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Adran yr Amgylchedd, Cynllunio a Chefn Gwlad
Department for Environment, Planning and Countryside

Eich cyf . Your ref: AM/KAE/1475/4
Ein cyf . Our ref: A-PP116-97-003
Dyddiad . Date: 12 April 2005

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 and 174
APPEALS BY MR and MRS BERRY
LAND AT BERRYLAND, HOMESTEAD LANE, WREXHAM**

1. I refer to the letter dated 18 June 2002 issued by the Planning Inspector appointed by the National Assembly for Wales to determine the appeals made by

- (i) Mr Michael Berry and Mrs Florence Berry under Section 174 of the Town and Country Planning Act 1990 against an enforcement notice issued by Wrexham County Borough Council and dated 31 July 2001 alleging the change of use of land at Berryland, Homestead Lane, Wrexham, without planning permission, to use for the provision of residential caravan accommodation with associated sheds and the parking of vehicles. The appeals were made under grounds (a) and (g) of Section 174(2) [Appeal A]; and
- (ii) Mr Michael Berry under Section 78 of the Town and Country Planning Act 1990 against the refusal of the same Council on 9 July 2001 to grant planning permission for the use of the same land as a private gypsy caravan site comprising the siting of 1 residential caravan, 1 touring caravan and associated sheds for 1 local gypsy family. [Appeal B]

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2. The Inspector allowed the appeals, quashed the enforcement notice and granted planning permission, subject to conditions, for the use of the land for the siting of 1 residential caravan, 1 touring caravan and associated sheds for 1 local gypsy family. The Inspector's decisions on the appeals were challenged in the High Court by the Council but, by Order of the Court dated 4 November 2002 the Council's application was dismissed. The Council took the matter to the Court of Appeal and, by Order of that Court dated 19 June 2003, the decision of the High Court was overturned. Mr and Mrs Berry petitioned the House of Lords seeking permission to pursue an appeal against the decision of the Court of Appeal but on 23 February 2004 that petition was refused.

3. Consequently the judgement of the Court of Appeal to overturn the decision of the High Court stood and the Inspector's decisions on the appeals were quashed. The appeals were remitted to the National Assembly for reconsideration and redetermination.

4. By letter dated 22 March 2004 the parties to the appeals were afforded the opportunity to submit further written representations in respect of

- (a) the conclusions reached by the Inspector in his original decision letter;
- (b) the reasons behind the judgement of the Court of Appeal;
- (c) any material information which had come to light since the date of the original decisions on the appeals;
- (d) Welsh Office Circular 2/94 "Gypsy Sites and Planning"; and
- (e) any other consideration relevant to the redetermination.

5. They were also offered the opportunity to ask for the inquiry into the appeals to be re-opened. Both parties requested that the inquiry be re-opened and a copy of the Inspector's report of the inquiry, which re-opened on 30 November 2004 and ran for 3 days, is attached to this letter.

6. In the letter of 22 March 2004 the National Assembly for Wales recovered jurisdiction over the appeals and indicated that the decisions on them would be taken by a Planning Decision Committee of the National Assembly rather than by an Inspector. 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 Sections 78 and 174 of the Town and Country Planning Act 1990 in respect of the appeals by Mr and Mrs Berry. Accordingly, the Planning Decision Committee has considered the appeals and has resolved under Standing Order 17.16 to adopt this letter.

7. The Inspector's conclusions are set out at paragraphs 10.1 to 10.42 of his report and those paragraphs are at Annex A to this letter. The Inspector recommended that both appeals be allowed, the enforcement notice quashed and planning permission

be granted, subject to conditions, for the use of the land for the siting of 1 residential caravan, 1 touring caravan and associated sheds for 1 local gypsy family. The Planning Decision Committee agree with the Inspector's conclusions and accept his recommendations.

8. The Planning Decision Committee have considered the question of the conditions to be attached to the planning permission having regard to the conditions discussed at the inquiry, the comments of the Inspector and the advice contained in Welsh Office Circular 35/95 (The use of conditions in planning permissions). Subject to minor amendments the Planning Decision Committee consider that those conditions recommended by the Inspector, listed as the Annex to his report, should be imposed for the reasons given by him.

Post inquiry correspondence

9. Since the closure of the inquiry you and the Commission for Racial Equality have submitted further information which you have asked to be placed before the Planning Decision Committee. The Committee has considered the contents of those letters and take the view that they do not affect or alter any of the conclusions the Committee has reached on the evidence submitted before, and at, the inquiry.

FORMAL DECISION

10. For the reasons given by the Inspector the Planning Decision Committee hereby

- (i) allow Appeal A and quash the enforcement notice issued by Wrexham County Borough Council;
- (ii) allow Appeal B; and
- (iii) grant planning permission for the use of land at Berryland, Homestead Lane, Wrexham for the siting of 1 residential caravan, 1 touring caravan and associated sheds subject to the following conditions:-

1. The use hereby permitted shall be personal to Mr Michael and/or Mrs Florence Berry and to any resident dependants and shall be for a limited period being the period during which the premises are occupied by Mr Michael Berry and/or Mrs Florence Berry.

2. When the premises cease to be occupied for residential purposes by Mr Michael Berry and/or Mrs Florence Berry the use hereby permitted shall cease and all caravans, associated sheds, fencing and hardsurfacing brought on to the site in connection with the use shall be removed and all service connections stopped up.

3. Visibility splays measured 2 metres back from the Homestead Lane carriageway edge along the centreline of the access shall be provided to points measured along the same carriageway edge a distance 70 metres to the south and 45 metres to the north of the centreline. Within these splays the highway boundary means of enclosure and any other

obstructions shall be lowered to a maximum height of 1 metre above road level and, thereafter, no obstruction, natural or otherwise, within those splays shall be permitted to exceed 1 metre in height above road level. These splays shall be completed and the highway boundary means of enclosure within the splays and any other obstruction within the splays lowered to a maximum height of 1 metre above road level within 1 calendar month of the date of this decision.

4. Within 1 calendar month of the date of this decision, details of a scheme showing hedge and tree planting along the rear of the northern visibility splay line required by Condition 3 above shall be submitted in writing to the local planning authority for approval. The scheme shall be carried out as approved in the first available planting season (October – March) following approval. Any trees or plants which, within a period of 5 years from the completion of the scheme, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with other identical plants or trees of similar size and species unless the local planning authority gives written consent to any variation.

5. There shall be no more than 1 static residential caravan and 1 touring caravan on the site at any one time. The caravans shall be sited in the north western corner of the site behind the existing screen fence. Within 3 months of the date of this decision the static caravan shall be painted in a shade of dark green paint to be agreed in writing by the local planning authority. Thereafter any static caravan on the site shall be maintained in that colour.

6. Vehicles shall only park on the existing hardsurfaced areas along the western part of the site and between the caravans and storage building. Space shall be maintained at all times to enable vehicles to turn within the site so that they may enter and leave in forward gear.

7. No commercial activity shall take place on the site, including the storage of materials and the stationing of any vehicle over 3.5 tonnes overnight. There shall be no loading or unloading of vans, open backed vehicles or lorries on the site at any time other than for domestic purposes.

8. A scheme for the connection of the site to services, including drainage, electricity and water supply, shall be submitted in writing to the local planning authority within 1 month of the date of this decision. The scheme shall be carried out as approved within 6 months of the date of its approval.

11. This letter, a copy of which has been sent to the Chief Legal and Administration Officer of Wrexham County Borough 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 (2) 2005/3

Encs: Leaflets "H" and "HC"