

Mr M Buxton MRTPI

Bovis Homes Ltd

Cleeve Hall

Bishops Cleeve

Cheltenham

Gloucestershire

GL52 8GH

Eich cyf . Your ref : MB/CS

Ein cyf . Our ref: A-PP 133-98-002

Date: 13 November 2002

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 78

APPEAL BY BOVIS HOMES LIMITED

**OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF THE WHOLE SITE AND
FULL APPLICATION FOR THE FIRST PHASE OF DEVELOPMENT COMPRISING 121
DWELLINGHOUSES TOGETHER WITH LANDSCAPING PROPOSALS INCIDENTAL OPEN**

SPACE AND OTHER ANCILLARY WORKS

ON LAND AT WOODSIDE USK

1. Consideration has been given to the report of the Inspector, Mr Clive Nield BSc, CEng, MICE, MCIWEM who held a local inquiry into your client's appeal to the Assembly under Section 78 of the Town and Country Planning Act against the decision of Monmouthshire County Council to refuse planning permission for a hybrid application being an outline application for residential development of the whole site and a full application for the first phase of development comprising 121 dwelling houses, together with landscaping proposals, incidental open space and other ancillary works on land at Woodside, Usk. Details of land drainage infrastructure are also included.
2. On 16 May 2002 the National Assembly for Wales directed that this appeal should be determined by the Assembly instead of an appointed Inspector because the appeal raises issues relating to residential development of 150 or more houses. On 12 November 2002 the National Assembly for Wales resolved that a Committee to be known as Planning Decision Committee 2002/7 be established in accordance with Standing Order 35 to discharge the functions of the Assembly under Section 79 of the Town and Country Planning Act in respect of the above appeal. Accordingly the Planning Decision Committee has considered the appeal and, as required by Standing Order 35.16 the Chair of the Committee has signed this letter which the Committee has resolved to adopt.
3. The Inspector's appraisal and conclusions are set out at paragraphs 167 to 202 of his report, a copy of which is enclosed, and those conclusions are reproduced as an Annex to this letter. The Inspector recommended that the appeal be dismissed.
4. With regard to the question of environmental impact assessment the Inspector's report includes references to the functions of the Secretary of State under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (the 1999 Regulations). In Wales those functions are exercised by the National Assembly for Wales. The Inspector also states that he was asked to refer the matter of a screening direction under regulation 9(2) of the 1999 Regulations. The Planning Decision Committee consider that Regulation 9(2) is applicable where the Inspector is to determine a case rather than the Assembly. Nevertheless, the Committee are satisfied that the Assembly has the power to require an Environmental Assessment to be submitted at any time before the decision on the appeal is issued.
5. The Planning Decision Committee agree with the Inspector, for the reasons given by him at paragraphs 169 and 170 of his report, that Monmouthshire County Council have met the

requirements of the 1999 Regulations concerning the need for a screening opinion. The Committee also consider, for the reasons given by the Inspector at paragraph 172 of his report, that this is not a case requiring environmental impact assessment and that the Assembly should therefore not require the submission of an environmental statement.

6. The Inspector noted that all the parties agreed that, until further advice is issued by the National Assembly in a revised version of Technical Advice Note (TAN) 15 Development and Flood Risk, the advice in Planning Policy Guidance Note 25 (PPG25), Development and Flood Risk, which was published for use in England, provides a useful indication of government thinking and a helpful structure for evaluating the suitability of the appeal site for development. Using the methodology of PPG25 the Inspector concluded that both the floodplain of the River Usk and Berthin Brook, and that of the unnamed watercourse, were in zones considered unsuitable for residential development and where PPG 25 advises that it should not normally be permitted. The Inspector considered that his finding served to reinforce his conclusion that the proposal would be contrary to the new national policy issued in Planning Policy Wales (March 2002) (PPW).

7. Although PPG25 is stated to apply to England only the Planning Decision Committee accept that it can be taken into account as material on the basis indicated by the Inspector pending the issue of the revised TAN15 but, in these circumstances, they do not consider that it should be accorded significant weight. The Committee agree with the Inspector's finding on PPG25. While the Committee agree with the

Inspector that this serves to reinforce his conclusion that the proposal would be contrary to the advice of PPW they consider that it is the conflict of the proposal with the advice of the new national policy in PPW, identified by the Inspector, which represents an overriding objection to the proposal.

8. Subject to the above comments the Planning Decision Committee agree with the Inspector's appraisal and conclusions and accept his recommendation. Accordingly, the Planning Decision Committee hereby refuse your client's appeal under Section 78 of the Town and Country Planning Act 1990.

9. A copy of this letter has been sent to the Director of Planning and Economic Development, Monmouthshire Council.

Yours faithfully

Sue Essex AM

Chair, Planning Decision Committee 2002/7

Enc: "H" and "HC"