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Tel: 01824 706800 Fax: 01824 706709

Heading:

REFERENCE NO. 03/2012/1487
CILMEDW,
LLANGOLLEN



Application Site

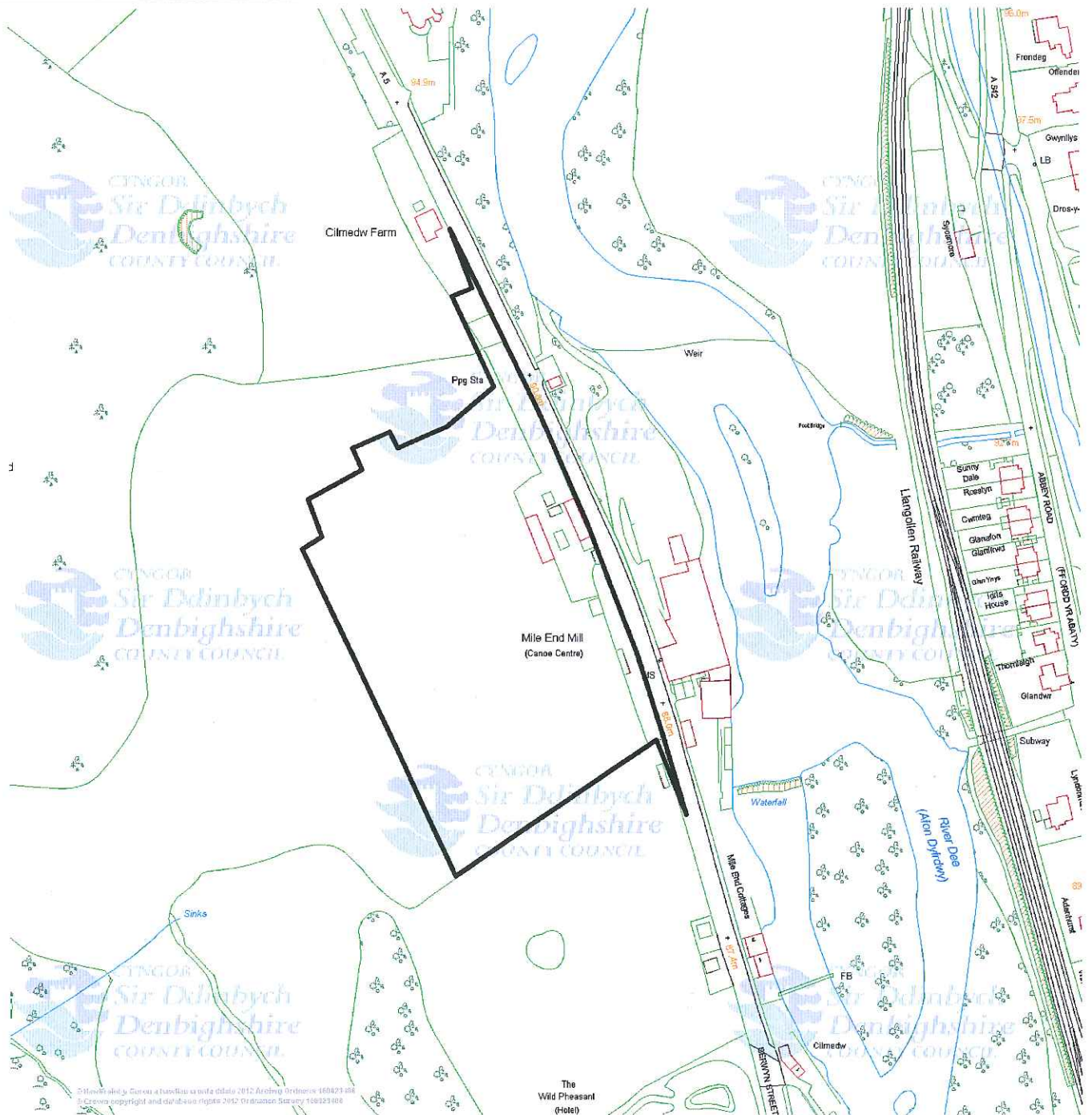


Date 4/12/2012

Scale 1/2500

Centre = 320745 E 342800 N

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.







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Atgynhychir y map hwn o ddeunydd yr Ordnance Survey gyda chaniatâd yr Ordnance Survey ar ran Rheolwr Llyfrfa Ei Mawrhydi © Hawffraint y Goron. Mae atgynhychru heb ganiatâd yn torri hawffraint y Goron a gall hyn arwain at erlyniad neu achos sifil. Cyngor Sir Ddinbych. 100023408. 2011.

Scale: 1:250
 Date: 11/11/2011
 Project: Proposed relocation of
 Dawson & Crowther plant units
 Berwyn Road, Langbath, Derbyshire
 Drawing no. 1027-ga-p01



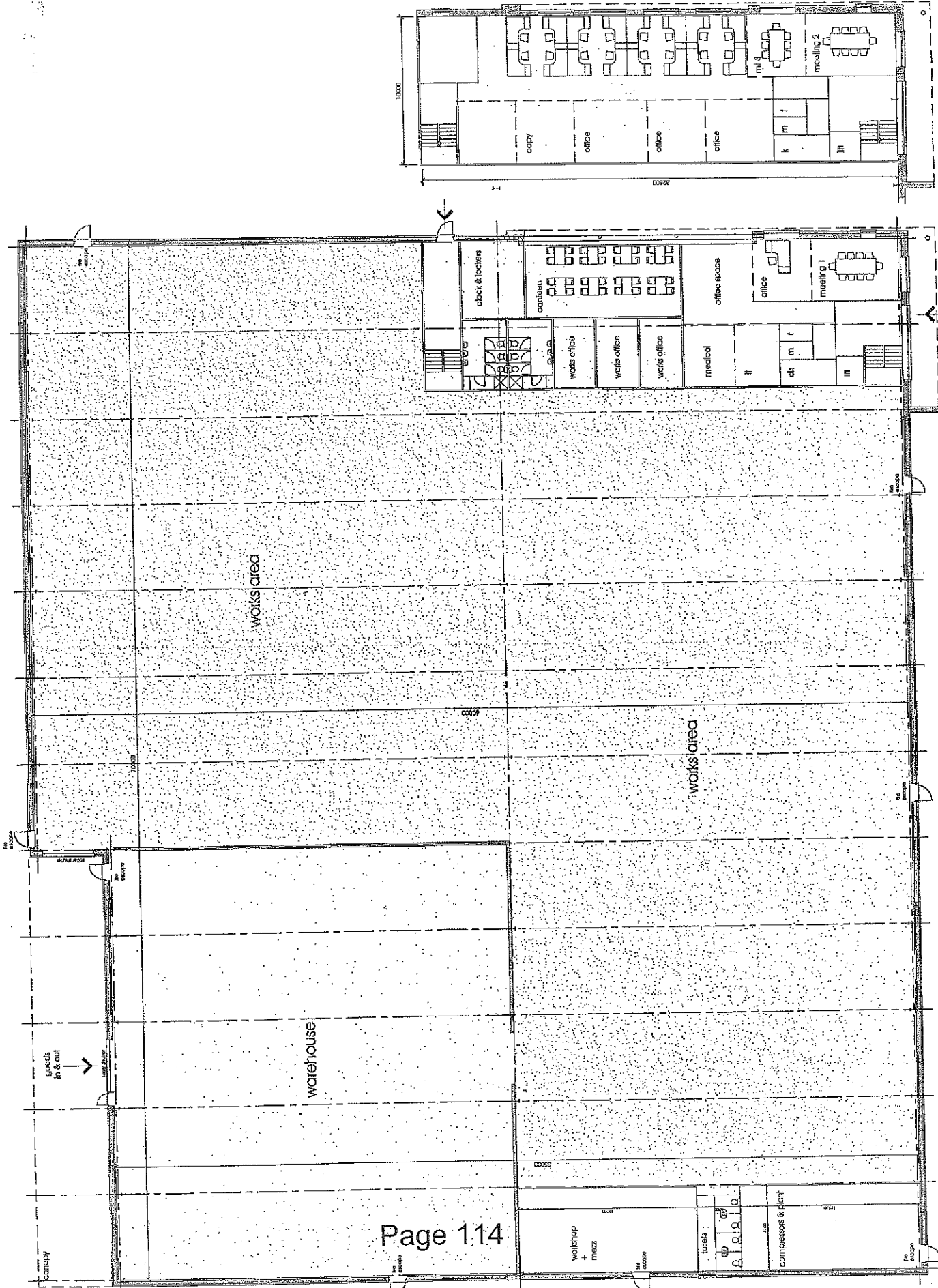
-  772 sq m floor area
-  140 sq m floor area
-  2743 sq m floor area
-  665 sq m floor area

FACTORY FLOOR PLAN

no.	description	date	by
1	proposed floor plan	11/11/2011	J.R.

project: Proposed relocation of Dawson & Crowther plant units
 Berwyn Road, Langbath, Derbyshire
 drawing title: proposed floor plan
 drawing no.: 1027-ga-p01
 drawing scale: Planning
 scale: 1:250 @ A3
 date: 11/11/2011
 drafter: J.R.
 checker: J.R.
 J. ROSS
 ARCHITECTS
 1027-ga-p01

service yard



Page 114

first floor plan

ground floor plan

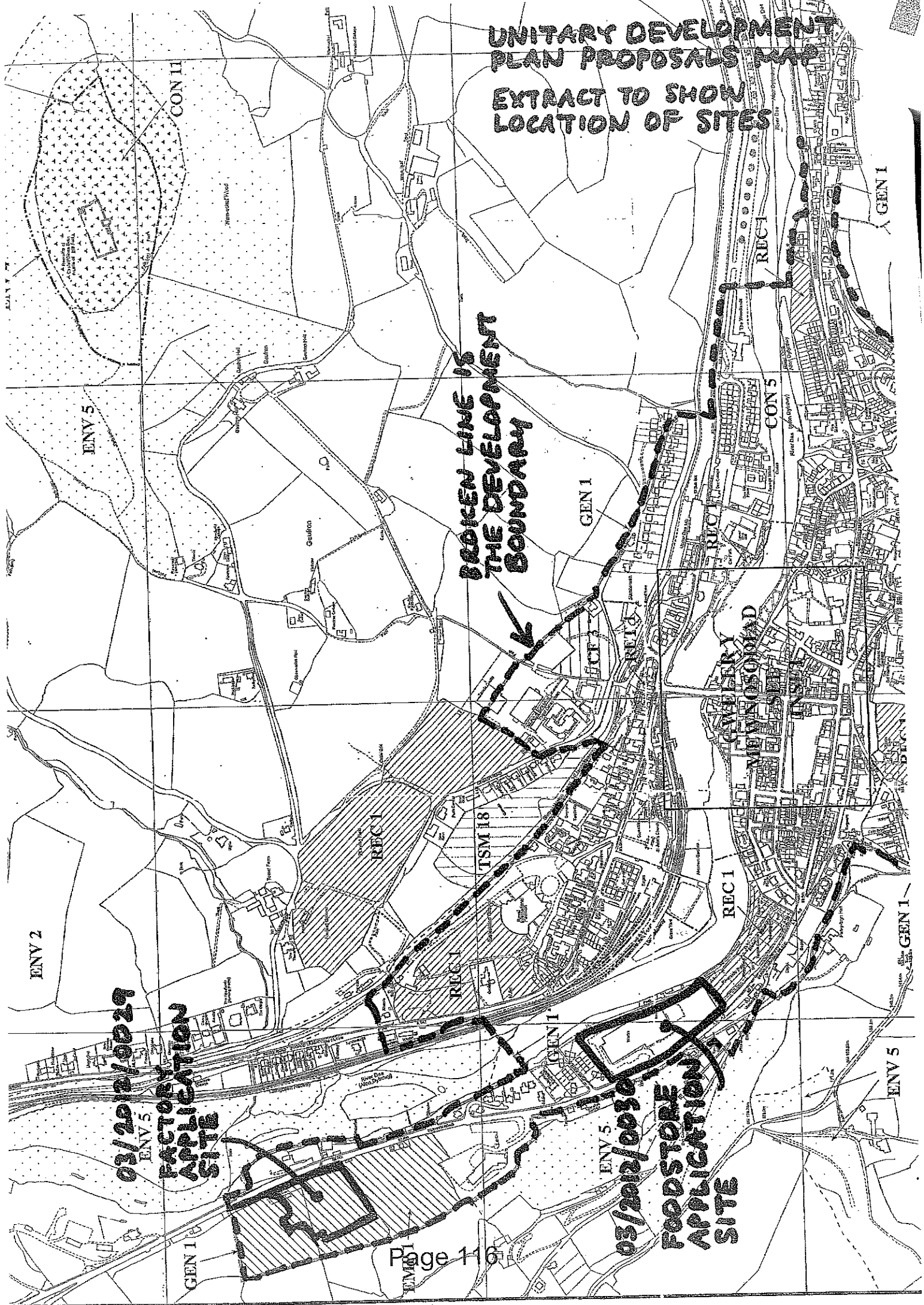
**UNITARY DEVELOPMENT
PLAN PROPOSALS MAP**

**EXTRACT TO SHOW
LOCATION OF SITES**

**BROKEN LINE IS
THE DEVELOPMENT
BOUNDARY**

**03/20/2002
ENV 5
FACTORY
APPLICATION
SITE**

**03/20/2002
ENV 5
FOODSTORE
APPLICATION
SITE**



ITEM NO: 4

WARD NO: Llangollen

APPLICATION NO: 03/2012/1487/ PS

PROPOSAL: Proposed variation/deletion of conditions attached to planning permission 03/2012/0029 for new print works building: □ Condition 5 - in relation to the restriction on the operation of the factory on Sundays, other than with the prior permission of the Authority, to delete the condition □ Condition 6 - in relation to hours of deliveries and collection of waste; to allow these to take place between 0600 - 2300 Monday to Sunday

LOCATION: Land at Cilmedw Farm Berwyn Street Llangollen

APPLICANT: Mr Nick Scott J Ross Developments Ltd and Mr & Mrs R J Best

CONSTRAINTS: World Heritage Site Buffer
Within 67m Of Trunk Road
AONB

PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Referral by Head of Planning / Development Control Manager

CONSULTATION RESPONSES:

LLANGOLLEN TOWN COUNCIL
No response received at time of preparing report.

LLANGOLLEN CIVIC SOCIETY
No response received at time of preparing report.

DENBIGHSHIRE COUNTY COUNCIL CONSULTTEES
Pollution Control Officer
Has advised that separate noise level conditions on the main permission cover any concerns relating to noise from the development on Sundays, as these meet relevant WHO guidelines.

RESPONSE TO PUBLICITY:

Representations received from:
G. Forster, 3, Mile End Cottages, Llangollen
M. Crumpton, Hafod y Maidd Ucha, Berwyn, Llangollen

Summary of planning based representations in objection:
In relation to the conditions in general:-
How can variation be sought once permission is granted/permission would not have been granted without conditions.

In relation to Conditions 5 and 6 (Operation of factory on Sundays, deliveries and collection of waste on Sundays)

Disruption to nearby residential properties 7 days a week/existing factory does not operate anywhere near full time and is closed at weekends, so why need for Sunday

operation at this stage/arguments over no restrictions on operation at current factory are not of relevance, as the works were constructed in 1964 when restrictions were not in planners' vocabulary/noise and disturbance would affect residents and wildlife and should be subject to ecological assessment/proposals may be a cynical attempt to increase the sale value of the site.

EXPIRY DATE OF APPLICATION:

REASONS FOR DELAY IN DECISION (where applicable):

- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks the Council's agreement to the variation of 2 conditions imposed on the planning permission granted at Planning Committee in September 2012 for a new print works on land at Cilmedw, Llangollen. The planning application Code number for the print works was 03/2012/0030/PF.
- 1.1.2 Whilst the issues relating to the conditions are quite similar in this case, the application requires 2 decisions by the Committee as the variations relate to separate conditions on the original permission.
- 1.1.3 The report sets out the details of the two requests for variation. In summary the application seeks the following:-
- Condition 5 - to delete the current condition, which does not permit the operation of the factory on Sundays.
- Condition 6 - to vary the wording, to allow deliveries and collection of waste to take place between 0600 and 2300 Monday to Sunday; currently the condition restricts these to 0700-2300 Monday to Saturday, and does not permit deliveries or collection on Sundays.
- 1.1.4 The application is submitted by White Young Green Planning and Design, as agents for J. Ross Developments. It contains a 2 page letter outlining the justification for the deletion of condition 5 and the variation of condition 6. The details are set out in Section 4 of the report.
- 1.1.5 The agent's basic submission is that the deletion/variation is to ensure the operation of the print works is not unduly restricted after the scheme is implemented.

1.2 Description of site and surroundings

- 1.2.1 The site proposed for the factory is currently an open field which has formed part of Cilmedw Farm, on the west side of the A5 as it leaves Llangollen towards Corwen. It is located immediately opposite the Mile End Mill buildings.
- 1.2.2 The nearest properties are Mile End Mill to the east (currently a canoe centre), and there are scattered residential properties at Cilmedw Farm 150 metres to the north, Mile End Cottages 150 metres to the south, on higher ground above Inman's Wood in excess of 350 metres to the west/north west, and a string of dwellings on Abbey Road on the other side of the River Dee, some 200 metres distant. The Wild Pheasant Hotel is 200 metres to the

south.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is part of an allocated employment area in the Unitary Plan, within the development boundary of Llangollen. This lies within the Clwydian Range and Dee Valley AONB, the Vale of Llangollen Historic Landscape, the Buffer Zone of the Pontcysyllte Aqueduct and Canal World Heritage Site, and the River Dee and Bala Lake Special Area of Conservation.

1.4 Relevant planning history

- 1.4.1 The key planning consent is the recently granted permission for the new printworks, which Members may recall considering at the September 2012 meeting of the Committee. The permission was subject to a number of conditions.
- 1.4.2 The permission involved the erection of a 4360 square metre main building with a new access off the A5, and associated parking and service area.
- 1.4.3 Specifically in relation to Conditions 5 and 6, at the time of processing the application for the print works, Officers sought clarification from the applicant's agents of the proposed operation of the business. It was confirmed that the hours of operation would be 24 hours a day, Monday to Saturday, and that deliveries would be restricted to 0700 – 2300 Monday to Saturday. These were considered reasonable by the Pollution Control Officer at the time and were set out in the recommended conditions alongside other conditions controlling noise levels from the development and requiring the provision of suitable acoustic screening in association with the operation of the service yard.

1.5 Developments/changes since the original submission

- 1.5.1 None.

1.6 Other relevant background information

- 1.6.1 In relation to a recently granted planning consent, planning legislation permits applicants to lodge an appeal to the Planning Inspectorate against conditions imposed (within 6 months of the date of grant), or to submit applications to vary or delete conditions (under Section 73 of the 1990 Planning Act). The applicants have submitted the current application under Section 73.
- 1.6.2 Procedurally, Officers understand the application has to be dealt with in 2 separate parts, i.e. each request for a variation has to be determined independently and either granted or refused (and if refused, with a land use planning reason capable of being defended at any subsequent appeal which could follow to the Planning Inspectorate).
- 1.6.3 The application is not an opportunity to re-visit the principle or detailing of the factory development or conditions other than those on which variations are now sought. The considerations have to be applied purely to the specific variations sought to the conditions specified in the submission.

2. DETAILS OF PLANNING HISTORY:

2.1 03/2012/0029/PF

Erection of new print works building, with associated car parking, servicing, and related accesses, construction of substation, new package treatment plant and soakaways, surface water attenuation system, and new vehicular and pedestrian accesses off trunk road -GRANTED. Decision dated 23/10/2102. The permission was subject to a number of conditions requiring submission of further details and to

restrictions on the use. The ones relevant to the application are quoted in the following sections of the report.

3. RELEVANT POLICIES AND GUIDANCE:

3.1 As the application relates to two individual conditions on the foodstore permission, the report sets out in Section 4 the planning policies and guidance it is considered relevant what is proposed.

3.2 The overarching advice for Local Planning Authorities on the use of conditions in planning permissions is contained in Welsh Office Circular 35/95. Circular 35/95 is a significant consideration in the context of the current application, as it sets basic tests which have been set down from the Courts for the validity of planning conditions. For Members' information, the Circular advises that as a matter of policy, conditions should only be imposed where they satisfy all of the following tests:-

- (i) necessary;
- (ii) relevant to planning;
- (iii) relevant to the development to be permitted;
- (iv) enforceable;
- (v) precise; and
- (vi) reasonable in all other respects

3.3 The relevance of the tests set out in Circular 35/95 can not be understated as the Council has to apply them both when granting planning permission and when considering applications such as this to delete or vary conditions imposed on an existing permission.

4. MAIN PLANNING CONSIDERATIONS:

The planning issues relating to the deletion of Condition 5 and the variation to Condition 6 are similar. The assessment part of the report sets out the details of the requests for deletion and variation and the basis of representations received, provides Officers' comment on both proposals and sets out a separate recommendation on them.

4.1 Condition 5

4.1.1 Condition 5 as worded on the planning permission states as follows:-

"The factory shall not be permitted to operate at any time on Sundays, other than with the prior permission of the Local Planning Authority".

The reason for Condition 5 was:-

"In the interests of residential amenity".

4.1.2 The Agents' submission on Condition 5

The Agents indicate the application is to delete the condition as the operators of the factory, Dobson and Crowther, are seeking a greater degree of flexibility in relation to the operation, delivery, and item collection activities of the new premises. They are seeking the deletion of Condition 5 to allow the print works to remain open on Sundays for office and factory workers, as the condition is considered overly restrictive and would make it difficult for the operator, as the factory will need to remain open during peak periods including Sundays in order to meet customer demands if required. It is pointed out that there are no restrictions on Sunday operations at the existing print work premises. It is suggested that the deletion of Condition 5 will not have any impact on local receptors, notably any noise or air quality impacts, and that the original Environmental Statement had made an allowance that the premises could be open on Sundays, and this was the assumption on the noise assessment which was part of it.

4.2 Condition 6

4.2.1 Condition 6 as worded on the planning permission states as follows:-

"6. Deliveries to the factory, and the transfer/collection of waste and other activity within the service area shall not be permitted outside the hours of 0700 – 2300, Monday to Saturday, and there shall be no deliveries or collection of items on Sundays".

The reason for Condition 6 was:-

"In the interests of residential amenity".

4.2.2 The Agents submission on Condition 6

The agents are seeking a variation to the wording of Condition 6:- 'to ensure the print works can be operated successfully'. The arguments are similar to those set out in relation to the variation of Condition 5, in that the variations are to allow deliveries and collection of waste etc., on a Sunday. These are to enable the factory to operate on a Sunday in order to meet customer demand if required; there are no restrictions on Sunday deliveries or collection at the existing printworks premises; and the noise assessment in the Environmental Statement was based on there being no restrictions on operating hours.

The suggested rewording of Condition 6 is:-

"6. Deliveries to the factory, and the transfer/collection of waste and other activity within the service area shall not be permitted outside the hours of 0600 – 2300, Monday to Sunday".

4.3 Planning policy and guidance

The relevant policy and guidance in relation to Conditions 5 and 6 is considered to be:-

Denbighshire Unitary Development Plan

Policy GEN 6 - Development Control requirements

Welsh Government

Technical Advice Note 11 – Noise

Planning Policy Wales Edition 5 – November 2012

4.4 Representations in relation to Conditions 5 & 6 outline concerns over the potential impact of 7 day activity on occupiers of residential property and wildlife, and question the need for operation on a Sunday at this stage given the current commercial situation with the company. One of the representations expresses concern that the variation may be to increase the sale value of the business.

The Council's Pollution Control Officer has advised that there are controls over noise levels from the operation of the factory and the service yard on the existing permission, which accord with WHO guidelines and should address any issues arising from Sunday working.

4.5 In weighing up the issues relevant to the proposed deletion of Condition 5 and the variation to Condition 6, Officers would first point Members to the contents of paragraph 1.4.3 which details the reasons leading to the inclusion of the conditions on the original permission. Basically, the applicants' agents advised that the operation of the printworks would be restricted to Monday – Saturday, and Officers simply embodied their proposals in recommending the inclusion of Conditions 5 and 6.

Officers suggest, with respect to representations received, that the main land use planning issue to address is the potential impact on residential amenity from the

operation of the factory for an additional day a week beyond the existing 6 days a week permitted by the planning consent.

It is significant to the consideration of the current proposals to note that in recommending grant of permission for the printworks, Officers also suggested controls should be imposed on the operation of the factory and its service yard through imposition of conditions setting maximum permissible noise levels, and the provision of an acoustic barrier in the service yard to help achieve this. These controls were included in Conditions 9 to 13 of the main permission, and were to specifically protect the amenities of occupiers of residential property in the locality. There is therefore in place conditions which set an appropriate limit on the noise generated from the development in the normal day to day operation of the printworks business, so residents in the locality are not subject to unreasonable noise/disturbance from the factory on Sundays, or from the service yard between 0600 – 2300 hours on any day of the week.

Having regard to other matters raised by objectors, it is not considered necessary for a company to provide evidence that there is sufficient business to require 7 day a week operation. It is the land use planning impact of the variation sought which has to be considered by the Local Planning Authority. Respectfully, issues of ecological impact have already been considered at the time of assessing the original application, and it would not be justifiable to require further detailed wildlife studies in connection with the specific variations to conditions now sought. Concerns over the proposals being an indirect way of increasing the attractiveness of the business to improve its value to a potential buyer are not relevant to the planning considerations. Whilst acknowledging the potential for additional activity and movement of vehicles, etc. in connection with the operation of the business on a Sunday, it is not considered likely given the scale of activity and the distance to residential property, that this would give rise to levels of disturbance sufficient to merit a refusal. It has also to be borne in mind that the factory site is on an allocated employment area in the Unitary Plan, and its future development would give rise to considerably greater activity over time.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The applications are seeking consent to permit the operation of the proposed printworks on Sundays. The land use planning impacts to address are the potential impact on the amenities of occupiers of residential property in the area. Officers consider the noise controls imposed by other conditions on the permission are adequate to protect the interests of residents, and the additional activity which may be involved would not justify the refusal of the deletion and variations proposed.

RECOMMENDATIONS

(1) That in relation to Condition 5:-

- Permission be granted for deletion (i.e. to permit operation of the factory on Sundays).

(2) That in relation to Condition 6:-

- Permission be granted to the variation of the condition. Condition 6 to read as follows:-

"6. Deliveries to the factory, and the transfer/collection of waste and other activity within the service area shall not be permitted outside the hours of 0600 – 2300, Monday to Sunday.

NOTES TO APPLICANT: None