



Chartered Architects, Planning and Design Consultants

Our Ref: PWH/1871

29<sup>th</sup> February 2012

Deputy Rob Duhamel  
Minister for the Environment  
Planning Department  
South Hill  
St Helier  
JE2 4US

Dear Deputy Rob Duhamel,

**Plémont Bay Holiday Village – P/2011/1673 –  
2/3<sup>rd</sup>s Land returned to Publicly Accessible Natural Landscape with 28 Houses  
Letter from National Trust for Jersey Chief Executive, dated 7<sup>th</sup> February 2012**

I refer to the letter from Mr Charles Alluto dated 7<sup>th</sup> February 2012 to you (actually sent to your Department on 22<sup>nd</sup> February) regarding the above application. It is unclear whether this has been actually endorsed by, or even been seen by, Council of National Trust for Jersey, but I respond to his representation and comments /opinions as follows:-

**Planning & Building (Jersey) Law 2002**

The submitted Environmental Impact Assessment (EIA) with supporting Landscape and Visual Assessment (as amended) concluded there will be:-

- A) Major to moderate positive Economic and Social impact;
- B) Major positive Environmental impact; and
- C) Major positive Landscape and Visual impact.

The Non-Technical Summary advised:- *"The overall conclusions of this EIA are that this development proposal will, with implementation of identified mitigation measures, result in a very high positive environmental impact on the Core Survey Area and also a moderate positive environmental impact on the Extended Survey Area. These beneficial effects constitute substantial environmental gains and a significant contribution to the character of the immediate and wider areas".*

Your Departments EIA Environmental Statement Review report<sup>1</sup> concluded with an Overall Assessment of the EIA, determining that:-

*"The EIS and supporting documents present a comprehensive, professional and clear picture of the environmental issues surrounding this prominent site and the constraints and opportunities that it offers.*

*In terms of information concerning survey, evaluation and proposed mitigation, the EIS is highly competent and sufficient to inform the processing and determination of the accompanying planning application."*

<sup>1</sup> Planning & Building Services Environmental Impact Assessment report, Environmental statement review checklist, dated 16<sup>th</sup> February 2009

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Your Department's Report published on 24<sup>th</sup> September 2010 concluded<sup>2</sup> these proposals comprised "an appropriate response to the sensitivities of the location." and further that " *The development will, clearly, re-use already developed land and with the reduction in floorspace and conclusions of the EIA, should serve to conserve and enhance the natural environment.* "

Your Head of Countryside Management, John Pinel, has also confirmed<sup>3</sup> that creating nearly 10 vergées of natural landscape across the northern and western part of the site, totalling 42% of total site area, will provide habitat of value to indigenous species and comprises a "*substantial beneficial environmental improvement*".

Patently these proposals are deemed by your Department to completely achieve the purpose of Article 1(1) of the Planning Law, in that the application does "*conserve, protect and improve the Island's natural beauty, natural resources and general amenities, its character, and its physical and natural environments.*"

Regarding Article 2(2) of the Planning Law Mr Alluto mistakenly quotes part (a) & (b) which are not applicable to this application because:-

- a) Part (b) of Article 2(2) relates to Listed buildings or places, but there are no Listed buildings or places within this application. Nor does the application contain any proposals relating to sites that are deemed to have "*special importance to the Island*".
- b) Part (d) of Article 2(2) refers to the coast of the Island, but this site has been categorised by your Department as being outside any coastline area. The CCA appraisal (which informed the 2011 Jersey Island Plan) classified Plémont Bay Holiday Village part of Character Type E: Interior Agricultural Land, E1 – North-West Headland (St Ouen). This is borne out by its historic use as agricultural fields over 60 years ago.

It is absolutely undisputable that creating a new publicly owned, publicly accessible, natural landscape amounting to 14.87 vergées (similar in size to Howard Davis Park overall extent) with majority of this new natural landscape on northern part of site where existing buildings stand will comprise a substantial new public asset. This will amount to the largest major environmental improvement and substantial character enhancement of any Island location within the last 60 years.

**This is an existing heavily developed, brownfield, commercial site (recognised by Mr Alluto), which these proposals would totally remediate and also return the northern half of the site (closest to the cliffs and coastline) to publicly accessible natural landscape without any development. Your Department has acknowledged the EIA conclusion there would be a Major positive Environmental benefit plus a Major positive Landscape and Visual benefit resulting from these proposals. Patently these outcomes are in total accord with the principles and objectives of the Planning Law.**

#### **"Legitimate Expectation"**

Your Departments report on the same proposals as contained in this application<sup>4</sup>, published 24<sup>th</sup> September 2010 for a Panel meeting to be held on 7<sup>th</sup> October 2010 (although the application was not heard then), advised:-

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<sup>2</sup> Confirmed in Department Report published 24<sup>th</sup> September 2010 for Planning Panel meeting on 7<sup>th</sup> October 2010

<sup>3</sup> Minutes of meeting with John Pinel & Glyn Young on 8<sup>th</sup> November 2009 contained in e-mail from Paul Harding to John Pinel on 9<sup>th</sup> November 2009. Minutes agreed by John Pinel in his e-mail of 30<sup>th</sup> November 2009 to Paul Harding

<sup>4</sup> Confirmed in Department Report published 24<sup>th</sup> September 2010 for Planning Panel meeting on 7<sup>th</sup> October 2010

*"In this instance, it is considered that the significant environmental gains likely in the proposed development justify an exception to the general presumption against development in the Green Zone, and that the criteria for allowing for the principle of the redevelopment of commercial sites within the Green Zone are met [Policy C5(C) refers].*

*In principle and in detail, the proposed site layout and vernacular approach to the design of the new dwellings is considered to be an appropriate response to the sensitivities of the location. The Department is keen to support this approach, and recommends that permission be granted, subject to the safeguard of the conditions suggested"*

These indications have clearly been given several years after the Planning and Building (Jersey) Law was enacted and came into force on 1<sup>st</sup> July 2002 (not 2006 as Mr Alluto incorrectly suggests) and your Department has recommended approval for this scheme after following due process and consultation required by the Law.

Indeed since 2005 your Department has advised and guided us to locate the replacement housing in three small clusters moved as furthest away as practically feasible from the northern part of my Clients property where the existing structures stands, which they consider is preferable in order to maximise the new open natural landscape closest to the coastal headland and cliffs / North Coast Footpath.

The former Planning Committee's 2002 indication (that only confirmed a residential re-development would be considered without establishing any appropriate quantum of development) has been superseded by the above indications which in 2010 confirmed the quantum of residential development contained in this application is appropriate and acceptable, alongside the other major environmental and character benefits that will accrue. As pointed out in our other submissions the McCarthy judgement related to a totally undeveloped Green Field zoned as Important Open Space in the 2002 Island Plan, neither of which apply to this application. The differences between the subject matter of that judgement and this application could not be more dramatically opposite. In the current position where this scheme has gone through due process, been publicly advertised and consulted upon (at least twice) the McCarthy judgement is totally irrelevant. Rather your Department has judged and publicly recorded this application does not amount to a housing estate but instead has concluded<sup>5</sup> these proposals comprise "*an appropriate response to the sensitivities of the location.*"

My Client contends their legitimate expectation now arises from your Departments and former Planning Minister's advice and guidance that has led us to the current scheme, which is the subject of this application, and after due process being followed, public advertisement and consultation has issued their conclusions referred to above<sup>6</sup> including recommending approval for the scheme which is the subject of this application.

## **Island Plan Policies**

### Policy SP1 – Spatial Strategy

The 2011 Jersey Island Plan Strategic Policy Framework commentary regarding 'brownfield' land in the explanatory text supporting Policy SP1 confirmed that:-

*"Brownfield land*

*2.24 The principle of reusing already developed land is a sound one and accords with the principles of sustainable development. The Plan's spatial strategy will focus much of the development activity over the Plan period on the Island's existing Built-up Area and will encourage the re-use, redevelopment and regeneration of already developed land and buildings..."*

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<sup>5</sup> Confirmed in Department Report published 24<sup>th</sup> September 2010 for Planning Panel meeting on 7<sup>th</sup> October 2010

<sup>6</sup> Department Report published 24<sup>th</sup> September 2010 for Planning Panel meeting on 7<sup>th</sup> October 2010

Your Department's Report published on 24<sup>th</sup> September 2010 advised<sup>7</sup>, in connection with 2002 Island Plan Policy G1 'Sustainable Development', being the pre-cursor to Policy SP1, that:-

*"This is not a Greenfield site. Accordingly, Policy G1 needs to be viewed alongside the fact that this is an existing large, unsightly building complex/commercial site, and also needs to be seen in conjunction with Policy C5 (Green Zone) which, as explained above, makes allowance for redevelopment of commercial buildings in order to secure environmental gain.*

*In terms of this application, it is accepted that any redevelopment of the holiday village cannot be integrated within the Built-up Area and car trips are not expected to be any higher than when the holiday village was last operational. The development will, clearly, re-use already developed land and with the reduction in floorspace and conclusions of the EIA, should serve to conserve and enhance the natural environment."*

As previously shown these proposals are:- 1) Deemed by your own advisers to be 'appropriate' in this location of the countryside, and 2) Related to re-development of 'brownfield' land and provides an identified need for housing. Patently the application fully complies with the requirements of Policy SP1.

#### Policy SP3 – Sequential Approach to Development

This Policy is totally unrelated to property and cannot be applied to this application. The relevant section of the Island Plan states this Policy specifically only applicable to applications for:- 1) retail development, or 2) office development, or 3) new development requiring a coastal or countryside location, or 4) re-development of buildings in employment use particularly where land has previously been developed to support the rural economy. Clearly none of these criteria can be applied to Plémont Bay Holiday Village.

#### Policy SP4 – Protecting the Natural & Historic Environment

Clearly the existing property does not comprise part of the Island's "natural and historic environment" by definition, therefore Mr Alluto refers to Policy SP4 out of context and misapplies the provisions of this Policy. It is undisputable these proposals comprise a major beneficial significant contribution towards enhancing the environmental qualities and visual character of this location.

#### Countryside Character Appraisal (CCA)

Here Mr Alluto confuses and misrepresents the reports findings and recommendations, misapplying parts of the appraisal that are not applicable to these proposals for Plémont Bay Holiday Village. Page 41 of the Appraisal, dealing with an assessment of Character Type A: Cliffs and Headlands: Character Area 1: North Coast Heathland (which this site falls outside) refers to visual and aural impacts of existing developments and makes no reference to these proposals in this scheme. The ensuing recommendations on Page 42 gives recommendations for the "north coast heathlands", which this site lies outside and are not applicable to this application.

The CCA classified Plémont Bay Holiday Village forming part of Character Type E: Interior Agricultural Land, E1 – North-West Headland (St Ouen). This is borne out by its historic use as agricultural fields over 60 years ago. This Appraisal concluded that:- "Jersey's interior agricultural land has some capacity to accept change". This CCA recommendation arises from the CCA's criteria (where relevant to this property) that should be applied:-

*"• Any such developments must be of a style and design that is in keeping with the character [of the] area" - your Departments report of 24<sup>th</sup> September 2010 confirmed these proposals are in keeping with character of the area.*

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<sup>7</sup> Confirmed in Department Report published 24<sup>th</sup> September 2010 for Planning Panel meeting on 7<sup>th</sup> October 2010

*"• Careful consideration must be given to conditions regarding screening of developments. Large masses of trees and dense coniferous shelterbelts can be very intrusive within this bleak, open landscape" – your Departments report of 24<sup>th</sup> September 2010 confirmed that "with the implementation of the mitigation measures (including sensitive planting and habitat creation) outlined in the EIA, the proposed redevelopment would result in an enhancement of the countryside character."*

*"• Developments should not impinge on the sensitive heathland edge. Where developments are permitted, opportunities should be taken to achieve the environmental enhancements and management measures outlined above." – these proposals remove existing development from the heathland edge and the reduced replacement houses being drawn significantly away from the heathland edge. Your Departments report of 24<sup>th</sup> September 2010 concluded there would be a "significant environmental and visual improvement".*

Indeed the creation of a new publicly owned, publicly accessible, natural landscape amounting to 14.87 vergées (similar in size to Howard Davis Park overall extent) comprises the largest major environmental improvement and substantial character enhancement of any Island location within the last 60 years and is fully aligned with CCA assessment and objectives.

#### Policy SP6 – Reducing dependence on the Car

The fact remains my Client is entitled, without needing to obtain permission under the Planning Law, to refurbish the buildings and reactivate the tourism accommodation use. This refurbished existing accommodation could be used for holiday self-catering units under which the Tourism Registration Certificate (issued under the Tourism Law) allows for the existing accommodation to be let to 'non qualified' residents (akin to 'lodging' accommodation) outside the period of normal tourist demand (November to March), thereby increasing usage to year round occupation.

Further, if the owner or any prospective purchaser decided to submit an application to redevelop the site for a new tourism complex, they would have a reasonable expectation to receive permission for redeveloping the site for a similar floorspace area, subject to demonstration of visual improvement. In either case the end result would be retention of the existing buildings 'en-masse' and intensification of their use all year round, with a corresponding increase in car usage above that experienced when the Holiday Village was operating.

That would result in approximately double the amount of traffic compared to this application.

Your Department's Report published on 24<sup>th</sup> September 2010 concluded<sup>8</sup>, regarding traffic considerations:-

*"The Department will encourage strategies that help to reduce the need to travel and which develop alternatives to the private car. A traffic Impact Assessment has been submitted with the application and it is evident that the proposed redevelopment would result in a lower maximum occupancy than the existing holiday village, when last operational, and as such, trip generation should also be reduced."*

And in connection with advice received from Highways Section of T&TS advised that:-

*"Development of the site by way of 28 dwellings will have a far lesser impact upon the local road network and junctions than the holiday village when operational. Whilst T&TS have some concerns regarding trip generation and lack of sustainable modes of transport, the Department is satisfied that the substantial gains to be had from the development of the derelict [sic] site outweigh any concerns regarding highways issues. The dwellings comply with the Departments recommended car-parking standards."*

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<sup>8</sup> Confirmed in Department Report published 24<sup>th</sup> September 2010 for Planning Panel meeting on 7<sup>th</sup> October 2010

This proposal would clearly result in less traffic than was the case when the Holiday Village was operational, and would also involve about half the amount of traffic than would be incurred from the alternative option to refurbish the existing buildings and operating them as a combined self-catering and residential winter lettings.

It should further be noted that Plémont Bay Holiday Village is located very close to a bus route (all houses are within 200 metres of a bus stop) and is reasonably accessible to a cycle route.

#### Policy GD1 – General Development Considerations

We have demonstrated above that these proposals are completely in accordance with Policies SP1, SP4 & SP6. These proposals, in all respects, are compliant with Policy GD1.

#### Policy GD5 – Skyline, views & vistas

The comments made by Mr Alluto clearly overlooks and totally mistakes the fact the existing landscape within Plémont Bay Holiday Village does not form part of the "coastline" because as previously pointed out the CCA Appraisal classifies my Client's property as being within Character Type E: Interior Agricultural Land.

Further the submitted Environmental Impact Statement (EIS) with supporting Landscape and Visual Assessment (as amended) concluded there will be (c) Major positive Landscape and Visual impact. The Landscape and Visual Assessment<sup>9</sup> (as amended) determined that:-

*"4.4 b) The scale and incongruous colour of the existing holiday camp are the most intrusive elements in this landscape. Their removal and replacement with smaller buildings, clad with natural materials and set back from the coast, will offer a major improvement in the view." (Page 22)*

And concluded (Pages 38 & 39) that:-

- *"The view from the Coastal Cliff Path and the Zone of Outstanding Character will be significantly improved by the relocated redevelopment."*
- *"The removal of buildings closest to the cliffs will eliminate nearby inshore views. From further offshore the new houses will merge with the surrounding skyline which already contains groups of similar residential dwellings."*
- *"Overall the redevelopment is considered to have substantial positive impact on the existing physical landscape setting."*
- *"Overall the redevelopment is considered to have substantial positive impact on the existing visual setting in the locality."*

Your Department's Report published on 24<sup>th</sup> September 2010<sup>10</sup>, concurred with these findings in the submitted Landscape and Visual Assessment, finding that:-

*"The proposed 28 dwellings are split into 3 individual 'clusters' which reflect traditional groupings of rural buildings. The siting of the 3 clusters aims to minimise the impact of the development on the landscape by allowing for open land between the groups, rather than presenting a development as a consolidated mass."*

It has to be noted the existing development is "immensely visible along the roadside" as Mr Alluto claims the replacement houses would be. This erroneous claim is not supported by your Department, whom have clearly concluded the scheme minimises "impact of the development"

<sup>9</sup> Leithgoe Site Specific Landscape and Visual Assessment – 29<sup>th</sup> May 2009

<sup>10</sup> Confirmed in Department Report published 24<sup>th</sup> September 2010 for Planning Panel meeting on 7<sup>th</sup> October 2010

on the landscape by allowing for open land between the groups, rather than presenting a development as a consolidated mass." Further it is indisputable that views of any buildings whatsoever would disappear from most locations along the North Coast Footpath, the surrounding cliffscapes and from La Tete de Plémont.

It is therefore patently clear the proposals would constitute a major repair to the skyline, vistas and views of Plémont Bay Holiday Village from many places along the North Western coastline, which is exactly the objective of Policy GD5 as detailed in Para 1.27 of the 2011 Island Plan.

#### Proposal 4

Here Mr Alluto repeats again what he quoted from the Countryside Character Appraisal under Policy SP4 (refer to my response above) when he mistakenly and erroneously applied sections relating to "Cliffs and Headlands" as being applicable to this site which the CCA classed as being "Interior Agricultural Land". I have already demonstrated this proposal is fully aligned with the CCA assessment and objectives.

Proposal 4 sets out the primary consideration will be to "*protect and enhance the character of the Island's coast and countryside*" which clearly will be achieved by this application and has been supported by your Department on this basis.

#### Policy NE7 – Green Zone

The Green Zone policy is referenced as Policy NE7 in the 2011 Jersey Island Plan, exactly replicating Green Zone Policy C5 in the 2002 Jersey Island Plan.

Your Department's Report published on 24<sup>th</sup> September 2010 concluded these proposals complied with Green Zone Policy, confirming that:-

*"In this instance, it is considered that the proposal to re-develop would involve a significant environmental and visual improvement compared to the existing situation and, as such, would be in accordance with the requirements referred to under Policy C5 to justify an exception to the general presumption against new development within the Green Zone."*

It is factually correct that 67% of the site area will be made available as publicly accessible natural landscape, refer to submitted Schedule of Existing and Proposed Land Areas dated 12<sup>th</sup> December 2011, revision 3. Indeed Mr Alluto now accepts, by quoting our submitted factually correct figures (which don't contain any spin) in his table, these proposals will result in 2/3<sup>rd</sup>s of the site becoming publicly accessible open natural landscape:-

*Proposed 26,757 m<sup>2</sup> undeveloped land<sup>11</sup> / Total 39,471 m<sup>2</sup> Site Area X 100 = Proposed undeveloped land will be 67.79 % of Total Site Area = More than 2/3<sup>rd</sup>s Total Site Area.*

Unfortunately Mr Alluto then incorrectly confuses the proposed "Developed Area" (comprising building footprints and hardstandings) with the overall area of the three housing clusters including garden areas. The correct proposed "Developed Area" is actually 5,965 m<sup>2</sup>, comprising a 70.74 % reduction below the existing building footprints and hardstandings.

We have already demonstrated herein and in the submitted reports these proposals will result in "*demonstrable environmental gains emanating from landscape restoration and reduction in visual impact*" as Mr Alluto succinctly stated. Clearly this is accepted and has been endorsed by your Department in the 24<sup>th</sup> September 2010 report, whom accept these proposals result in restoration of this area.

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<sup>11</sup> Note: The "Area of Undeveloped Land" was calculated outside the perimeter of the three housing clusters and excludes garden area within these clusters.

### Policy TT8 - Access to Public Transport

We have previously demonstrated the houses are within 200 metres of the bus stop at the Plémont Bay upper public car park, which is half the stipulated distance. There is every likelihood the bus operator would reinstate the winter service to this bus stop when the houses are completed.

### **Conclusion**

As I have demonstrated herein these proposals fully comply and meet with the 2011 Island Plan Policy requirements in all respects and are fully aligned with the Planning Law objectives. The relevant 2011 Island Plan Policies applicable to this application are, in essence, unchanged from the 2002 Island Plan and your Department has confirmed in their published reports the application does comply with these Policies.

Mr Alluto in his conclusion confuses and mistakes the location of Plémont Bay Holiday Village as being within the "*coastal headland at Plémont*", which is factually incorrect because:-

- i) CCA distinguishes between the "*Plémont headland*" which the CCA classified as Character Type A: Coastal Cliffs & Headlands, and Plémont Bay Holiday Village itself which the CCA classified as lying outside the "*Plémont headland*", but forming part of Character Type E: Interior Agricultural Land, E1 – North-West Headland (St Ouen). This is borne out by its historic use as agricultural fields over 60 years ago.
- ii) Your Planning Inspectors during the Public Inquiry into the draft 2011 Jersey Island Plan considered submissions arguing that the Costal National Park should be expanded to whether Plémont Bay Holiday Village (on the premise this was part of the headland), but concluded<sup>12</sup> there was no case supporting an expansion of the Costal National Park to include my Client's property.

For the sound and justifiable Policy reasons already explained none of your own expert independent advisers (including CCA writers Land Use Consultants, your own Planning Policy Officers and Chris Shepley / Alan Langton acting as your Island Plan Inspectors) have recommended this property is capable of being included within Area A1 because it is not part of the Coastal Cliffs and Headlands. Therefore recommendations for this area (which is mostly undeveloped, unlike this property) are incapable of being applied to this application as Mr Alluto attempts to conflate.

However these proposals will substantially increase the amount of open landscape adjacent to the North Coast cliffpath (that was incidentally able to be created through kind permission of the former owners of this site who entered into a Licence with the States of Jersey) with an increased sense of wilderness and tranquillity - exactly what Mr Alluto aspires to see.

In the circumstances where the States of Jersey decided (in their decision on P/144/2009 debated on 19<sup>th</sup> January 2010) not to acquire my Client's property (putting any prospect of the States acquiring the site beyond question) and with the National Trust's for Jersey's campaign to raise sufficient funds to purchase my Client's property having failed; this is the only realistic option left for the future of Plémont Bay Holiday Village. The National Trust for Jersey have now had well over 6 years available to them for raising public donations and there is no prospect of them being able to raise anything nearing an adequate amount that would recompense my Client. It is clear their campaign has not been supported by majority of the Jersey Public.

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<sup>12</sup> Refer to The (Draft) Jersey Island Plan Inspectors' Report Volume 1 dated 19<sup>th</sup> November 2010 Pages 28 & 29 Paras 4.27 to 4.32 inclusive and Volume 2 Page 26.



We therefore request that, having considered the contents of Mr Alluto's representation, you reject the arguments he advances. Instead I request you take into account all the material Planning considerations I have referred to in this response and re-affirm your Department advice in their report published on 24<sup>th</sup> September 2010 that concluded:-

*"In principle and in detail, the proposed site layout and vernacular approach to the design of the new dwellings is considered to be an appropriate response to the sensitivities of the location. The Department is keen to support this approach, and recommends that permission be granted, subject to the safeguard of the conditions suggested"*

Yours Sincerely,  
**For and on Behalf of**  
**BDK Architects**



**Paul W. Harding BA (Hons) DipArch RIBA MIOB**  
**Director**

cc. Mr Alistair Coates – Senior Planning Officer  
Mr Mike Grindrod – Northern Trust Group Ltd.