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Date: 21 April 2010

Dear Sir/Madam,

ON APPEAL: PA09/1535/A – The Hampton Court Settlement – Approval in principle for the erection of four dwellings including the formation of new entrance and associated drainage works, Part of Field No. 522699, Quine’s Hill, Port Soderick, Braddan

I refer to the recent appeal hearing in respect of the above planning application.

In accordance with the provisions of the Town and Country Planning (Development Procedure) Order 2005, I am enclosing herewith a copy of the report of the person appointed to hear this appeal.

The Minister has considered the report, concurs with the appointed person’s conclusions, and accepts the recommendation that the appeal should be dismissed. Accordingly, he has directed that the refusal of the application under Article 6 of the Town and Country Planning (Development Procedure) Order 2005 should be confirmed.

Yours faithfully,



I. T. Thompson,
Chief Executive.

Please see over for circulation list/.....

Circulation List – PA09/1535/A

1. Paul Morris, Advocate for the Applicant Company, Appleby, 33-37 Athol Street, Douglas;
2. Construction Design Limited, The Studio, Glenmore, Belmont Hill, Douglas, IM1 4NX;
3. Braddan Parish Commissioners, Close Corran, Union Mills, Braddan;
4. Drainage Division, Meary Veg, Balnahowe, Santon, IM4 1HL;
5. Manx Electricity Authority, PO Box 177, Douglas, IM99 1PS;
6. Mr. J. Murphy, Hampton Cottage, Quine's Hill, Port Soderick, IM4 1BA;
7. Mr. and Mrs. S. Skillicorn, Magher y Gheill, Quine's Hill, Port Soderick, IM4 1AY;
8. Mrs. J. Hall, Hampton Manor, Quine's Hill, Port Soderick, IM4 1BA;
9. Mr. M. Stott, 2 Cronk Rhenny Villas, Quine's Hill, Port Soderick, IM4 1AU;
10. Highways & Traffic Division, DOI, Sea Terminal Buildings;
11. Secretary, Planning Committee;
12. Chairman and Members of the Planning Committee;
13. Secretary, Planning Appeals Inspectorate;
14. Mr. T. O'Hanlon, Treasury;
15. The Editor, Isle of Man Newspapers, Peel Road, Douglas;
16. Manx Radio Newsroom, Douglas Head, Douglas;
17. Mrs. J. Clague, St. Nicholas House, Breeze Hill, Laxey, IM4 7DL;
18. Radio 3FM, 45 Victoria Street, Douglas, IM1 3RS;
19. Energy FM, 100 Market Street, Douglas, IM1 1PH;
20. The Manx Herald, Seacliffe, Old Castletown Road, Ballaveare, Braddan. IM4 1BB.

Appeal by The Hampton Court Settlement against the refusal in principle for the erection of four dwellings, including new entrance and associated drainage works on part of field No.522699, Quines Hill, Port Soderick.

1. The Inquiry into this appeal was held on Tuesday 23 February 2010, the site inspection having been carried out on the previous day.

SITE AND DEVELOPMENT DESCRIPTIONS

2. The appeal site is located at Quines Hill on the Old Castleton Road. It has an area of about 0.8 hectares; the appellants own a further 1.9 hectares to the north. The scheme seeks approval in principle for 4 dwellings with associated new entrance and drainage works. One previous application for development was refused in December 2005.

THE CASE FOR THE APPELLANT

The material points are:

3. The current scheme seeks to address the reasons for refusal of the previous application. Previous objections relating to the vehicular access and drainage have been resolved. Circular 6/91 – Braddon Parish Plan – Policy 5.6(v) recognises that there may be some scope for consolidation of hamlets by limited infilling; Quines Hill area is specifically mentioned. Policy 13.2 also mentions the possibility of limited development in hamlets. Circular 2/92 allows additional dwellings in areas where studies are taking place. The Braddon Plan 2003 had gone through its full process before being abandoned for legal reasons; the Inspector’s assessment must be relevant and the current appeal site was identified for residential development. Housing Policy 4 of the Strategic Plan 2007 states that new housing will be located primarily in towns and villages.
4. The appeals mentioned by the Planning Officer relate to one site and that was not mentioned in the Braddon Plan. Since Circular 6/91, there have been 13 additional dwellings built within 650 metres of the appeal land. Precedent should be taken into account when considering the current scheme as numerous dwellings have been approved in the area based on Circular 6/91, 2/92, the emerging Braddon Plan and the Strategic Plan.
5. At the Inquiry, it was accepted on behalf of the appellants that the Braddon Plan had been withdrawn and that the appeal site was not zoned for development. However, it was claimed that weight should still be given to the Braddon Plan, the studies, procedures and proposals. In response to a question, the appellants confirmed that reliance was placed upon the Braddon Plan to support the current

scheme. It was also accepted that in the Strategic Plan, spatial policies do not mention Port Soderick for development.

THE CASE FOR THE PLANNING COMMITTEE

The material points are:

6. There are three main issues in this appeal. Firstly, whether the proposal accords with land use designation and planning policy, secondly whether the site can be accessed satisfactorily and lastly, whether the site can be properly drained. The appeal land is not designated for development and planning policy in Circular 6/91 and the Strategic Plan 2007 sets out a presumption against development of such land. The proposed development does not represent any of the stated exceptions and is an unwarranted development in the countryside.
7. The appellants claim that the development should be acceptable because it was identified for development in the emerging Braddon Local Plan. As the Minister of Local Government and the Environment advised Tynwald in 2006, that Plan has been abandoned and therefore carries no weight. Planning appeals have been determined since that time and support that opinion. The appellants also claim that a precedent has been set by the approval of other development schemes in the area. Rarely should such a situation create a precedent as each scheme should be determined upon its own merits. But the examples quoted by the appellants were before the adoption of the Strategic Plan by Tynwald and recent applications have been refused on the basis of that document. The current scheme indicates a suitable vehicular access and it would be possible to drain the site properly; the Department of Transport have raised no objection on either matter.

THE CASE FOR THE BRADDAN PARISH COMMISSIONERS

The material points are:

8. Object on the grounds that the land is not zoned for residential development and new development would be premature in advance of the Eastern Area Plan; the site is also subject to drainage problems.

THE CASE FOR THE DEPARTMENT OF TRANSPORT

The material points are:

Drainage Division

9. No objections.

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Highway Division

10. No objections.

THE CASE FOR THIRD PARTIES

The material points are:

Mr Murphy of Hampton Cottage and Mrs J Hall of Hampton Manor

- Object as development would create unwelcome precedent for further development.
- The vehicular access would be dangerous
- Development would spoil open views.
- The area is in danger of becoming a ribbon of development from Douglas; it would detract from the rural nature of the area.

S and E Skillican of Magher y Gheill

- Wish their interest to be noted and ask whether the issues raised in the previous application have been overcome.

Mr M Stott of 2 Cronk Rhennig Villa

- Object as area is not zoned for residential purposes
- Proposed development would set a precedent for further development, particularly as appellants have additional land in the area
- Development would create an estate environment which would not be in keeping

CONCLUSIONS

11. Having considered the matters raised at the Inquiry and in the written submissions, I have concluded that the main issue in this appeal is whether the proposed development would comply with current adopted planning policy.
12. I have noted the two appeal reports (AP07/0116 and 09/0040) mentioned by the Planning Officer in his report and the references made to the Braddon Local Plan. In both appeal reports it is the conclusion of the two Inspectors that as the Local Plan was formally abandoned, it is not a material consideration in the assessment of subsequent planning decisions. I concur with the two Inspectors.
13. At the Inquiry, it was suggested on behalf of the appellants that even though the Plan had been abandoned, the studies relating to it were still relevant and as the

- current appeal site was mentioned as being appropriate for some development that should be the basis for allowing the appeal. I completely disagree. As one of the previous Inspectors concluded, it would be illogical to take the view that some part of what underpinned draft policies should be used to support the current scheme, when the Plan itself was abandoned and has no material consideration in the current circumstances.
14. In my opinion, the policies that are relevant are the up-to-date adopted policies for areas such as Port Soderick and contained in the Strategic Plan 2007. General Policy 3 makes it very clear that development will not be permitted outside of areas zoned for development; the proposed development does not fall within any of the criteria listed in that policy. Environment Policy 1 makes it clear that the countryside should be protected for its own sake and that the countryside comprises all land outside defined settlements or land designated in Area Plans. The current proposal would be contrary to both policies.
 15. The appellants refer to Housing Policy 4 in support of the appeal proposals. But that policy also limits new housing to existing towns and villages or in sustainable urban extensions identified in Area Plans. It is my opinion that the appeal proposals would be contrary to this policy. In concluding upon adopted planning policy, I am of the view that the proposed development would be contrary to the most up-to-date and relevant planning policies and therefore the appeal should be dismissed. As the Parish Commissioners point out, until an Area Plan is adopted the current scheme should be regarded at least as being premature.
 16. Finally, the appellants claim that a precedent has been set by the grant of planning permission for a number of dwellings in the locality since Circular 6/91. However, it seems to me to again be illogical to base support for the current scheme upon a claim that could itself be said to set a precedent for even further development in the area contrary to current planning policy. I concur with the Planning Officer in that decisions should be made upon the merits of each case and in the current appeal, I see no merit in permitting development that would be contrary to up-to-date planning policies or in advance of an Area Plan that would set out in a comprehensive manner the form and location of future development in this area.
 17. I have noted that the Department of Transport raise no objection to either the proposed vehicular access or the possibility of an adequate drainage scheme for the site. I have taken into account all other matters raised at the Inquiry and in the statements, but none was sufficient to outweigh the conclusions that led to my recommendation.

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RECOMMENDATION

18. That the appeal be dismissed with the effect that the decision of the Planning Committee is upheld.

A handwritten signature in black ink, appearing to read 'D. G. Hollis', written in a cursive style.

**David G Hollis
Inspector**

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APPEARANCES:

FOR THE APPELLANT

Mr B Murphy
Mr P Morris

FOR THE PLANNING COMMITTEE

Mr A Holmes

FOR THE BRADDAN PARISH COMMISSIONERS

Mr C Whiteway
Mr A Jessop