

Mr Owen Jones

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Environmental Planning and Development

Consultants

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CF11 9LJ

Eich cyf . Your ref: OJ/99.802

Ein cyf . Our ref: A-PP172-98-002

APP-172-98-003

Dyddiad . Date: 23 January 2004

Dear Sir

## **Town and country planning act 1990:**

### **Section 78 appeals by bellway homes ltd**

### **Proposed residential development, open space and link road on land between the A48 road and Llantwit Major Road (B4270) at Darren Farm, Cowbridge**

1. Consideration has been given to the report of the Inspector, David Wilks BSc (Hons) DipEM MRTPI MCMI FRSA, who held a public local inquiry into 2 appeals under Section 78 of the Town and Country Planning Act 1990 (the 1990 Act) made by your client against the failure of the Vale of Glamorgan Council to determine within the prescribed period 2 applications for residential, open space and link road on land between the A48 Road and Llantwit Major Road (B4270) on land at Darren Farm, Cowbridge:-.

**Appeal A: Appeal reference A--PP172-98-002 (formerly APP/Z6950/A/02/1096305) made in respect of application (Ref 01/00826/OUT) dated 9 July 2001. Following a Direction under Article 3(2) of the GPDO 1995 the application was re-registered on 21 January 2002.**

## **Appeal B: Appeal reference A--PP172-98- 003 (formerly APP/Z6950/A/03/1108352) made in respect of application (Ref. 02/01617/OUT) dated 15 November 2002**

2. On 13 August 2002 and 22 January 2003 directions were issued by the Planning Inspectorate, under powers delegated by the National Assembly for Wales, that the appeals should be determined by the National Assembly rather than by a planning Inspector. On 13 January 2004 the National Assembly resolved that a committee to be known as Planning Decision Committee (2) 2003/2 be established in accordance with Assembly Standing Order 35 to discharge the functions of the Assembly under Section 79 of the Town and Country Planning Act 1990 in respect of the above appeals. Accordingly, the Planning Decision Committee has considered the appeals and has resolved under Standing Order 35.16 to adopt this letter.

3. The Inspector's conclusions are set out in paragraphs 12.1 to 12.78 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 appeals be dismissed. Subject to the comments at paragraphs 4 to 6 below the Planning Decision Committee agree with his conclusions and accept his recommendations.

4. The legal issues relating to the status of the Unitary Development Plan (UDP) Inspector's report are ultimately matters for the Courts. However, the Planning Decision Committee, for the reasons given by the Inspector at paragraphs 12.9 and 12.10 of his report, accept his conclusions regarding the materiality of the UDP Inspector's report.

5. At paragraph 12.5 of his report the Inspector concluded that some weight should be given the UDP Proposed Modifications document, which has been formally approved by the Council for use for development control purposes, as a form of Supplementary Planning Guidance. The Planning Decision Committee agree that some weight should be given to that document as it has been the subject of public consultation as part of the UDP process and a Council resolution, but do not agree that the document should be considered as a form of Supplementary Planning Guidance. The advice in Unitary Development Plans Wales, 2001 is that substantial weight should be given to Supplementary Planning Guidance which derives out of and is consistent with the development plan, has been prepared in consultation with the public and business subject to a council resolution to adopt it. However, it describes Supplementary Guidance as a means of setting out more detailed guidance on the way a UDP will be applied in particular circumstances or areas which can take the form of design guides or area development briefs, or supplement other specific policies in the plan. The Planning Decision Committee do not consider that the Proposed Modification Document falls within that definition.

6. The Inspector at paragraph 12.24 of his report concluded that as the impact of the site's development on Cowbridge had been considered in the context of the Unitary Development Plan process, albeit with different views reached by the Unitary Development Plan Inspector and the Council, there was not a prematurity issue in terms of plan preparation. The advice of Planning Policy Wales is that refusal on grounds of prematurity might be justifiable if a proposal would have a significant impact on an important settlement with an identifiable character. In the view of the Planning Decision Committee refusal of the proposal on this ground itself would not be justified.

7. The Planning Decision Committee agree with the Inspector's overall conclusion on Appeal B that the proposal would, in terms of the existing development plan and the emerging Unitary development plan, represent an unnecessary extension of urban development into the open countryside contrary to housing location and countryside protection policies. The Committee also agree that the proposal would harm the livelihood and amenity of the tenant of Darren Farm, that the proposed link road would undermine the policy proposal for the Llysworney By-pass in the emerging Unitary Development Plan and that the proposal would cause a substantial change to the character and appearance of the appeals site from a rural to urban scene which would adversely affect the visual and recreational

experience currently enjoyed and affect the setting of the Llanblethian Hillfort. The Committee also accept the Inspector's conclusion that there is no need for the housing proposal on the basis of a lack of supply in the Vale as a whole. While the Committee agree with the Inspector that there is some merit in the benefits of the development of the site identified in the Unitary Development Plan Inspector's report they agree with him that these are insufficient to outweigh the cumulative harm to the interests comprised within the objections.

8. The Planning Decision Committee also agree with the Inspector that the same conclusion applies to Appeal A with the addition of the further objections, including the adverse impact on archaeological remains, referred to at paragraph 12.78 of his report.

### **Formal Decision**

9. Subject to the comments at paragraphs 4 to 6 above the Planning Decision Committee accept the Inspector's conclusions for the reasons given by him and accept his recommendations. The Planning Decision Committee therefore hereby refuse your client's appeals under Section 78 of the Town and Country Planning Act 1990.

10. A copy of this letter has been sent to the Director of Legal & Regulatory Services, Vale of Glamorgan Council and to those persons and organisations who appeared at the inquiry.

Yours faithfully

**Carwyn Jones AM**

Chair, Planning Decision Committee (2)2003/2

Enc; Leaflets "H" and "HC"