

Mr Huw Williams  
Cushman & Wakefield Healy  
& Baker  
43/45 Portman Square  
London  
W1A 3BG

Eich cyf . Your ref : HPW00015  
Ein cyf . Our ref: A- -PP152-07-018  
A- -PP 152-07-020

17 January 2007

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77 APPLICATIONS BY  
MERTHYR VILLAGE LIMITED FOR:**

**1. (PHASE 1) FULL APPLICATION (REF020060) – RECLAMATION AND  
LANDSCAPE RESTORATION OF 83 HECTARES OUT OF 224 HECTARES OF  
DERELICT AND DESPOILED LAND INCLUDING TIP REPROFILING AND COAL  
RECOVERY FROM SELECTED SPOIL TIPS**

**2. (PHASE 2) OUTLINE APPLICATION (REF 020260) – COMPREHENSIVE  
DEVELOPMENT SCHEME TO PROVIDE RETAIL, LEISURE, OFFICES, HOTEL,  
FOOTBALL STADIUM, COUNTRY PARK AND RESIDENTIAL USES WITH  
ASSOCIATED ACCESS, SERVICING, PARKING AND LANDSCAPING**

**ON LAND AT RHYDYCAR, MERTHYR TYDFIL, BOUNDED BY THE A470 TO THE  
EAST AND HEOLGERRIG TO THE NORTH**

1. Consideration has been given to the report of the Inspector, Mr Alwyn B Nixon BSc (Hons), MRTPI who held a local inquiry into the above two applications by your client .

2. On 7 March 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

Parc Cathays  
Caerdydd  
CF10 3NQ

Cathays Park  
Cardiff  
CF10 3NQ



be referred to it rather than be determined by the local planning authority. On 6 December 2006 the Assembly resolved that a committee, to be known as Planning Decision Committee (2)2007/1 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 Merthyr Village Limited. 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 15.1 to 15.127 of his report, a copy of which is enclosed, and those conclusions are reproduced as an Annex to this letter. The Inspector recommended that planning permission be refused for both applications and the Planning Decision Committee accepts his recommendations.

4. The Planning Decision Committee agrees with the Inspector that a decision must be taken in relation to each application, and that each must be determined on its own merits. However, the Planning Decision Committee also agrees with the Inspector that the nature and interrelationship of the two applications is such that they are best considered together as linked, sequential phases of one overall scheme, and not in isolation.

5. At the inquiry concerns were expressed on behalf of your client about the procedural and evidential basis of the evidence presented by Cadw.

6. The letter of 1 February 2006 from Cadw to the inquiry Inspector (Inquiry Document CADW 19) confirms that it is the Division of the Welsh Assembly, falling within the portfolio of the Minister for Culture, Welsh Language and Sport, which carries out the National Assembly for Wales' responsibilities for the historic environment. The letter also confirms that Cadw is a statutory consultee under Article 10(1)(n) of the Town and Country Planning (General Development Procedure) Order 1995, and that an Inspector of Ancient Monuments can give evidence at a planning inquiry under Section 40 of the Government of Wales Act 1998 whereby the National Assembly can do anything which is calculated to facilitate or is conducive or incidental to the exercise of any of its functions which would include that under the 1995 Order and more generally those related to the historic environment. It is also noted that under article 11(2) of the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003 a planning inspector has the authority to allow any party to take part in an inquiry.

7. In its case put to the inquiry Cadw stated that its advice was offered without prejudice to future considerations of the application and that after the completion of the inquiry the application would be considered independently by the Planning Decision Committee. It was also stated by Cadw that it is required to limit itself to identifying the historical and archaeological importance of the remains within the application site, and to assessing the impact of different aspects of the development, in relation to national and local policies and guidance, and that it is for the decision-maker to weigh in the balance the benefits and disbenefits of the applications before the inquiry.

8. The Planning Decision Committee considers Cadw was acting within its statutory remit in giving evidence to the inquiry and that the basis on which the evidence was

presented to the inquiry, indicated at paragraph 7, properly indicates an operational separation between Cadw and the planning decision process. The Committee therefore considers that it is entitled to have regard to the evidence of Cadw, giving appropriate weight to it in the context of the evidence given by other persons attending the inquiry.

9. The Planning Decision Committee agrees with the Inspector, for the reasons given by him, that both the phase 1 and phase 2 proposals fundamentally conflict with the provisions of the development plan and with the clear thrust of government planning policy guidance. The Inspector's assessment that the proposals would have serious adverse consequences for the important nature conservation and historic interests of the site and would be unduly harmful to the visual quality of the landscape and to the public amenity of the site is accepted by the Planning Decision Committee. It is also agreed that the mitigation proposed and the provisions of the completed Section 106 Agreement would not offset effectively the adverse effects in these terms, and that the adverse consequences of the proposals could not be overcome by the imposition of conditions.

10. Nevertheless, the proposals clearly represent a form of strategic development and the Planning Decision Committee has carefully considered the arguments advanced by your client concerning the underlying structural decline and the need for significant, strategic scale development in the Heads of the Valleys. It was contended that the need for a strategic development-led repositioning of Merthyr Tydfil had been recognised in policy terms and that these policies were directly applicable to the determination of these applications and to be given the greatest weight. The Planning Decision Committee acknowledges the importance that the Wales Spatial Plan places on the need for strategic development in Merthyr Tydfil to tackle deprivation and depopulation, and that "Heads - We Win..." sets out a vision for the revitalisation of the Heads of the Valley with an initial focus on the twin hubs of Merthyr Tydfil and Ebbw Vale. The Planning Decision Committee has had regard to these policies as important considerations in the determination of the applications. The Planning Decision Committee has also noted that "Turning Heads" a 15 year strategy for the Heads of the Valleys has been approved and that the Assembly has announced funding towards the programme.

11. The first part of the Wales Spatial Plan sets out a national framework providing a spatial vision for Wales as a whole based on core principles of building sustainable communities: promoting a sustainable economy, valuing the environment, achieving sustainable accessibility; and respecting distinctiveness. In the second part of the Plan the strategy for regeneration along the Heads of the Valleys corridor refers to the need to focus on promoting developments in housing, retail, leisure, and town centres as well as in economic development. However, neither the Wales Spatial Plan nor "Heads - We Win..." identify specific sites for development and the Planning Decision Committee agrees with the Inspector that there is nothing to suggest that they were intended to undermine the primacy of the development plan in this respect. The Inspector's view that the documents do not supplant the clear thrust of Planning Policy Wales concerning the balanced pursuit of all four core sustainability objectives concerning social, environmental, resource and economic considerations in the determination of planning and land use matters is accepted by the Planning Decision Committee.

12. The Planning Decision Committee accepts the need for strategic development in Merthyr Tydfil and has taken account of the argument that its regeneration requires the catalyst of a major development scheme to change the image of the town and encourage further investment. However, the Inspector considered that to channel such large scale development and investment representing much of Merthyr Tydfil's development requirements for the coming years, to a location outside the existing built up limits would undermine rather than assist the regeneration of the town centre and other parts of the urban fabric which the Wales Spatial Plan and "Heads-We Win..." seek to promote. Having given careful consideration to this issue the Planning Decision Committee is not persuaded on the basis of the evidence before them that the Inspector's conclusion should not be accepted.

13. Overall, the Planning Decision Committee agree with the Inspector that the other considerations advanced in favour of the proposals, including the strategic investment requirement, indicated by the Wales Spatial Plan and "Heads – We win..." are insufficient to outweigh the fundamental conflicts with development plan and with national planning policy, and the substantial harm that would be caused by both the phase 1 and phase 2 proposals to the ecological, historic and visual characteristics of the site.

14. The Planning Decision Committee agrees with the Inspector that refusal on grounds of prematurity would not be appropriate in this case. However, the Inspector also indicated at paragraph 15.104 of his report that an adverse consequence of a decision to permit the current proposals would be to predetermine a large part of the development proposals part of the plan, in advance of the sustainability appraisal which will form part of the new development plan process. The Planning Decision Committee has noted the Inspector's opinion on this point but considers, in the context of its other conclusions on the proposals, that it is not necessary to have regard to it as a determining factor in its consideration of the proposals.

15. The Planning Decision Committee agrees with the Inspector that the Council's support for the proposals is a material consideration and it has taken into consideration the Council's reasons for supporting the proposals. However, while noting the Inspector's comments at paragraphs 15.106 and 15.107 of his report on the influences which led Council Members to support the scheme, the Planning Decision Committee again has not had regard to those comments as a determining factor in its decision on these proposals: the Committee's view is that it is appropriate for the Council's support to be straightforwardly considered on its merits.

16. The Planning Decision Committee has had regard to correspondence submitted after the Inquiry closed but does not consider that any new evidence or new matter of fact was raised which would materially affect the decision on the application.

FORMAL DECISION

**Planning application National Assembly reference A- - PP152-07-018**

17. Subject to the comments at paragraphs 14 and 15 above the Planning Decision Committee agrees with the Inspector's conclusions and accepts his recommendation. Therefore, the Planning Decision Committee hereby dismisses planning application reference 020060 submitted on 26 February 2002 by your client Merthyr Village Limited and refuses to grant planning permission for (Phase 1) full application - reclamation and landscape restoration of 83 hectares out of 224 hectares of derelict and despoiled land including tip re-profiling and coal recovery from selected spoil tips.

**Planning application National Assembly reference A- -PP 152-07- 020**

18. Subject to the comments at paragraphs 14 and 15 above the Planning Decision Committee agrees with the Inspector's conclusions and accepts his recommendation. Therefore, the Planning Decision Committee hereby dismisses planning application reference 020260 dated 3 July 2002 made by your client Merthyr Village Limited and refuses to grant planning permission for (Phase 2) outline application - comprehensive development scheme to provide retail, leisure, offices, hotel, football stadium, country park and residential uses with associated access, servicing, parking and landscaping

19. A copy of this letter has been sent to the Head of Planning, Merthyr Tydfil County Borough Council and to those organisations and interested persons who appeared at the inquiry.

Yours faithfully

**Carwyn Jones AM**

Chair, Planning Decision Committee (2)2007/1

Enc: Leaflets "H" and "HC"