

KML

PLANNING COMMITTEE

(29th Meeting)

11th June 2020(Meeting by live video conference due to COVID-19 restrictions)**PART A (Non-Exempt)**

All members were present, with the exception of Connétable D.W. Mezbourian of St. Lawrence and Deputies S.M. Wickenden of St. Helier and J.M. Maçon of St. Saviour, from whom apologies had been received.

Deputy R. Labey of St. Helier, Chairman
(not present for item No. A4)
Deputy G.J. Truscott of St. Brelade, Vice Chairman
(not present for item Nos. A5 and A6)
Connétable P.B. Le Sueur of Trinity
Deputy R.E. Huelin of St. Peter
Deputy L.B.E. Ash of St. Clement
(not present for item Nos. A3, A4 and A8)
Deputy K.F. Morel of St. Lawrence
(not present for item No. A8)

In attendance -

P. Le Gresley, Director, Development Control
C. Jones, Senior Planner
G. Duffell, Senior Planner
A Parsons, Planner
G. Urban, Planner
K.M. LARBALÉSTIER, Secretariat Officer, States Greffe
T. Stone, Research and Project Officer, States Greffe

Note: The Minutes of this meeting comprise Part A only.

Minutes.

A1. The Minutes of the meetings held on 19th and 20th February, 17th and 19th March and 7th May 2020, having been previously circulated, were taken as read and were confirmed.

Villa Rose, Le
Chemin du
Moulin, St.
Ouen:
proposed
extensions/
replacement
roof/new
decking and
gate.
P/2019/1604

A2. The Committee, with reference to its Minute No. A7 of 7th May 2020, considered a report in connexion with an application which sought permission for the construction of a single storey extension to the north elevation of the property known as Villa Rose, Le Chemin du Moulin, St. Ouen. It was also proposed to construct a first floor extension with balcony to the south elevation, replace the roof and install decking and a gate to the south.

The Committee recalled that it had been minded to approve the above application, contrary to the Department's recommendation. For the purpose of formally confirming its decision and approving the conditions which were to be attached to the permit (as detailed within the officer report), the application was re-presented.

The Committee confirmed its decision to grant permission, subject to the

Hue Court,
Hue Street, St.
Helier:
proposed
installation of
antennae/dish/
equipment and
electrical
cabinets/
handrail and
access ladder.

implementation of the conditions detailed within the officer report.

A3. The Committee considered a report in connexion with an application which proposed the installation of 3 communications antennae, a microwave dish, 3 equipment and electrical cabinets, a handrail and access ladder to the roof at Hue Court, Hue Street, St. Helier.

Whilst site visits by the Committee were not possible at the present time due to the COVID-19 restrictions, some members had visited the site independently and the Department had also provided video footage of the application site.

Deputy L.B.E. Ash of St. Clement did not participate in the determination of this application.

A site plan and drawings were displayed. The Committee noted that the application site was situated in the Built-Up Area and that Policies BE10, NR10 and GD1 of the 2011 Island Plan were relevant.

The Committee noted that the antennae and associated equipment were required to support the Island's 4G network - objections received by the Department referenced the 5G network. The equipment was to be positioned at the top of the existing lift motor room of the building. The siting of the antennae in this elevated position was necessary to provide coverage for this site and to minimise the 'shadowing' effect caused by the edges of the building blocking the signal from the equipment. In addition to the above, the elevated position would ensure sufficient distance from the top floor of Hue Court, a residential building. This was in accordance with good practice and the guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP), an independent regulator of electromagnetic fields (EMF) emissions. The use of the application site for the proposed purpose would replace coverage lost at Cyril Le Marquand House.

Policy BE10 stated that the siting of roof plant equipment or other structures would not normally be permitted where it projected above the roofline. However, in exceptional circumstances essential equipment might be permitted provided that it was located in a position which would not have an unreasonable impact upon the character of the area or neighbours through visual intrusion, or have an unreasonable impact upon public health or the safe operations of the airport. In the case of this proposal, the antennae was being located centrally on the building and would not be visible from the street. The most prominent views would be from elevated positions and inside other tall buildings, where it was not unusual to have views of equipment and antennae.

Policy NR10 stated that proposals for antennae should be assessed in accordance with Policy GD1, which stated that development should not have an unreasonable impact upon the health and safety of the public. In relation to this, it was noted that the applicant had submitted a certificate which outlined the expected level of EMF emissions produced by the equipment. If approved, a condition would be attached to the permit which required a post commissioning test to confirm these levels. If the levels were to go above those recommended by the ICNIRP, then the permission would cease to be valid. Policy NR10 also stated that the installation of masts and antennae on new sites would only be permitted where it could be demonstrated that all possibilities of sharing facilities had been fully explored. The Department had agreed in principle that all 3 main telecommunications providers on the Island could share this prime location with the aim of reducing the number of other small antennae which might be required throughout the town of St. Helier if this site was not viable. The site owner had also agreed the use of this site with the operators.

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Whilst it was acknowledged that the proposed antennae were an unsightly addition to the roof of Hue Court, views from the street would be fleeting due to the height of the building and the central positioning of the antennae. In addition, the need to provide a satisfactory service to the public, whilst still operating within safe levels of EMF emissions was understood.

Overall, the proposed works were relatively minor in scale and nature and were unlikely to result in any significant or unreasonable harm to the amenities of nearby users by way of EMF emissions or visual intrusion. The proposal was also unlikely to have any significant detrimental impact upon the wider setting of the site or on the character of the area. Consequently, the proposals were considered to satisfy the requirements of the relevant policies of the 2011 Island Plan and the scheme was, therefore, recommended for approval, subject to the imposition of certain conditions detailed within the officer report.

9 letters of objection had been received in connexion with the application and additional representations received after the publication of the Committee's agenda pack had been forwarded to members under separate cover. It was noted that Ms. J. Blakely had contacted certain members directly stating that she believed that important information which the Committee should consider was missing from the submission. The Director, Development Control advised that he had not had sight of Ms. Blakely's representation. It was noted that Ms. Blakeley had also contacted a member of the Committee asking how to join the video conference meeting. The Committee was assured that the meeting had been publicised and that invitations had been sent to all of those who had made representations as well as applicants and agents.

The Committee heard from Mr. R. Cutting, representing the applicant company, who advised that all installations were completed in accordance with guidelines. Prior to installation, perceived EMF levels were submitted and post installation actual levels were submitted and independently reviewed. The application proposed the installation of 3 antennae (Mr. Cutting clarified that a mast was the physical piece of equipment to which the antennae was attached) and other related equipment. The manner in which the equipment was installed had a direct impact on readings, all of which were independently reviewed. The microwave dish would be approximately 30 centimetres in diameter and relied upon a clear line of site in order to send the information gathered back to a second dish and on to the data centre. In terms of frequency levels, these were controlled by Ofcom, the communications regulator. It was noted that the antennae would not be pointed down, as was the case with global systems for mobile telephones.

Deputy R.E. Huelin of St. Peter asked Mr. Cutting to explain the difference between 4G and 5G technologies. However, Deputy K.F. Morel of St. Lawrence pointed out that the potential existed for any response to be misconstrued as a suggestion that there were safety issues with 5G technology. Deputy Huelin accepted this point and decided to withdraw the question. Deputy G.J. Truscott of St. Brelade asked whether the proposal complied with revised draft guidelines published in 2018, by the ICNIRP and this was confirmed to be the case by Mr. Cutting.

Having considered the matter, the Committee unanimously approved the application, subject to the imposition of certain conditions detailed within the officer report.

Nos. 5 – 6
Esplanade, St.
Helier:
proposed

A4. The Committee considered a report in connexion with an application which proposed the installation of 4 communications antennae, a microwave dish and 3 equipment cabinets to Nos. 5 and 6 Esplanade, St. Helier.

installation of
antennae/
dish/equipment
cabinets.

Whilst site visits by the Committee were not possible at the present time due to the COVID-19 restrictions, some members had visited the site independently and the Department had also provided video footage of the site.

Deputies R. Labey of St. Helier and L.B.E. Ash of St. Clement did not participate in the determination of this application. Deputy G.J. Truscott of St. Brelade, Vice Chairman acted as Chairman for the duration of this item.

A site plan and drawings were displayed. The Committee noted that the application site was situated in the Built-Up Area and that Policies NR10 and GD1 of the 2011 Island Plan were relevant.

The Committee noted that the antennae and associated equipment were required to support the Island's 4G network - objections received by the Department referenced the 5G network. The antennae was to be positioned at the top of the building on each corner of the proposed plant screening and would not protrude beyond the existing fencing. The use of the application site for the proposed purpose would replace coverage lost at Cyril Le Marquand House.

Policy BE10 stated that the siting of roof plant equipment or other structures would not normally be permitted where it projected above the roofline. However, in exceptional circumstances essential equipment might be permitted provided that it was located in a position which would not have an unreasonable impact upon the character of the area or neighbours through visual intrusion, or have an unreasonable impact upon public health or the safe operations of the airport. In this case the antennae would not be readily visible from the street so would not raise any significant concerns over the impact of the proposals upon the character of the area.

Policy NR10 stated that proposals for antennae should be assessed in accordance with Policy GD1, which stated that development should not have an unreasonable impact upon the health and safety of the public. In relation to this, it was noted that the applicant had submitted a certificate which outlined the expected level of EMF emissions produced by the equipment. If approved, a condition would be attached to the permit which required a post commissioning test to confirm these levels. If the levels were to go above those recommended by the ICNIRP, then the permission would cease to be valid.

Overall, the proposed works were relatively minor in scale and nature and were unlikely to result in any significant or unreasonable harm to the amenities of nearby users by way of EMF emissions or visual intrusion. The proposal was also unlikely to have any significant detrimental impact upon the wider setting of the site or on the character of the area. Consequently, the proposals were considered to satisfy the requirements of the relevant policies of the 2011 Island Plan and the scheme was, therefore, recommended for approval, subject to the imposition of certain conditions detailed within the officer report.

8 letters of objection had been received in connexion with the application and additional representations received after the publication of the Committee's agenda pack had been forwarded to members under separate cover.

The Committee heard from Mr. R. Cutting, representing the applicant. Deputy K.F. Morel of St. Lawrence noted that one of the objectors had referenced Policy NR10, which stated that the installation of masts and antennae on new sites would only be permitted where it could be demonstrated that all possibilities of sharing facilities had been fully explored. He asked Mr. Cutting about site sharing and he responded to this advising that the potential existed for other operators to share the site as sufficient capacity existed. Deputy G.J. Truscott of St. Brelade added that reference

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had also been made by an objector to the existence of equipment at Sand Street and the need for additional equipment in such close proximity had been questioned. Mr. Cutting responded by stating that the aim was always to improve coverage and capacity, which had typically been poor in this location. He went on to explain that the applicant company had taken the opportunity to review the need for equipment in all locations and this sometimes resulted in the removal of equipment from other locations.

Having considered the matter, the Committee unanimously approved the application, subject to the imposition of certain conditions detailed within the officer report.

Son Vida, La
Route du Petit
Port, St,
Brelade:
proposed
conversion of
garage/
construction of
single storey
extension to
create
residential
accommodat-
ion.

A5. The Committee considered a report in connexion with an application which had been refused by the Department under delegated powers and which proposed the conversion of a garage at the property known as Son Vida, La Route du Petit Port, St, Brelade and the construction of a single storey extension to the south elevation to facilitate the creation of a 2 bedroom residential unit with an integral one bedroom residential unit and associated car parking.

Deputy G.J. Truscott of St. Brelade, Vice Chairman did not participate in the determination of this application.

Whilst site visits by the Committee were not possible at the present time due to the COVID-19 restrictions, some members had visited the site independently and the Department had also provided video footage of the site.

P/2019/1377

A site plan and drawings were displayed. The Committee noted that the application site was situated in the Green Zone and that Policies SP1, SP6, GD1 and NE7 of the 2011 Island Plan were relevant.

The Committee noted that the application had been refused on the grounds that the proposal would result in the creation of a separate household in the Green Zone and that the scheme failed to satisfy the requirements of Policy NE7.1c of the 2011 Island Plan. The provision of an additional residential unit in this location was contrary to the aims of Policies SP1 and SP6 of the Plan, which sought to provide appropriate development in sustainable locations. It was recommended that the Committee maintain refusal of the application.

One letter of representation had been received in connexion with the application.

The Committee heard from the applicant's agent, Mr. M. Stein, who read from a pre-prepared statement from the applicant, Mr. J. Noel. Mr. Noel stated that he had received pre-application advice in March 2019, in relation to proposals for the construction of a separate dwelling in the garden of Son Vida. He had been advised that this would be contrary to the Green Zone Policy, but was given advice to the effect that permissible exceptions to the Green Zone policy allowed for the extension of existing dwellings to facilitate the creation of accommodation for a relative who required care [REDACTED]. Mr. Noel believed

[REDACTED] Policy NE7.1c clearly stated that the permissible exception to the policy did not require the [REDACTED] relative to require care [REDACTED].

Mr. Noel and his son joined the meeting by telephone after Mr. Stein had read his statement to the Committee and Mr. Noel junior confirmed that neither he nor his father had anything further to add.

Mr. and Mrs. Noel [REDACTED] application had been refused, particularly as they had acted upon the advice of a Senior Planner whom, they argued, should have understood the policy context. Furthermore, reference to the sustainability of the location appeared to ignore the fact that the application site was close to a bus stop and other amenities. Mr. Noel believed that the scheme accorded with Policy SP6 and it was understood that the size and design of the proposed extension were considered to be acceptable. The applicants did not believe that the scheme would have any impact on the Green Zone. The Committee was advised that the case officer had informed the applicants that, if permission was granted, they would be required to enter into a Planning Obligation Agreement (so as to ensure that, if sold in the future, the property would revert to a single dwelling). In fact, the scheme had been designed with this in mind and Mr. Noel was concerned that certain information contained within the officer assessment sheet, [REDACTED] was a distortion of the facts. It was noted that Mr. and Mrs. Noel's [REDACTED] on the planning advice received and the [REDACTED]. In concluding, Mr. Stein advised that Mr. and Mrs. Noel's preference remained to build a separate small dwelling in the garden of Son Vida.

Mr. Stein informed the Committee that he believed that, in this particular case, Policy NE7 had been misapplied by the Department as it was clear that the proposed development was in accordance with Policy NE7.1c. Mr. Stein argued that the scheme met all of the policy tests in that it would facilitate the creation of a separate household for [REDACTED] relatives which was capable of being reintegrated back into the principal dwelling. The proposed unit had been designed in accordance with life time home standards and there would be no harm to the landscape character. It was noted that whilst the applicants wished to continue to reside in the principal dwelling, the proposal remained within the spirit of the policy. The application site was in the Green Zone within a small close of dwellings and the immediate character was built-up. Mr. Stein urged the Committee to approve the application.

The Committee discussed the policy context with officers and was reminded that the main aim of Policy NE7 was to prevent development that would be harmful to the Green Zone. Moreover, the Island Plan directed new development to the Built-Up Area. Consequently, the application was considered to be contrary to policy in that it proposed a new dwelling with independent facilities in the Green Zone. The applicant argued that the proposed development was, in fact, an extension of the existing dwelling. The Chairman noted that the units would be interlinked by an internal door. However, the Director, Development Control remained of the view that the proposed development would result in the creation of an additional unit in the Green Zone. Mr. Stein confirmed that the applicant was willing to enter into a Planning Obligation Agreement which would ensure that, if the property was sold in the future, it would revert to a single dwelling. He also repeated the point that the scheme complied with Policy NE7.1c.

Having considered the scheme, the Committee was convinced by the applicant's arguments and decided to grant permission, contrary to the officer recommendation. It was noted that the application would be re-presented at a future meeting for formal confirmation of the decision and approval of any conditions which were to be attached to the permit.

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Anderida, La
Route de la
Pulente, St.
Brelade:
proposed
conversion and
extension of
garage to form
residential
unit.

P/2019/1627

A6. The Committee considered a report in connexion with an application which had been refused by the Department under delegated powers and which proposed the conversion and extension of a garage at the property known as Anderida, La Route de la Pulente, St. Brelade and the construction of a one bedroom ancillary unit. It was also proposed to demolish an external storage structure and construct a new 3 bay garage to the south.

Deputy G.J. Truscott of St. Brelade, Vice Chairman did not participate in the determination of this application.

Whilst site visits by the Committee were not possible at the present time due to the COVID-19 restrictions, some members had visited the site independently and the Department had also provided video footage of the site.

A site plan and drawings were displayed. The Committee noted that the application site was situated in the Coastal National Park and that Policies SP1, SP4, GD1, GD7, BE6, NE2, NE6 and WM1 of the 2011 Island Plan were relevant.

The Committee noted that the application had been refused on the following grounds

- the principle of an additional residential unit within the Coastal National Park (located outside the Built-up Area as defined on the 2011 Island Plan) would be contrary to the aims of Policy SP1, which supported development in sustainable locations;
- the proposed development would be located within the Coastal National Park, wherein there was the strongest presumption against all forms of new development for whatever purpose. Consequently, given the size, scale, material details and visual impact of the proposed development and the absence of any substantial grounds or justification for making an exception to the presumption against development, the proposal was contrary to Policies SP7, GD1, GD7, BE6 and NE6 of the 2011 Island Plan;
- insufficient information had been submitted to demonstrate that the proposed development would not have a detrimental impact on any bats, reptiles and flora species that might exist on the site, contrary to Policy NE2 of the 2011 Island Plan; and
- the submitted waste management details did not adequately deal with the site specifics including disposal of the amount of soil waste which would be generated by these proposals, contrary to the requirements of Policy WM1 of the 2011 Island Plan 2011 (Revised 2014).

The Committee was advised that the scheme sought to provide new self-contained residential accommodation for a family member. This accommodation, albeit with an interconnecting door to the existing house hallway, was a separate residential unit with its own access, kitchen, bedroom, lounge/dining room and effectively 2 bedrooms. The Island Plan did not support new residential development outside the Built-up Area and discussions with the applicant and agent to identify a mutually acceptable solution had been unsuccessful. In addition, the proposed design, appearance and materials to be used in the construction of the new extension were also considered to be unacceptable. The application also proposed the construction of a new detached 3 car garage to the front of the property in a visually prominent location on the site and the size, scale and materials proposed would be visually detrimental to the character and appearance of the area. Finally, with the exception of limited planting to the south face of the new detached garage, no planting scheme had been submitted to demonstrate how the new development could be successfully

integrated into the area, as required by the Island Plan.

It was recommended that the Committee maintain refusal of the application.

Having considered the application, the Committee unanimously supported the officer recommendation to refuse permission. In rejecting the application, the Chairman added that he was less concerned about the architectural approach than the size of the proposed extension and the prominent location of the proposed new garage.

At the conclusion of the discussion, and after the Committee had reached a determination, the applicant's agent, Mr. J. Gallagher, joined the meeting, having been unable to do so earlier due to technical issues. However, members felt certain that rehearsing the application would be futile due to the Coastal National Park location of the application site and the failure to comply with all of the policies set out above.

Old Quarry
House,
Oaklands
Lane, La Route
de la Trinité,
St. Helier:
proposed
installation of
photovoltaic
panels.

P/2020/0150

A7. The Committee considered a report in connexion with an application which had been refused by the Department under delegated powers and which proposed the installation of 20 photovoltaic panels to the south east of the property known as Old Quarry House, Oaklands Lane, La Route de la Trinité, St. Helier.

Whilst site visits by the Committee were not possible at the present time due to the COVID-19 restrictions, some members had visited the site independently and the Department had also provided video footage of the site.

A site plan and drawings were displayed. The Committee noted that the application site was situated in the Green Zone and that Policies SP2, GD1, NE7 and NR7 of the 2011 Island Plan were relevant.

The Committee noted that the application had been refused on the grounds that the proposed development sought to install 20 solar panels on land outside of the domestic curtilage and not in residential use, thereby failing to satisfy the criteria of Policy NE7(12) of the 2011 Island Plan, which required development to be small in scale and incidental to the primary use of land.

It was recommended that the Committee maintain refusal of the application.

The Committee discussed the application and noted the view of Deputy K.F. Morel of St. Lawrence that, aside from the fact that the solar panels were to be installed outside of the domestic curtilage, the application detail lacked a demonstrable and definable carbon saving. The Chairman also expressed concerns about the landscape impact of the proposal.

Having considered the application, the Committee unanimously endorsed the officer recommendation to maintain refusal for the reason set out above.

No. 1 Bel
Royal
Gardens, La
Route de St.
Aubin, St.
Lawrence:
proposed
extension/re-
construction of
porch.

A8. The Committee considered a report in connexion with an application which had been refused by the Department under delegated powers and which proposed the construction of a 2 storey extension to the west elevation of No. 1 Bel Royal Gardens, La Route de St. Aubin, St. Lawrence. It was also proposed to re-construct a porch to the south elevation.

Deputy K.F. Morel of St. Lawrence did not participate in the determination of this application.

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P/2020/0158

Whilst site visits by the Committee were not possible at the present time due to the COVID-19 restrictions, some members had visited the site independently and the Department had also provided video footage of the site.

A site plan and drawings were displayed. The Committee noted that the application site was situated in the Built-Up Area and that Policies GD1, GD7, BE6 and H6 of the 2011 Island Plan were relevant.

The Committee noted that the application had been refused on the grounds that the proposal would result in a further intensification of the domestic use of this property, which was served by a sub-standard vehicular access. As a result, the proposal would result in an unacceptable risk to the safety of highway users and pedestrians, contrary to Policy GD1 of the 2011 Island Plan.

The Committee was advised that the proposed extension would provide an additional bedroom with en suite bathroom at first floor level and a garage, utility room and w.c. at ground floor level. The proposed works would not result in any significant or unreasonable harm to the amenities of neighbours and would be unlikely to have a detrimental impact on the wider setting of the site or on the character of the area. However, the Highway Authority strongly objected to the application on the grounds of the further intensification of use of the existing sub-standard vehicle access and the inherent risk to the safety of other road users.

It was recommended that the Committee maintain refusal of the application.

The Committee heard from the applicant, Mr. C. McConnell, who advised that he had purchased the property 6 years ago and was very happy living in the area. Mr. McConnell understood that similar applications had been approved in the area and he advised the Committee that visibility was good from the access as the large windows of Bel Royal Motors opposite acted like a mirror. Mr. McConnell went on to explain that a bus stop had been relocated right outside the property and the Highway Authority had arranged for the installation of a fence at the house due to the loss of loss of privacy and problems with litter on the driveway, arising from the relocation of the bus stop. Any alterations to the existing wall or fence to increase the visibility splays would impact upon privacy. There would be no increase in occupancy [REDACTED] There was plenty of space on site for vehicle manoeuvring and there would be no loss of car parking. In concluding, Mr. McConnell advised that when he had purchased the property he had been informed that permission had been granted in the 1980's for a similar scheme suggesting that the future extension of the property was considered acceptable in principle.

The Committee heard from the applicant's agent, Mr. M. Collins, who emphasised that the scheme would not result in an increase in occupancy. Mr. Collins went on to state that he had experience of working on similar applications where an additional bedroom was proposed and this had not been considered sufficient justification for a refusal on the grounds of highway safety. Mr. Collins expressed the view that the objection of the Highway Authority in this case was unreasonable. In terms of alternative options, the scheme had been refused under delegated powers prior to consideration of the same. However, loss of privacy could be an issue because of the position of the bus stop and the need to reduce the height of an existing wall and fence.

The Committee discussed the scheme with the applicant and his agent and some suggestions were made by members with the aim of improving visibility. However, it was concluded that these would not meet the requirements of the Highway Authority and that, in any case, amendments would need to be submitted with a

revised scheme.

Having considered the application, the Committee concluded that whilst it was sympathetic to the applicant's desire to create additional habitable accommodation, it could not ignore the advice of the Highway Authority. Consequently, the application was refused for the reason set out above. The applicant received advice from the Director, Development Control regarding the appeals process and the submission of a revised application, all of which he would explore with his agent.

Public
meetings
conducted via
video link.

A9. The Committee recalled that at the present time public meetings of the Planning Committee were being conducted by video link, supported and facilitated by officers of the States Greffe. The Committee expressed its appreciation for the arrangements made on its behalf in this respect and noted that it had become clear that some members of the public might not have been able to access the public meeting for technical reasons. Mr. T. Stone, Research and Project Officer, States Greffe undertook to liaise with the Modernisation and Digital Department to resolve these issues prior to the next public meeting.