

## **Application P/2011/1673**

### **Plemont Holiday Village. Statement of case for the public hearing.**

The above application should be rejected on the grounds that it is contrary to the Island Planning and Building Law 2002. This law is the Primary Legislation as sanctioned by the Queen in Council. It is under this law that the Island Plan is drawn up and it is emphasised that the Law takes precedence over the Plan. The Planning Law can only be amended by a further Act of the States approved by the Queen in Council.

Referring to the Planning and Building Law 2002, Article 2 (1) states:

“The purpose of this Law is to conserve, protect and improve the Island’s natural beauty, natural resources, general amenities, its character and its physical and natural environments.”

Article 2 (2) d states: “to ensure that the coast of Jersey is kept in its natural state.”

It is worthy of recall that the Attorney General Mr Vernon Tomes once advised that the coast’s “natural state” had to be judged as much from the sea as from the land

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In 2 (1) we have the words “improve Jersey’s natural beauty” and in article 2 (2) d we have: “to ensure the coast of Jersey is kept in its natural state.”

If the two sub articles are read together, the Planning and Building Law 2002 clearly indicates that the present application should be rejected as what is planned does the reverse of these two requirements of the primary legislation.

It is worth emphasising again that the Island Plan as prepared in accordance with Article 3 (1) is subordinate to the primary legislation which stipulates that the Plan must “further the purpose referred to in Article 2 (1) and Article 2 (2)” which Articles are quoted above.

With the Law being so strong and unequivocal about keeping or returning the Island’s coast to a natural state, it is my submission the approval of the current application, even if purportedly within the parameters of the Island Plan, would be ultra vires the Law.

Other sections of the Planning Law are also relevant.

Part 3 Article 5 Meaning of “develop”

5 (1) (b) “To make a material change of use of the land or a building on the land.”

It is contended that changing a 5 month seasonal holiday camp to residential use is a material change of use that effects road requirements, vehicle usage, deliveries all year round, implications for wild life, all stemming from human activity all year round. This is also contrary to Articles 2 (1) and 2 (2) d and accordingly, change of use should be refused.

#### Article 84 (1)

“If it appears that a building is in a ruinous and dilapidated condition, the Minister may serve a notice requiring the building or a specified part of it, be demolished, repaired, decorated or otherwise improved and that any resulting rubbish be removed.”

#### Article 86:

“If it appears to the Minister that the amenities of a part of Jersey are being adversely affected by the condition or use of any land, the Minister may serve a notice requiring work specified in the notice be undertaken to abate the injury.”

#### Article 119:

This article of the Law confers Power to the States to acquire land by Compulsory Purchase. “If the States are satisfied that the land should be acquired for a purpose of this Law specified in Article 2.”

The acquisition of the subject site would most definitely be for a purpose specified in Article 2 – indeed, two purposes: the improvement of the Island’s natural beauty and the conservation of the coastline in, or restoration to its natural state.

Taking all the Articles quoted earlier together with Article 84(1), Article 86 and Article 119, the remedy to the present unsatisfactory situation becomes clear.

The present application should be refused and Notices should be served under Articles 84 or 86 or both, to remove the derelict and rotten buildings from the site and thus abate the injury. This would be followed by initiating purchase of the land by negotiation and if that failed, invoking Article 119 and initiating compulsory purchase proceedings, under which an independent expert panel would award fair compensation to the owner.

This action would bring a long running and festering saga to an end and restore the natural beauty of the rugged cliff tops from L’Etacq to Sorel Point.

Thus would the application become a heritage prize that will be enjoyed and appreciated by generations of Islanders for centuries to come.

If this opportunity is missed it is missed for ever and forever is a long time.

**P F Horsfall CBE**

**15 August 2012**