK, BROUGHTON**

APPLICATION VALID DATE: **14TH SEPTEMBER 2013**

LOCAL MEMBERS: **COUNCILLOR W. MULLIN**

TOWN/COMMUNITY COUNCIL: **BROUGHTON & BRETTON COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST IN ORDER TO ADDRESS SCALE OF DEVELOPMENT AND HIGHWAY ISSUES.**

SITE VISIT: **YES**

For Members information, this application is the subject of an appeal lodged with the Planning Inspectorate on the grounds of non-determination. The purpose of the report is to obtain Planning Committee resolution in respect of the approach to be adopted in respect of the appeal (which is to be considered at a Public Inquiry anticipated to last for three days). A duplicate application reference No. 052456 for the proposed development is reported for decision as the

preceding item on the agenda. My recommendation is that the Council objects to the proposal for the reasons referred to in paragraph 2.00 of this report.

1.00 SUMMARY

- 1.01 This outline application submitted by Development Securities PLC proposes the erection of a medical centre, council contact centre, hotel, public house/restaurant and four Class A3 food and drink units together with car parking, landscaping and ancillary works on land to the north of Broughton Shopping Park, Broughton. All matters are reserved for subsequent approval.
- 1.02 The application has been submitted following the refusal of a previous outline planning application under Code No. 049943 which was considered by the Planning & Development Control Committee on 17th April 2013 for the erection of a cinema, hotel, Class A3 food and drink units together with car parking, landscaping and other ancillary works at this location.
- 1.03 This previous application was refused on the grounds that the proposal had to be considered in conjunction with an alternative and competing proposal for the erection of a multi-plex cinema within the retail park itself where in locational terms it is considered that the erection of a multi-plex cinema within the shopping park provides for a more integrated and sustainable form of development.

2.00 RECOMMENDATION: THAT THE COUNCIL APPEAR AT THE PUBLIC INQUIRY AND CHALLENGE THE APPEAL ON THE FOLLOWING GROUNDS

- 2.01 The Local Planning Authority are of the view that without any realistic prospect for the provision of a medical centre, contact centre and hotel at this location that the proposal would essentially result in the provision of an A3 (Food and Drink Establishment) led and dominated form of development on the unallocated part of the application site which is 'white land' located outside of any development/settlement boundary in the adopted Flintshire UDP. The proposal does not realistically form the package of development which is of a wider community benefit which might allow the introduction of A3 uses at this location. Consequently the development is contrary to Policies STR1, STR5, GEN3 and S6 of the adopted Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

- 3.01 Local Member
Councillor W. Mullin
Request site visit and planning committee determination in order to assess the scale/form of the proposed development and acceptability

of highways/access to the site.

Broughton & Bretton Community Council

The Council objects to this application on the following grounds:-
Prematurity as there have been no meaningful discussion with the relevant authorities in connection with either the Contact Centre or Medical Centre and no assurance that either will be realised.

Access – The proposed option 1 will lead to an exacerbation of existing traffic problems on Chester Road at peak times. With regard to Option 2 the developer does not have certainty of a legal right to access from this side of the site.

Public House/Restaurant – There are already such facilities each within 100m of the proposed one and a further one cannot be justified.

Welsh Government (Transport)

The Welsh Government as highway authority for the A55 Trunk Road does not issue a direction in respect of this application.

Highways Development Control Manager

A supporting Transport Assessment has been evaluated and it is considered that development could be brought into operation without incurring significant impact on either the local highway or trunk road network. Recommend that any permission includes conditions in respect of vehicular, pedestrian and cycle access, street lighting, parking and public transport provision.

Rights of Way

Public Footpath 69 abuts the site but appears unaffected by the development. The path must be protected and free from interference from the construction and a Temporary Closure Order may be required during construction works.

Head of Public Protection

No response received at time of preparing report.

Dwr Cymru Welsh Water

Recommend that any permission be subject to the imposition of a Grampian condition to prevent the bringing into use any building prior to 1st October 2016, unless upgrading of the Waste Water Treatment Works into which the development shall drain has been completed. In addition request the imposition of conditions in respect of surface, land and foul water drainage.

Natural Resources Wales

No objection to the principle of development and request that if permission is granted that conditions be imposed in respect of drainage, site/building levels, land contamination and appropriate

mitigation to safeguard the Great Crested Newt habitat.

Airbus

The proposed development does not conflict with aerodrome safeguarding criteria providing:-

- i. During construction phase the developer obtains a crane permit.
- ii. Landscaping or water features shall be undertaken in consultation with Airbus to avoid large concentration of birds.
- iii. Any floodlighting faces downwards to avoid potential glare.

Clwyd-Powys Archaeological Trust

No archaeological implications for the proposed development.

Council Ecologist

Consider that an ecological assessment submitted as part of the application represents an acceptable assessment of the site. No objection to the proposal subject to conditions as a result of the creation of an adjacent Great Crested Newt Reserve managed by North East Wales Wildlife Trust.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

Letter received from Bretton Residents Action Group the main concerns expressed being summarised as follows:-

- i. Site is at risk from flooding.
- ii. The proposed location of a medical centre and Council contact point would not be accessible for those people without transport. A more beneficial location would be centre of larger village.
- iii. Increase in litter from further food outlets.
- iv. Hotel should be located nearer to proposed airport terminal.
- v. Inadequacy of access/infrastructure to serve further development.

One letter of objection received which expresses concern about the impact of development on Great Crested Newt habitats.

5.00 SITE HISTORY

5.01 The site has an extensive planning history since opening in 1999. It is considered that the most recent and relevant planning history is as follows:-

4/20425

Erection of a retail centre and associated works – Granted 18th

October 1991.

4/20426

Erection of a retail centre and associated works – Granted 18th October 1991.

96/242

Retail Development (Variation to Design and Layout of previously consented and implanted development, to include A1, A3 and petrol filling station) – Permitted 14th January 1998.

037891

Outline – Extension to existing shopping park including 15,859 sq.m (170,000 sq.ft) of new retail floorspace, plus 2,500 sq.m (27,000 sq.ft) of mezzanine, additional and reconfigured car parking, on and off site highway improvements, enhanced bus, cyclist and pedestrian provision, landscape and ecological improvements – Granted 15th February 2007.

040534

Upgrading the existing interchange on the A55 at Broughton to a full grade separated junction – Granted 8th January 2007.

043751

Variation of Condition No. 34 attached to outline planning permission ref: 37891 (relating to controls over the subdivision of units) – Granted 23rd November 2007.

045215

Variation of Condition 3 & 4 of planning approval 043751 relating to controls over junction improvements – Permitted 31st December 2008.

045216

Variation of Conditions 3, 4 & 5 of planning permission 040534 relating to controls over junction improvements – Permitted 31st December 2008.

045911

Various of Condition Nos 3, 4, 9, 12, 33, 34 of planning permission ref: 045215 – Refused 26th November 2009.

045912

Variation of Condition Nos 3, 4 & 5 of planning permission ref: 045216 - Refused 26th November 2009.

049857

Proposed multiplex cinema, restaurants (5) and associated works – Permitted 29th April 2013.

049943

Outline – Erection of a cinema, hotel (upto 80 bedrooms) and Class A3 food and drink units together with car parking (upto 454 spaces) landscaping and ancillary works – Refused 23rd April 2013.

051484 – Outline – Erection of medical centre, council contact centre, hotel (up to 80 bedrooms), public house/restaurant and four class A3 food and drink units together with car parking (up to 381 spaces), landscaping and ancillary works. Appeal to The Planning Inspectorate on the grounds of non-determination.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development.

Policy STR2 – Transport & Communications.

Policy STR5 – Shopping Centres & Commercial Development.

Policy STR6 – Tourism.

Policy STR11 – Sport Leisure & Recreation.

Policy GEN1 – General Requirements for Development.

Policy D1 – Design Quality, Location & Layout.

Policy D2 - Design.

Policy D3 – Landscaping.

Policy D4 – Outdoor Lighting.

Policy D5 – Crime Prevention.

Policy D6 – Public Art.

Policy TWH1 – Development Affecting Trees & Woodland.

Policy WB1 – Species Protection.

Policy AC2 – Pedestrian Provision & Public Rights of Way.

Policy AC3 – Cycling Provision.

Policy AC13 – Access & Traffic Impact.

Policy AC4 – Travel Plans for Major Traffic Generating Developments.

Policy AC18 – Parking Provision & New Development.

Policy S1(6) – Retail & Commercial Allocations (Broughton)

Policy S3 – Integrating New Commercial Development.

Policy S6 – Large Shopping Development.

Policy S8 – Hot Food Takeaways, Restaurants and Cafes

Policy S9 – Non Retail Commercial Development.

Policy SR1 – Sports, Recreation or Cultural Facilities.

Policy T2 – Serviced Tourist Accommodation.

Policy CF2 – Development of New Community Facilities.

Policy EWP17 – Flood Risk.

Additional Guidance

Planning Policy Wales 2014

Technical Advice Note 4 – Retailing and Town Centres.

Technical Advice Note 5 – Nature Conservation & Planning.

Technical Advice Note 18 – Transport.

7.00 PLANNING APPRAISAL

7.01 **Introduction**

The site the subject of this application amounts to approximately 3 hectares in area. It is located to the north-east of Broughton at the junction of Chester Road where it connects with the northern access from a roundabout into the Broughton Retail Park.

7.02 The site is currently unused and comprises a rough grassed area subdivided by lengths of mature hedgerow. The boundaries of the site are clearly defined, the eastern boundary by a mature hedgerow interspersed with trees whilst the southern boundary is defined by a post and rail fence approximately 1.5 m in height and a grass verge approximately 5m wide. Beyond this is a service road for the adjacent Broughton Shopping Park which lies outside the application site and is not within the applicant's ownership/control.

7.03 To the north beyond Chester Road, there is a public house, two residential properties, commercial premises and a veterinary practice. BAE Airbus is located to the north east of the site. To the east of the site is a Great Crested Newt Reserve which was created as mitigation, for the loss of habitat associated with the development of the shopping park.

7.04 **Proposed Development**

The application is submitted in outline with all matters being reserved for subsequent approval (access, appearance, landscaping layout and scale of development). In summary, the application proposes development of the site for the following uses:-

- Medical Centre (Class D1).
- Council Contact Centre (Class A2)
- Hotel (Class C1)
- Restaurants including drive-thru restaurants (Class A3)
- Public House/Restaurant (Class A3)
- Car parking and landscaping.

7.05 Although submitted in outline, the planning application is accompanied by

- Two illustrative site layout plans.
- A Design & Access Statement.
- A Transport Assessment with Addendum.
- A Travel Plan Framework.
- An Arboricultural Impact Assessment.
- An Ecological Assessment.
- A Noise Assessment.
- An Environmental Site Assessment.
- A Flood Risk Assessment.
- A Drainage Strategy.

- An Energy & Sustainability Report.

7.06 In terms of the detailing of the proposed elements of the application, this can be summarised as follows:-

- A two storey Medical Centre of a maximum of 929 m² (10,000 ft²). The Medical Centre is proposed to be located to the north of the site.
- A County Council Contact Centre to be located to the south of the site close to the shopping park service road. The building is to be single storey in height consisting of a maximum 93m² (1000 ft²). It is proposed that the Contact Centre will enable local residents to have access to a range of Council services without having to travel to County Hall, Mold.
- A hotel (up to 80 bedrooms) with a maximum floor area of 2,835 m² (30,500 ft²). The indicative site layout plans show the hotel located to the east of the site adjacent to the eastern and southern boundary. It is proposed that the hotel be a maximum of 3 storeys in height.
- A maximum of 1,905 m² (20,510 ft²) of floor space for uses falling within Class A3. The illustrative layouts show 4 No. A3 single storey units 2 No. of which are drive thru restaurants. One of the drive thru restaurants consists of 186m² (2,000 ft²) of floor space with the second unit consisting of a maximum of 241.5 m² (2,600 ft²) of floor space. The two standard A3 units consist of 395 m² (4,250 ft²) and 372 m² (4,000 ft²) of floor space respectively and are both single storey.
- The public house/restaurant will be part single and part two storey and will be located in a prominent location adjacent to the roundabout on the site's western boundary. It will comprise of up to 711 m² (7,660 ft²) of floor space.
- It is proposed that significant areas of landscaping will be provided both within and on the perimeter of the site. The indicative site layout plan shows possible location of landscaping along site boundaries, with potential within the car park areas to soften the impact of development.

7.07 **Background**

There is a very significant and relevant background of planning history at this location which is referred to in paragraph 5.00 of this report. In summary part of the site the subject of this planning application (approximately 1.3 hectares) or 44% of the site adjacent the roundabout) was included in an outline planning permission in 2006, for an expansion of Broughton Retail Park, commonly referred to as Phase II. This land was to be used to provide additional parking in

connection with the Phase II expansion of Broughton Park.

- 7.08 The Phase II development was to comprise some 18,500 sq.m. of commercial floorspace (predominantly A1 comparison retail) which was linked by condition to the requirement for a new A55 interchange which would allow traffic from Broughton Retail Park to join the A55 westbound carriageway. These two planning applications (the retail park and the interchange) were granted permission and linked by phased planning conditions and a legal agreement. The original permissions (037891 & 040534) were later varied on two separate occasions to create new planning permissions, the most recent of which were granted in outline in December 2008 (045215 & 045216). In the subsequent period, permission for phase II has lapsed given that there has been no proposal prior to December 2013 to extend the deadline for the submission of reserved matters. As the site is located outside any defined development/settlement boundary it effectively fails to be considered within an open countryside location for the application of planning policy.
- 7.09 For Members information part of the site the subject of this application is owned by Flintshire County Council and is subject to a restrictive covenant in favour of the applicant and the owner of the shopping park.
- 7.10 **Planning Policy**
The Planning and Compulsory Purchase Act 2004 states at S38(6) that “if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.
- 7.11 The Development Plan is therefore the starting point for the consideration of this application and that the subject the duplicate application (051484) which is the following item on the agenda.
- 7.12 The site is located outside of any identified town or district centre and settlement boundary as defined in the adopted Flintshire Unitary Development Plan (UDP). Within the 2003 deposit draft of the UDP, a proposal was made for a non-retail commercial allocation to the North of Broughton Retail Park (S1(10)). At the time the UDP was placed on deposit Flintshire County Council were in discussions regarding the Phase II expansion of the park. It was anticipated that the proposed allocation (S1(10)) would make provision for future non-retail needs of the Park beyond the Phase II development.
- 7.13 The allocation (S1(10)) was the subject of representations of objection including those made by Development Securities and subsequently was the subject of consideration by the Planning Inspector at the UDP Public Inquiry in 2007-08. It was concluded by the Inspector in relation to allocation S1(10) that:-

- i. The allocation for non-retail commercial use represented planned growth and does not conflict with the UDP strategy to the detriment of town and district centres.
- ii. The principle of Phase II retail park expansion is accepted.
- iii. That the allocation S1(10) (later re-numbered to S1(6)) should be amended in light of the Phase II planning permission and amended in light of logical changes to the Greenspace designation (L3(5)) as uses accepted at the Public Inquiry. For clarification this allocation was amended and reduced in area from that initially proposed in the deposit version of the UDP, given the proposal for a car park to serve the Phase II development.
- iv. That the UDP should make it clear within its glossary what constituted non-retail commercial development.

7.14 The UDP Inspector also considered whether Broughton Retail Park should be included within the Broughton settlement boundary. It was however concluded by the Inspector that the “Retail Park is a built up area in its own right and in my opinion it does not necessarily follow that it has to be included within the Broughton settlement boundary”. The Inspector’s rationale for this approach was that to include the Retail Park within the settlement boundary would in all likelihood encourage further development to the detriment of designated Flintshire Town and District Centres.

7.15 For Members information:-

- i. The western part of the application site is outside the S1(6) retail allocation being ‘white’ land within the UDP. It is proposed that the A3 uses and public house/restaurant are provided on this part of the site.
- ii. The central/eastern part of the site is within the S1(6) allocation. It is proposed that the medical centre, contact centre and hotel are provided on this part of the application site. The medical centre and contact centre are however proposed on land owned by Flintshire County Council within the middle of the wider parcel of development.
- iii. The application site is 3 hectares in size of which 1.7 hectares are allocated for non-retail commercial use within the UDP (56%) whilst a further 1.3 hectares (44%) are unallocated white land outside of any development/settlement boundary.

Given that 1.3 hectares of the application site equivalent to 44% of the application site lies outside the non-retail allocation, the proposed development has been advertised as a departure to the adopted Unitary Development Plan.

7.16 **Main Planning Issues**

It is considered that the main planning issues can be summarised as follows:-

- a. The principle of development having regard to current planning policy framework.
- b. Other relevant material factors including the importance of this locality to the County and Region Economy.
- c. Adequacy of access to serve the development.
- d. Impact on ecology.
- e. Potential for flooding of the site.

In commenting in detail in response to the above issues, I wish to advise as follows:-

7.17 **Principle of Development**

As outlined in paragraph 5.00 of this report there is a long and complex history to this site and the adjoining Out of Town Retail Park. Associated with this formal planning history there have been longstanding discussions and negotiations between the Council and the landowners regarding the land the subject of this application and adjoining land. Consistently over this long period Flintshire County Council have always recognised that Broughton has an important role to play within the economy of the County, within the Cheshire/North East Wales sub regional economy and of the North Wales Region. The Unitary Development Plan makes provision for almost 300 homes within Broughton; 36.5 hectares of high quality B1 employment land at neighbouring Warren Hall; and allows some limited scope for the expansion of the closely related Out of Town Retail Park for non-retail commercial use. Over the same period of time discussions with the development partnership (Development Securities and British Land) have led to the granting of permission for schemes such as Phase II Expansion of Broughton Retail Park (2006) and the more recent decision to grant permission for the Cinema led development within the Retail Park (2013).

- 7.18 Pre-application discussions with Development Securities identified in 2011 that the land to the North of Broughton Retail Park would potentially be suitable for complementary uses to the Out of Town Retail Park. Indeed discussions at the time identified a range of potential land uses which could service (in-part) the British Aerospace facility. Broughton is a key economic driver within the local and regional economy and officers have over a significant period been involved in detailed negotiations regarding the development of the land to the North of Broughton Retail Park. The approach of the developer has been to maximise development potential of the land to the North of Broughton Retail Park including land beyond the allocation S1(6) North of Broughton Retail Park. The approach of the developer has generally been supported subject to the developer being able to demonstrate that there exist a range of beneficial end uses; demand for the development; and a mechanism to deliver the

development. This approach is reflective of the need to maintain the vibrancy of the local economy at a time of severe economic challenges in the national economy.

- 7.19 Officers have over the intervening period discussed a range of potential uses that could be included within a wider scheme and whose inclusion would be beneficial in securing a successful development. It was from these discussions that Development Securities were advised that a master planning exercise or at the least a development brief for this area should be undertaken to provide clarity to the public and to adjoining land users of what development may take place here in the future. Such a process would also assist in creating a planning context for the unallocated portion of the site (1.3 hectares) and to assess whether the development proposal was complementary to the existing Unitary Development Plan policies for Broughton. In this context it was very important to the Local Planning Authority that further A1 retail development at Broughton be minimised and that development to the North of the Retail Park should complement and not duplicate existing provision whilst also expanding the range of services and facilities available here that could service the community and promote further economic growth in this key strategic location.
- 7.20 Members may recall that the site was recently the subject of an application submitted under Code No. 04993 for the erection of a cinema, hotel, Class A3 food and drink units together with car parking, landscaping and ancillary works. This application was refused following consideration by the Planning & Development Control Committee on 17th April 2013 on the grounds that there was an alternative proposal (049857) for a multi-plex cinema within the retail park itself, which in locational terms provides for a more integrated and sustainable form of development. Following this refusal, there were extensive discussions with the applicant/agent setting out the parameters for any potential future development of the site and advising that the A3 elements of the scheme could only be supported on the 'white land' if part of a wider package of development for community benefit.
- 7.21 The proposed development as submitted comprises a mix and wide range of uses including five Class A3 uses which include a public house/restaurant and four food and drink establishments, a medical centre, council contact centre and hotel. The supporting Design & Access Statement forming part of the application recognises that in planning policy terms only part of the application site (approximately 56%) is allocated for non-retail commercial development within the adopted Flintshire Unitary Development Plan by virtue of Planning Policy S1(6) – Commercial Allocations. The remainder of the site is shown as white land reflecting the fact following consideration at the UDP inquiry that it was proposed as additional car parking to serve the phase II expansion.

7.22 The development plan within which part of the site is allocated (56%) for non-retail commercial development, is an up-to-date document having only been adopted in September 2011. Within the glossary of the UDP there is a definition of what constitutes non-retail commercial development this being:-

“development related to the buying and selling of goods and services, including all forms of commercial development (see glossary definition below) apart from A1 uses, as defined in the Use Classes Order 1987 as amended).

7.23 For Members information Commercial Development is defined as:-

“development related to buying and selling of goods and services, including the following uses: shops (A1); financial and professional services (A2); sale of food and drink (A3); offices (B1); hotels, boarding or guest houses and hostels (C1); assembly and leisure i.e., cinema, concert hall, bingo hall, or casino and dance hall (D2); other sui generis leisure uses i.e., theatre, amusement arcade or centre or a funfair; other sui generis retail uses e.g., launderette, dry cleaners, petrol filling station, sale of motor vehicles, taxi business, or business for hire of motor vehicles, markets and builders merchants”.

7.24 What was therefore envisaged for the development of the site includes e.g., for a cinema, car sales showroom or leisure related development. It is acknowledged that the application seeks consent for a mixed use development and that the provision within the scheme for a medical centre, council contact centre and hotel have been introduced as a result of:-

- a. Planning policy advice which indicated that a larger proposal that extended beyond the allocation S1(6) should be supported by a masterplan or development brief to supplement and complement the existing planning policy framework for this area and for the unallocated portion of the development site (1.3 hectares).
- b. Feedback from sectors of the local community requesting the provision of a medical centre and contacts centre at this location.

7.25 The proposal for an (A3) Food and Drink development of this scale having regard to Planning Policy Wales and TAN4 Town Centres reveals that there is little specific guidance on such developments. Officers have taken a cautious view to this type of development which involves the creation of several A3 outlets and drive through restaurants and has offered the view that such a development would normally be accommodated within a town centre rather than an out of town location on part of an allocation that envisaged a scale of growth

half of that proposed by Development Securities.

- 7.26 The applicant has therefore taken the approach of presenting the planning application as a package of associated complementary uses to the existing retail park specifically the inclusion of a hotel, medical centre and contact centre. Without these additional elements the proposal essentially constitutes an A3 led and dominated form of development on the site. It should also be noted that should permission be obtained for the range of A3 uses advanced, that permission would not be required for their subsequent change of use to A1 retail uses. This is a key concern for the Council given the pressure for new A1 retail development at Broughton as evidenced for example by the current pressure on the Local Authority to release allocated housing land in Broughton (at the Compound Site) for a new Aldi Foodstore.
- 7.27 Whilst supporting documentary evidence of interest by potential operators of the A3 uses has been advanced by the applicant's agents, there is no evidence to confirm any potential interest or commitment from operators of the hotel, medical centre or contacts centre. These elements of the development at this stage are therefore purely speculative. To this effect approaches have been made by officers to the existing medical practice in Broughton (The Marches) and Betsi Cadwalader University Health Board to seek to ascertain whether there is any interest in relocation to or proposals by the Health Board for the future provision of a new medical practice within Broughton. In addition there have been discussions undertaken to clarify the current approach by the Council to the delivery of its services by way of the provision of contact centres across the County.
- 7.28 For Members information The Marches Medical Practice have advised that they wish to remain in their current location and consider that they could meet future expansion needs without having to relocate. Betsi Cadwaladar University Health Board have also confirmed (albeit verbally) that they have no plans for the provision of a new facility within Broughton. Whilst there may be other private medical practices who may wish to supplement health provision within the community, there is no evidence of any interest at this stage. In addition to the above there are no plans advanced or decisions by the Council for the introduction of a contract centre facility not only in Broughton but the County as a whole. These type of facilities would normally be located within town centres which are easily accessible to the public on foot. The pedestrian/vehicular linkages between the application site and retail park in general must however be questioned, in light of the ownership of the service road and rights of access across it.
- 7.29 The approach by the developer, contrary to the pre-application advice, is to submit this planning application for what is in effect an (A3) Food and Drink Outlet Park in an out of town location and on 1.3 hectares of unallocated white land within the development plan. The development

proposal does include reference to a hotel, health facility, and even a FCC one-stop-shop however no evidence has been submitted by the developer to demonstrate that these uses can be delivered. Indeed in discussions with local service providers such as Betswi Cadwaladr; The Marches Doctors Survey; and Flintshire County Council's Housing Service it would appear that there is no demand at this time for either the health centre or the one-stop-shop.

7.30 The available evidence therefore suggests that the proposal presented to planning committee for determination will not be delivered as proposed and neither are there any proposed mechanisms or phasing timetables to indicate future delivery of the scheme. Indeed the developer in proposing this development has made it clear that the delivery of those aspects of the scheme outside of their control is not of their concern and they have no plans/mechanisms to ensure the development of these aspects; rather this will be a matter for other landowners and service delivery bodies to resolve.

7.31 Without any substantive evidence of need or commitment to the provision of associated facilities such as hotel, health facility and one-stop-shop it would appear that this development when realised would be an (A3) Food and Drink Outlet Park with the potential for some as yet unknown associated facilities if end users can be found. The scale of the development at 3.05 ha is significantly larger than the planned growth for associated non-retail commercial uses at Broughton Retail Park within the UDP (1.8 ha). The application as a result has been advertised as a departure from the plan. Indeed it is important to note that were an application to be submitted solely for the introduction of A3 uses only on the unallocated western part of the site, there would be no policy context for this proposal to be supported. In conclusion the material considerations beyond those within the UDP, not least the economic importance of this location and the potential economic and community value of this scheme, are on balance insufficient to justify a departure from the development plan. Specifically it is considered that the development proposal presented to the authority is sufficiently lacking in certainty to question the release of unallocated white land outside of any defined development boundary.

7.32 **Adequacy of Access**

Although submitted in outline, two indicative site layout plans have been produced one showing access to the site being obtained from the A5104 Chester Road, the second plan proposing access from the existing service road which is located to the rear of the existing Tesco Store. It is understood however, that there are a number of legal issues over the interpretation of certain access rights from the service road, which would not allow this option to be confirmed at this stage.

7.33 Notwithstanding the above a full and detailed Transport Assessment

has been submitted by the applicant's highway consultants. For Members information, this has been reviewed by Welsh Government (Transport) and the Council's Highways Development Control Manager in respect of application 051484. As a result it has been concluded that the proposed development would not lead to any adverse impact on the existing transport network and that the principle of development is acceptable subject to the imposition of planning conditions.

7.34 **Ecology**

An Ecological Assessment of the site has been submitted both as part of the initial application (051484) and this re-submitted application. Whilst a terrestrial survey of the site did not confirm the presence of Great Crested Newts on the site, there are records of them from the adjacent newt reserve. Although amphibian fencing was erected around this reserve, it is recognised that this is no longer intact and the great crested newts have the potential to occur within the application site.

7.35 For Members information the adjacent reserve was created as mitigation for the development of the shopping park in the 1990's and has deteriorated as a GCN habitat since that time. Subsequently a newt reserve south of the site has been created as a strategic mitigation site for Broughton, this now being managed by North East Wales Wildlife Trust. Consultation on the details submitted has been undertaken with Natural Resources for Wales and the Council's Ecologist. No objections have been raised to the principle of development subject to the imposition of conditions requiring details of Reasonable Avoidance Measures (RAM) e.g., erection and maintenance of exclusion fencing and licensed translocation of any protected species for the application site to existing dedicated nature conservation areas.

8.00 CONCLUSION

8.01 In conclusion, it is my view that in the absence of any documentary evidence of need or commitment to the provision of a hotel, medical centre and Council contact centre at this location that the proposal would essentially involve the provision of 4 No, A3 units, 2 drive thru-restaurants and public house/restaurant and a hotel. It is considered that this would lead to an imbalance in the range of uses that the allocation of the site for non-retail commercial use seeks to achieve and would not provide a scheme which would lead to wider community benefits. It is therefore considered that the proposal as submitted should therefore be resisted.

8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic

society in furtherance of the legitimate aims of the Act and the Convention.

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