

## Grounds for Refusal.

With reference to the guidance in Circular 23/93, the local authority must, "*produce evidence to substantiate each reason for refusal*". Furthermore, "*Each reason for refusal will be examined for evidence that the provisions of the development plan, and any relevant advice in Departmental planning guidance in PPGs, RPGs, MPGs or Circulars, and any relevant judicial authority, were taken into account*". When I drew up my original suggested reasons for refusal, this was the goal I set out with, since the reasons for refusal must relate to material planning considerations. I do not see that the situation has changed, and I would advise you to consider the reasons set out below.

### **1). This application is contrary to the advice presented by the Department of the Environment/Welsh Office in Planning Policy Guidance 14.**

Paragraph 2 of PPG 14 states, "The purpose of these guidelines is to principally advise local authorities, landowners and developers on the exercise of planning controls over development on land which is unstable *or is potentially unstable*. The aim is not to prevent the development of such land, *though in some cases that may be the appropriate response*" [my emphasis].

Paragraph 4 goes on to state, "The effects of ground instability vary in their nature... At their most extreme, they may threaten life and health or cause damage to buildings and structures, so generating public alarm. Whilst alarm may or may not be justified, public perception of the risks is such that it cannot be ignored."

Paragraph 20 states, "When reaching decisions on development proposals, local planning authorities have a duty to take all material considerations into account. The stability of the ground is a material consideration which should be taken into account when deciding a planning application."

### **2). Conflict with local development plan policies.**

The basic assumption in UK planning regulations is that development should be allowed. However, the Town and Country Planning Act and the newly revised Planning Policy Guidance No.1 ("General Policy and Principles") qualifies this by stating that development should fall within the guidance of the local development plan (Town and Country Planning Act s.72(2)). Where development outside of the plan is allowed there must be material considerations in favour of it (Town and Country Planning Act s.54(A)).

The Gwent Structure Plan outlines the following criteria for the siting of employment generating developments:

E7: "there will be a presumption against the establishing of industries which have the *potential* for causing severe harm to people or severe damage to property or the natural environment over a large area." [my emphasis]

E9: "there will be a presumption against the establishing of industries which have the *potential* for causing major environmental pollution by virtue of the nature or materials stored, processed or manufactured." [my emphasis]

It should also be noted, while considering these policies, that Gwent County Council voted to oppose this development.

**3). It is an inappropriate land use for this area.**

The Islwyn Deposit Plan contains the following policy with regard to the site. EP1: "16.62ha at Newbridge Road, Pontllanfraith, is allocated for development for B1, B2 and B8."

The Use Classes Order is not applicable in this case, as this development does not fit into any class, nor is it 'sui generis'. In such cases where a development does not fall into a Use Class and is not sui generis, it is up to the local authority to interpret the usage of the land as they see fit, within the guidance given in planning Acts, Ministerial guidance, and any statutory local plans. In this case, the irradiation cannot be classed as general industrial use. There are only 11 irradiation plants operational in the UK., and the process they carry out is strictly regulated by national and international guidelines. It is unlike any other general industrial procedure, and as such, it cannot be classed as B1 (business, general use), B2 (general industrial use) or B8 (storage or distribution).

**4). The doubts expressed by consultants on the stability of land, and the failure to be able to guarantee that land subsidence will not take place mean that the development of this site will be in contradiction to the Government's White Paper on the Environment.**

The Government's White Paper on the environment, "This Common Inheritance", outlines the Government's policy on the environment. In relation to planning and development control it states....

"Planning control is primarily concerned with the type and location of new development and changes. Once broad land uses have been sanctioned by the planning process, it is the job of pollution control to limit the adverse effects that operations may have on the environment. But in practice there is common ground. In considering whether to grant planning permission for a particular development, *a local authority must consider all the effects, including potential pollution; permission should not be granted if that might expose people to danger.*" [my emphasis].

**END.**