

County Secretary

Powys County Council

Cambrian Way

BRECON

LD3 7HR

Eich cyf . Your ref

Ein cyf . Our ref A-PP069-98-007 to 015

Date: 27 June 2002

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77

PLANNING (LISTED BUILDINGS AND ARCHAEOLOGICAL AREAS) ACT 1990 SECTION 12

**APPLICATIONS BY POWYS COUNTY COUNCIL: PROPOSED BRECON INNER RELIEF ROAD
PHASE III**

1. Consideration has been given to the report of the Inspector, Mr Clive Cochrane DipArch

RegArch MSc MRTPI, who held a local inquiry into your Council's applications for:

- a. planning permission for the construction of the Brecon Inner Relief Road Phase III;
- b. listed building consent for the demolition of 1 Watergate Brecon, 14 and 17 Castle Street Brecon and the wall to the rear of 102 The Struet Brecon; and
- c. the alteration of 13, 15 and 18 Castle Street Brecon and Castle Bridge

2. On 4 July 2000, the National Assembly for Wales directed, under Section 77 of the Town and Country Planning Act 1990, that the planning application should be referred to it rather than being determined by the local planning authority. A further Direction, under Section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990, was issued on 18 January 2001 requiring that the listed building applications should be referred to the Assembly for determination. On 18 June 2002 the Assembly resolved that a committee, to be known as Planning Decision Committee 2002/5, be established in accordance with Standing Order 35 to discharge the functions of the Assembly under Section 77 of the Town and Country Planning Act 1990 and Section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of your Council's applications as described above. Accordingly, the Planning Decision Committee has considered the applications and has resolved under Standing Order 35.16 to adopt this letter.

3. In view of the possibility that the proposed development could have an adverse effect on the River Usk candidate Special Area of Conservation, which extends into that part of the River Honddu adjacent to the application site, advice has been sought from the Countryside Council for Wales as to whether the proposed works would be likely to have a significant effect on the site. The advice of the Countryside Council for Wales, which the Planning Decision Committee accepts, is that provided no works are carried out to the Castle Bridge or to the retaining walls abutting the River Honddu at the edges of the Market Street and Kwiksave car parks there is no likelihood of such an effect. If such works were carried out it is possible, depending on their nature, that there would be such an effect, in which case Regulation 48 of the Conservation (Natural Habitats etc.) Regulations 1994 (which the National Assembly has accepted should be applied to candidate as well as designated Special Areas of Conservation) would require an appropriate assessment of the implications for the site. Your Council has since decided to withdraw the application for listed building consent relating to Castle Bridge (and amended the planning application to exclude Castle Bridge) and has confirmed that it does not intend to carry out works to the walls abutting the River Honddu in reliance on any planning permission which may be granted. In the circumstances, the granting of planning permission would not authorise a plan or project likely to have a significant effect on the candidate Special Area of Conservation and the need for an appropriate assessment under Regulation 48 of the Habitats Regulations does not arise.

4. The Inspector's conclusions are contained in paragraphs 15.1 to 15.36 of his report, a copy of which is enclosed and those conclusions are reproduced as an annex to this letter. The Inspector has recommended that the application for planning permission and the applications for listed building consent be allowed and the Planning Decision Committee agrees with his recommendations as regards the planning application and the applications for the demolition of 1 Watergate and 14 and 17 Castle Street, Brecon. In the case of the alterations to 13, 15 and 18 Castle Street, Brecon the Committee is mindful of the advice at paragraph 111 of Circular 61/96:

"111. The authority must always be satisfied that it has adequate information to assess the effect of proposed works on the listed building before granting consent: the extent of the work, the method to be used, and the materials involved are all important. However, section 17(2) of the Act permits authorities to impose conditions requiring the subsequent approval of specified details of the works (whether or not these had been set out in the application). This provision is not in any sense an 'outline' listed building consent: it is simply intended to speed up the consideration of applications. It avoids the need for the authority to refuse consent if it is satisfied that the remaining details can safely be left for subsequent approval; but it should never be used unless authorities are satisfied that they have enough details to assess the impact of the proposals on the building as a whole".

The amount of detail that the Inspector identifies as being required to be submitted to the local planning authority is tantamount to a grant of listed building consent in outline and is unacceptable. The Committee consider that the proper course of action would be for the Council to apply, again, in the knowledge of what is needed to gain consent. The Inspector's recommendation in respect of these applications is not, therefore, accepted.

5. The Planning Decision Committee recognise that there is a dichotomy between the duty, in Section 54A of the Town and Country Planning Act 1990, to determine the planning application in accordance with the development plan unless material considerations indicate otherwise and that in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that the decision maker shall have special regard to the desirability of preserving listed buildings or their settings. Although there has been an adjustment in the line of the road its construction would be compatible with policy R3 of the adopted local plan and the loss of 1 Watergate - in preference to the unlisted Workmen's' Club and Institute - was fully considered at the Local Plan inquiry. On the other hand, the adopted Local Plan requires the strongest justification for the demolition of listed buildings within the Brecon Beacons National Park.

6. The Planning Decision Committee accept that the loss of the three buildings that need to be demolished for the new road is balanced by the reduction of traffic that will be brought

elsewhere in the town centre and which is contributing to the damage currently being caused to listed buildings especially in The Struet and both parts of High Street. Added to this, the currently run-down area along the west bank of the Honddu will be improved and this, in turn, will be beneficial to the setting of Brecon Castle.

7. Although there will be a loss of car parking spaces immediately adjacent to the Kwik Save store the Committee are satisfied that adequate replacement parking will be provided and that the construction of pedestrian crossing facilities on the new road will reduce the inconvenience to customers of the store. It is not accepted that the store's viability would be affected as this does not equate with evidence of similar stores elsewhere.

8. In considering the planning application, the Inspector was particularly asked to consider the effect of the proposal on the intention to designate the River Honddu as a Candidate Special area of Conservation. In this regard, the Planning Decision Committee are satisfied that the proposed conditions suggested by the Inspector - and the controls that will be exercised by the Environment Agency Wales and the Countryside Council for Wales during the construction works - will ensure that the scheme would be unlikely to affect the natural habitat of species in the Honddu or Usk rivers.

9. The Planning Decision Committee agree, generally, with the Inspector's recommended conditions. As regards the planning application, it is accepted that all are necessary to control the development. Insofar as the demolition of listed buildings is concerned, suggested condition 4 is unnecessary because Section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 precludes demolition until an adequate record has been made. As to the requirement for the Brecon Beacons National Park Authority (the local planning authority) to consult with Cadw before approving detailed Method Statements, it seems appropriate, as the applicant is a local authority, for approval to be sought from the Assembly as if this were a 'Regulation 13' application.

10. Subject to the above comments, the Planning Decision Committee accepts the Inspector's recommendations and hereby:

(a) grants planning permission for the construction of the Brecon Inner Relief road phase III in accordance with application P16857 dated 10 December 1999 (as amended by the Council's letter ref T&LS/SWB/LJW/0958 dated 24 May 2002) subject to the following conditions:

1. the development hereby permitted shall be begun within five years of the date of this letter.
2. notwithstanding the submitted plans, prior to the commencement of the development hereby permitted, all details of the proposed surface treatment of

the enhanced areas (coloured green), footways (coloured brown), car parking areas (coloured grey), surfaced areas (coloured red) and pedestrianised areas (coloured purple) shown on Drawing No 0598/P/022 shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.

3. notwithstanding the submitted plans of the Ship Street junction, prior to the commencement of the development hereby permitted, further details of the junction of the new road with Ship Street shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.

4. the lighting columns to be installed on Phase III of the Brecon Inner Relief Road shall match those on the existing Phases I and II.

5. the developer shall afford access at all times to an archaeological organisation or archaeologist nominated by the local planning authority and shall allow them to observe excavations and record evidence that might be uncovered as a result of the development.

6. before the Phase III link road is first opened to traffic and pedestrians, nos 13, 15 and 16 Castle Street shall have been made structurally sound, repaired and rehabilitated for future use in accordance with details submitted and approved for listed building consent.

7. before the Phase III link road north of Castle Street is first opened to traffic, a pedestrian crossing facility shall have been installed to serve the car parks and shopping trolley store at the rear of the Kwik Save store in accordance with a scheme that shall first have been agreed, in writing, with the local planning authority.

8. no development approved by this permission shall be commenced until a detailed Method Statement describing the works to be undertaken and details of any pollution prevention measures during the construction phase are submitted to, and approved in writing by, the local planning authority and implemented as agreed. The statement shall identify:

a. all fuels, oils and chemical storage facilities;

b. details of surface water drainage arrangements to be installed to intercept and treat contaminated surface water run-off;

c. details of measures to ensure that there is no polluting discharge from haul roads and disturbed areas; and

d. details of the nature, type and quantity of materials imported on site.

9. no development approved by this permission shall be commenced until a scheme for the disposal of surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in accordance with the agreed details.

10. prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas, roads and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not be allowed to pass through any oil interceptor.

11. The development hereby permitted shall not include any works to the walls situated in Market Street and Kwik Save car parks and which abut the River Honddu.

(b) grants listed building consent for the demolition of 17 Castle Street, 1 Watergate and 14 Castle Street in accordance with applications P16858, P16859, and P16860 dated 10 December 1999 subject, in each case, to the following conditions:

1. the works hereby permitted shall commence within 5 years of the date of this letter.

2. prior to the commencement of the works hereby permitted, a detailed Method Statement describing the works to be undertaken and any necessary remedial measures to adjoining properties, shall be submitted to, and agreed in writing by, Cadw: Welsh Historic Monuments.

3. the works of demolition hereby authorised shall not be commenced until a contract for the redevelopment of the site has been let and the outstanding details and schemes in respect of application P16857 dated 10 December 1999 have been agreed, in writing, by the local planning authority.

(c) grants listed building consent for the partial demolition of the garden wall to the rear of 102 The Struet Brecon in accordance with application P16861 dated 10 December 1999 subject to the following conditions:

1. the works hereby permitted shall commence within 5 years of the date of this letter.
2. prior to the commencement of the works hereby permitted, a detailed Method Statement describing the works to be undertaken shall be submitted to, and agreed in writing by, Cadw: Welsh Historic Monuments.
3. the works hereby authorised shall not be commenced until a contract for the redevelopment of the site has been let and the outstanding details and schemes in respect of application P16857 dated 10 December 1999 have been agreed, in writing, by the local planning authority.
4. within 4 weeks of the completion of the works hereby permitted any damage to the remaining parts of the wall shall be made good in accordance with a scheme that shall have first been submitted to, and agreed in writing by, Cadw: Welsh Historic Monuments.

(d) refuses listed building consent for the alterations to the west gables of 18 and 13 Castle Street, Brecon and the front and east gable of 15 Castle Street in accordance with applications P17049, P17050 and P17052 dated 10 December 1999.

11. This letter only grants consent under Section 53 of the Town and Country Planning Act 1990 and Section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It does not give any other approval or consent that may be required.

12. Attention is drawn to Section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the effect of which is that demolition may not be undertaken (despite the terms of this consent) until notice of the proposals has been given to the Royal Commission on the Ancient and Historical Monuments of Wales, Plas Crug, Aberystwyth, Ceredigion SY23 1NJ and the Commission subsequently have either been given reasonable access to the building for at least one month following the grant of consent, or have stated that they have completed their record of the building or that they do not wish to record it.

Yours faithfully



Tom Middlehurst AM

Chair, Planning Decision Committee 2002/5

Enclosure leaflets H, HC and HC(LBC)

