



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

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Eich cyf / Your ref
Ein cyf / Our ref A-PP 106-07-041

8 February 2001

Dear Sir

**TOWN AND COUNTRY PLANNING ACT: SECTION 77
APPLICATION BY MR T A E PRICE AND MRS G M PRICE FOR THE RENEWAL OF
PLANNING PERMISSION (REF. M18097) FOR THE ERECTION OF 67 DWELLINGS,
PLAY AREA, ESTATE ROADS, WIDENING OF THE ADJOINING HIGHWAY AND
DRAINAGE WORKS ON LAND AT PT OS 2429, LLANDYSSIL, MONTGOMERY, POWYS.**

1. Consideration has been given to the report of the Inspector Clive Cochrane DipArch Reg/Arch MSc MRTPI who held a local inquiry into your client's application for residential development at Llandyssil, Montgomery, Powys.
2. On 10 December 1999 the National Assembly for Wales directed under Section 77 of the Town and Country Planning Act 1990 (the 1990 Act) that the application be referred to it rather than being determined by the local planning authority. On 6 February 2001 the Assembly resolved that a committee, to be known as Planning Decision Committee 2001/1 be established, in accordance with Standing Order 35 to discharge the functions of the Assembly under Section 77 of the 1990 Act, in respect of the application by Mr T A E Price and Mrs G M Price described above.
3. The Inspector's conclusions are set out at paragraphs 44 to 62 of his report, a copy of which is enclosed. The Inspector recommended that planning permission No M18097 be renewed, subject to conditions, but if the Assembly find that planning circumstances have changed due to recent emphasis on sustainable development in Planning Guidance (Wales) – Planning Policy, and the application is to be determined afresh on its merits, he recommended that the application be refused.
4. The advice of Planning Guidance (Wales) Planning Policy 1999 is that applications for the renewal of planning permissions should be determined in accord with the up to date



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development plan, and with due regard to Government planning guidance. Paragraph 60 of Welsh Office Circular 35/95 states that as a general rule applications for renewal should be refused only where there has been some material change in circumstances since the original permission was granted e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning policy guidance, material to the renewal application.

5. The Planning Decision Committee agree with the Inspector that the most relevant housing and settlement policies in the Powys Structure Plan (Replacement) 1996 and the Deposit Montgomeryshire Local Plan are the same today as they were in 1993 when detailed permission was granted.

6. The Inspector noted that the Welsh Office had issued a "holding" direction precluding the Council from formally adopting the Montgomeryshire Plan, but he concluded that as the plan remains on deposit, and has been through all the statutory stages in the adoption procedure, it should be accorded weight in the determination of the planning application. He concluded from the evidence presented to the inquiry, including the letter of 3 July 2000 from the National Assembly for Wales in reply to the letter of 22 May from Powys County Council regarding the formal direction to amend the text of the plan and to clarify the basis for its settlement policies, that the holding direction had enabled the National Assembly to consider further modifications to the Montgomeryshire Local Plan settlement policies, but that these were unlikely to involve any change to the classification of Llandyssil as a "principal settlement". Having regard to the proposed textual changes to the Deposit Montgomeryshire Local Plan in the Council's letter of 22 May 2000 he concluded that no material changes in planning circumstances in relationship to the proposed development had occurred since the original permission was granted in 1993.

7. In considering the status of the Montgomeryshire Local Plan the Planning Decision Committee have had regard to the holding direction issued by the Secretary of State in respect of the plan on 16 October 1997, and the further direction issued on 31 July 2000 by the National Assembly for Wales directing Powys County Council to modify the plan's explanatory text to clarify the basis for the settlement classification, the reasons for placing settlements within that classification and the dwelling capacity of each settlement. The Direction and list of Proposed Modifications by the County Council were placed on deposit on 29 September 2000 with a closing date for the submission of objections of 10 November 2000. The County Council received two objections to the proposed modifications one of which concerned the classification of Llandyssil. The County Council considered these proposals on 1 December 2000 and on 8 December 2000 published its decision on the objections in a Notice of its Intention to Adopt the Local Plan twenty eight days after the publication of that notice. The County Council decided to propose no modifications in the light of its consideration of the objections. At the same time as the publication of the notice the County Council asked the National Assembly for Wales to lift the direction issued on 31 July 2000. The National Assembly for Wales is currently considering that request.

8. The Planning Decision Committee consider that, in view of the outstanding objections to the proposed modification of the plan and pending the decision of the National Assembly for Wales on the request for the lifting of the 31 July 2000 direction, little weight should be accorded to the emerging local plan in so far as it concerns the settlement allocation of Llandyssil.

9. The Planning Decision Committee agree with the Inspector that the objections raised by the Campaign for the Protection of Rural Wales at the inquiry into this proposal, regarding

the classification of Llandyssil as a principal settlement, are matters for the development plan process rather than for consideration in the context of this application.

10. Turning to the changes in national planning guidance which have occurred through the introduction of Planning Guidance (Wales) Planning Policy 1996 and the First Revision 1999, the Planning Decision Committee agree with the Inspector, for the reasons given by him, that the guidance in those documents on the protection of the open countryside does not amount to a change in planning policy since full planning permission was granted for this proposal in 1993.

11. However, the Planning Decision Committee do not agree with the Inspector's comments, at paragraph 56 of his report, about the applicability of the new guidance in Planning Guidance (Wales) Planning Policy 1999 on sustainable development. Planning Guidance (Wales) Planning Policy states that the Government's land use policies as they apply in Wales will be taken into account in the determination of called-in applications and appeals. Even where the application is for renewal of an existing permission the Planning Decision Committee, having regard to the advice of WO Circular 35/95 that a material change in circumstances justifying refusal may include the publication by the Government of new planning policy guidance, are clearly of the view that it is current policies which must be applied and that a change in national policy may amount to a material change in planning circumstances justifying a refusal of a renewal. Planning Guidance (Wales) Planning Policy 1999 states that a key role of the planning system is to provide homes in a way which is consistent with the principles of sustainable development. The Planning Decision Committee regard this policy as relevant and material to the application and believe that very considerable weight should be attached to it having regard to the facts of the case in question. For the reasons given by the Inspector at paragraphs 59 and 60 of his report the Planning Decision Committee consider that there are strong objections to the proposal on the grounds that it would be out of proportion with the size of the existing settlement and would form a significant intrusion into the rural landscape area. The Planning Decision Committee also consider that it would result in an unacceptable increase in traffic onto the local highway network.

12. The Planning Decision Committee agree with the Inspector that the suggested smaller scale of development of the site would require a separate planning application.

13. The Planning Decision Committee has not had regard to the Inspector's comments, in paragraphs 55 and 56 of his report, on the apparent conflict between national and local policies as this is a matter for consideration in the context of the development plan process.

Conclusion

14. The Planning Decision Committee agree with the Inspector that there ought to be considerable certainty in the allocation of land uses through the planning process, and that Government guidance confirms that intending developers should be able to renew permissions within the time limits, where planning circumstances have not changed.

15. The Planning Decision Committee consider that in this case regard should be had to the new policy on sustainable development, set out in Planning Guidance (Wales) 1999, as a relevant and material consideration in the determination of the application. They have concluded that there is a strong objection to this proposal on the grounds of its conflict with that policy. While they have taken account of the fact that the relevant settlement policies of the emerging Montgomeryshire Local Plan are the same now as they were at the time full permission for the proposal was granted in 1993, they have concluded that little weight can

be attached to those policies in view of outstanding objections to the proposed modifications, and pending the decision of the National Assembly for Wales on the request for the lifting of the 31 July 2000 direction.

16. For the reasons given above the Planning Decision Committee dismiss your client's application and refuse to grant planning permission for the renewal of planning permission ref: M18097 for the erection of 67 dwellings, play area, estate roads, widening of the adjoining highway and drainage works.

17. A copy of this letter has been sent to the Director of Planning Powys County Council, the Shire Planning Officer, (Montgomeryshire Division) Powys County Council, all those persons who appeared at the inquiry and Mr T A E Price and Mrs G M Price.

Yours faithfully



DAVID DAVIES AM
Chair, Planning Decision Committee 2001/1

Enc: leaflets "H" and "HC".