

Mr John R Lewis
Morris Roberts Solicitors
14-15 Spilman Street
Carmarthen
SA31 1SR

Eich cyf . Your ref : D.42949
Ein cyf . Our ref: A- -PP121-07-022
A- -PP121-07-023
A- -PP121-07-024
A--PP121-07-025

Date 12 April 2005

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77
APPLICATIONS BY MR W DAVIES OF DAVMOR DEVELOPMENTS:**

**DETAILED APPLICATION FOR RESIDENTIAL ROAD AT MAES YR EGLWYS
LLANDOVERY (NATIONAL ASSEMBLY REFERENCE A- -PP 121- 07-022)**

**DETAILED APPLICATION FOR RESIDENTIAL BUNGALOW AT PLOT 4 MAES
YR EGLWYS LLANDOVERY (NATIONAL ASSEMBLY REFERENCE APP- -121-
07-023)**

**DETAILED APPLICATION FOR RESIDENTIAL BUNGALOW AT PLOT 3 MAES
YR EGLWYS LLANDOVERY (NATIONAL ASSEMBLY REFERENCE A- - PP121-
07-024).**

**OUTLINE APPLICATION BY CARMARTHENSHIRE COUNTY COUNCIL
PROPOSED RESIDENTIAL SITE OF 0.75 HECTARES ON LAND AT HEOL
PLUGUFFAN, LLANDOVERY (NATIONAL ASSEMBLY REFERENCE APP- -121-
07-025)**

Parc Cathays
Caerdydd
CF10 3NQ

Cathays Park
Cardiff
CF10 3NQ



1. Consideration has been given to the report of the Inspector, Mr Clive Nield BSc, CEng, MICE, MCIWEM who held a local inquiry into the above three applications by your client Mr W Davies of Davmor Developments and one by your client Carmarthenshire County Council.

2. On 11 September 2003 the National Assembly for Wales directed under Section 77 of the Town and Country Planning Act 1990 (the 1990 Act) that the above applications be referred to it rather than be determined by the local planning authority. On 15 March 2005 the Assembly resolved that a committee, to be known as Planning Decision Committee (2)2005/3 be established, in accordance with Standing Order 17 to discharge the functions of the Assembly under Section 77 of the 1990 Act, in respect of the applications by Mr W Davies of Davmor Developments and Carmarthenshire County Council. Accordingly, the Planning Decision Committee has considered the applications and has resolved under Standing Order 17.16 to adopt this letter.

3. The Inspector's conclusions are set out in paragraphs 93 to 126 of his report, a copy of which is enclosed, and those conclusions are reproduced as Annex A to this letter. The Inspector recommended that the applications be allowed subject to conditions. For the reasons given below the Planning Decision Committee disagree with the Inspector's recommendation that planning permission should be granted for the bungalow on plot 3, the bungalow on plot 4 and for the residential site, but accept his recommendation that planning permission be granted, subject to conditions, for the residential road.

4. The application sites are shown as completely within Zone C2 on the Development and Flood Risk: Development Advice Map accompanying Technical Advice Note 15:Development and Flood Risk (TAN15). The Development Advice Map is a National Assembly document drawn from the most up to date information and maps produced by the Environment Agency.

5. In connection with the sites' classification as C2 the Inspector referred to the advice of TAN 15 that only less vulnerable development, the definition of which includes transport and utilities infrastructure, should be considered in such areas and that highly vulnerable development, the definition of which includes all residential premises, should not be considered. He noted that consequently, according to TAN 15, only the application for the residential road should be considered further. However, the Inspector concluded that TAN 15 is only one of several material considerations in these cases and, in order to assess the relative weight to be given to it, was necessary to give further thought to the question of flood risk for the proposed developments. He went on to identify factors in relation to flood risk which could temper the weight to be given to the detailed guidance of TAN 15

6. The Inspector considered that there was some merit in the argument that the land should have been classified as C1 rather than C2 on account of the presence of infrastructure in the area and because of its partial development. He accepted that the main road passing the site provided some protection and should be taken into account but did not consider it was sufficient to be described as significant flood defence infrastructure. In the Planning Decision Committee's view the infrastructure and partial development in the area is not sufficient for it to fall within the definition of

C1 in TAN 15 which refers to areas of the floodplain which are developed and served by significant infrastructure, including flood defences.

7. The Inspector also concluded that the mitigation measures proposed for the site, including raised site levels and finished floorlevels and the provision of drainage lagoons, would ensure that the potential consequences of a flood event would be acceptable and a better protection than if the site had been included in the recent flood protection scheme for the town. The Planning Decision Committee noted that Welsh Assembly Government policy is to move away from flood defence and the mitigation of the consequences of new development in areas being defined of flood hazard. This is reflected in TAN 15 which does not support highly vulnerable residential development in Zone C2 whether or not in association with a such infrastructure. In consequence the Planning Decision Committee do not consider that the provision of flood defence infrastructure in association with these residential applications should be a factor in assessing the degree of conflict with the policies of TAN 15. Nevertheless, they had regard to the proposals for such infrastructure as a material consideration in their overall consideration of the applications.

8. As regards the tests specified in TAN 15 to address justification for the location of the development and for assessing flooding consequences, the Inspector considered that the principle of the location tests would be largely met and that the assessments of flooding consequences carried out as well as the flood prevention and mitigation measures proposed were adequate. As previously indicated the Planning Decision Committee's view is that the sites should be regarded as within Zone C2 where only less vulnerable development, which does not include residential, should be considered. As such they do not consider it appropriate to apply the TAN 15 tests to the residential applications in deciding whether those applications are in accordance with TAN15 advice. However, again the Planning Decision Committee have had regard to the benefits identified by the Inspector in relation to these matters as material considerations in their overall consideration of the applications.

9. The Planning Decision Committee agree with the Inspector that the starting point in the consideration of the applications is the development plan and that notwithstanding the risk of flooding the proposed developments would be in accordance with the plan. As such the Planning Decision Committee went on to consider whether there are other material considerations indicating that a decision should be made otherwise than in accordance with the development plan.

10. In the view of the Planning Decision Committee the proposed residential development would clearly conflict with the policy of TAN 15 that only less vulnerable development should be considered in zone C2 subject to the application of justification test including acceptability of consequences. Government planning policy is to move away from flood defence and the mitigation of the consequences of new development in areas being defined of flood hazard and in the Planning Decision Committee's opinion the recently published guidance in TAN 15 should be given significant weight.

11. The Planning Decision Committee have given careful consideration to the other material considerations which have also to be weighed in the balance.

They accept the Inspector's conclusions on the long term commitment to these developments, the benefits of the proposed developments to the local community and their acceptability in terms of visual and environmental impact. They also accept his conclusion that adequate flood protection and mitigation measures could be provided and that potential consequences for a flooding event would be acceptable.

12. Overall, while the developments are in accordance with the development plan the Planning Decision Committee consider that the strong Government policy objection to the proposed residential development points to refusal of those applications and that the material considerations favouring development, although not inconsiderable, are in this case insufficiently weighty to justify approval.

13. The guidance in TAN 15 is that where adopted plans contain allocations it is considered reasonable for planning authorities to require development proposals to plan for the consequences of flooding. However, in the circumstances of this case where the public local inquiry for emerging Draft Unitary Development Plan has been substantially completed and there are unresolved objections to the allocation of sites now considered by the Environment Agency to be within in the fluvial flood plain, the Planning Decision Committee do not consider this a consideration sufficient to affect their decision.

14. The Planning Decision Committee agree with the Inspector that as far as the proposal for a residential road is concerned this would be less vulnerable development and would not conflict with TAN 15.

15. The Inspector recommended that planning permission for the residential road be granted subject to the relevant conditions at the Annex to his report. Subject to the amendments referred to below the Planning Decision Committee consider that these conditions would adequately safeguard and mitigate all matters of environmental and flood risk protection and provide sufficient means for control of the proposed development by the local planning authority. The Planning Decision Committee do not consider it appropriate for a planning condition to seek adoption of works by a public body or statutory undertaker. They consider that a condition preventing development until surface water and flood protection schemes have been agreed by the local planning authority would afford sufficient control. The relevant conditions have been accordingly amended.

FORMAL DECISION

Planning application National Assembly reference A- - PP121-07-022

16. For the reasons given above Planning Decision Committee hereby grant planning permission in respect of the planning application reference TG/2108 dated 6 August 2002 made by your client Mr W Davies of Davmor Developments for a residential road at Maes Yr Eglwys, Llandovery (off Pluguffan Road) subject to the conditions at Annex B to this letter.

Planning application National Assembly reference A- - PP121-07-023

17. For the reasons given above the Planning Decision Committee dismiss the planning application reference TG/2042 dated 1 August 2002 made by your client Mr W Davies of Davmor Developments and refuse to grant planning permission for a residential bungalow at Plot 4 Maes Yr Eglwys, Llandovery Carmarthenshire.

Planning application National Assembly reference A- -PP121-07-024

18. For the reasons given above the Planning Decision Committee dismiss the planning application reference TG/2041 dated 1 August 2002 made by your client Mr W Davies of Davmor Developments and refuse to grant planning permission for a residential bungalow at Plot 3 Maes Yr Eglwys, Llandovery Carmarthenshire.

Planning application National Assembly reference A- -PP121-07-025

19. For the reasons given above the Planning Decision Committee dismiss the planning application reference TG/2268 dated 30 August 2002 made by your client Carmarthenshire County Council and refuse to grant planning permission for a residential site of 0.75 hectares on land at Heol Pluguffan, Llandovery Carmarthenshire.

20. This letter, a copy of which has been sent to the Head of Planning Carmarthenshire County Council, does not convey any approval or consent which may be required under any enactment, bye law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully

Carwyn Jones AM
Chair, Planning Decision Committee 2005/3

Enc: Leaflets "H" and "HC"