

# PDC(2) 2004-2 Decision Letter

The Head of Planning and Economic

Regeneration

Newport City Council

Civic Centre

Newport

NP20 4UR

Eich cyf . Your ref:

Ein cyf . Our ref: A-PP134-33-001

Dyddiad . Date: 5 February 2004

Dear Sir

## **Welsh Office Circular 37/84: Crown Land and Crown Development**

### **Proposed development by the Court Service of a Hearing Room Centre for the Immigration Appellate Authority and the Pensions Appeal Tribunal**

### **Land and building at Columbus House, Langstone Business Park, Langstone, Newport**

1. I refer to the proposals by the Court Service for the provision of a Hearing Room Centre for the Immigration Appellate Authority and the Pensions Appeal Tribunal at Columbus House, Langstone Business Park, Langstone, Newport. Details of the proposals were contained in the Notice of Proposed Development dated 27 September 2002 and the plans submitted therewith.

2. By notice dated 22 November 2002 your Council objected to the proposed development and the Court Service referred the matter to the National Assembly for Wales in accordance with the provisions of Welsh Office Circular 37/84. A non-statutory inquiry was held into the proposals on 15 July and 28-30 October 2003.

3. On 27 January 2004 the Assembly resolved that a committee, to be known as Planning Decision Committee (2) 2004/2 be established, in accordance with Standing Order 35, to discharge the function of the Assembly, under the provisions of Welsh Office Circular 37/84, in respect of the proposed development by the Court Service.

4. The Inspector's conclusions on the planning merits of the development are set out at paragraphs 15.1 to 15.43 of his report and his conclusions at paragraphs 15.44 to 15.50. These conclusions were reached in the knowledge that various external works had already been carried out to the building which were different to those shown on the plans accompanying the Notice of Proposed Development. Those differences were identified on Plan 98/7165\421B/18AB\0 and dated 25 September 2003. A copy of the report is enclosed and the paragraphs referred to are copied at Annex A to this letter. The Inspector recommended that the proposed development be allowed to proceed, subject to conditions.

5. The Planning Decision Committee agree with the Inspector's conclusions on the planning merits of the development and accept his recommendation that the development should be allowed to proceed.

6. Although the Court Service have indicated their willingness to comply with conditions or an obligation requiring the provision of

(1) a minibus service between Newport railway station and Columbus House;

(2) a Travel Plan for staff working in the building;

(3) vending machines; and

(4) signs and safety barriers for pedestrians crossing the A48, that does not remove the need to have regard to the advice contained in Welsh Office Circular 35/95 (The use of conditions in planning permissions). Although a decision to allow the development to proceed would not actually constitute a grant of planning permission that makes it no less important to ensure that any conditions the developer would be required to comply with are lawful.

7. The Circular advises that a condition should only be imposed where it is

- (i) necessary;
- (ii) relevant to planning;
- (iii) relevant to the development to be permitted;
- (iv) enforceable;
- (v) precise; and
- (vi) reasonable in all other respects.

Should a condition fail any one of those tests then its imposition would be unlawful.

8. While what the Court Service would be asked to provide may be desirable, that is not the same as being necessary. The basic test for the necessity of a condition is whether planning permission would have to be refused if the condition were not imposed or, in relation to this development, whether approval for the development to proceed would be withheld were the condition not imposed. If it would not, then the condition needs special and precise justification. Conditions should be tailored to tackle specific problems, rather than impose unjustified controls.

9. In accepting the Inspector's recommendations that the development be allowed to proceed the Planning Decision Committee also accept that there is a need to control the use in the future. As this is a Crown development any conditions would not be attached to a planning permission and any planning obligation under section 299A(3) of the Town and Country Planning Act 1990 would be subject to the limitations on enforcement set out in that section. Nevertheless, and in the expectation that the Court Service will recognise and adhere to any conditions which may be imposed under this decision letter, the Planning Decision Committee agrees that the development should proceed subject to Condition 1 (minibus service), Condition 2 (travel plan) and Condition 4 (highway safety works), as set out in the Annex to the Inspector's Report, for the reasons given by the Inspector in his Report.

10. In relation to condition 3 (vending machines) the Court Service have indicated the provision of vending machines in their proposals. Whilst this provision may be desirable, is it necessary and would the development be prevented from proceeding were the vending machines not supplied? There are facilities within the vicinity of Columbus House where refreshments may be obtained and the experience of the Court Service is that many appellants and their families bring their own food – paragraph 7.26 of the Inspector's report. In view of this the Planning Decision Committee does not consider it could be reasonably concluded that failure to provide vending machines would be fatal to the development proceeding. It is not, therefore, necessary.

11. For the reasons given above the Planning Decision Committee considers that the development the subject of the Notice of Proposed Development dated 27 September 2002, should be allowed to proceed

in accordance with Notice and the plans submitted therewith, as amended by Plan 98/7165\421B/18AB  
\0 and dated 25 September 2003, subject to the Conditions numbered 1, 2 and 4 in the Annex to the  
Inspector's Report.

12. This letter constitutes the National Assembly for Wales' determination of the proposals in  
accordance with the terms of Welsh Office Circular 37/84. Copies of this letter have been sent to the  
agents acting for the Court Service and all other persons who appeared at the inquiry.

Yours faithfully

**Carwyn Jones AM**

**Chair Planning Decision Committee (2) 2004/2**