



Planning and Building (Jersey) Law 2002

Article 115(5)

Report to the Minister for the Environment

by

Jonathan G King BA(Hons) DipTP MRTPI

an Inspector appointed by the Judicial Greffe.

Appeal

by

Mr Patrick O'Halloran

Le Squez Phase 4, Le Squez Road, St Clement

Hearing held on 9th February 2017 at the Tribunal Offices, Bath Street, St Helier,

An accompanied visit to the Appeal site and surroundings was held on 7th February 2017.

Department of the Environment Reference: P/2016/0791

Le Squez Phase 4, Le Squez Road, St Clement.

- The appeal is made under Article 108 of the Law against a decision to grant planning permission under Article 19(3).
 - The appeal is made by Mr Patrick O'Halloran.
 - The applicant is Andium Homes.
 - The application Ref P/2016/0791, dated 10th June 2016, was permitted subject to conditions by notice dated 14th October 2016.
 - The development is to construct 17 one-bedroom, 42 two-bedroom and 92 three-bedroom affordable housing flats with associated community facilities, car parking, stores and landscaping.
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Summary of Recommendations

1. I recommend that the appeal should be **dismissed** and that the planning permission dated 14th October 2016 should be varied by the substitution of the revised conditions set out in the Annex to this report for those originally imposed.
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Introduction

2. This is a "third party" appeal by Mr Patrick O'Halloran against the decision of the Environment Department to grant planning permission.

The scope of the report

3. The application was considered by the Environment Department and permission granted, subject to 17 conditions on 14th October 2016. Under Article 117(1) & (2) of the Law, the decision remains in effect, but the development may not take place until determination of this appeal.
4. Article 116 of the Law requires the Minister to determine the appeal and in so doing give effect to the recommendation of this report, unless he is satisfied that there are reasons not to do so. The Minister may: (a) allow the appeal in full or in part; (b) refer the appeal back to the Inspector for further consideration of such issues as the Minister may specify; (c) dismiss the appeal; and (d) reverse or vary any part of the decision-maker's decision. If the Minister does not give effect to the recommendation(s) of this report, notice of the decision shall include full reasons.
5. The purpose of this report is to provide the Minister with sufficient information to enable him to determine the appeal. It focuses principally on the matters raised in the appellant's grounds of appeal. However, other matters are also addressed where these are material to the determination, including in relation to the imposition of conditions, and in order to provide wider context.

Procedural matters and clarifications

6. The appellant speaks on behalf of the Sarina Road Residents' Committee. This is an informal grouping of residents living in 6 houses (Nos 27 - 32 Sarina Road), and has 11 members.
7. Following the Hearing, the applicants submitted additional information at my request: (a) details of proposed and existing car parking and access from the north; (b) suggested wording of a condition concerning the provision of a play area and amenity space; and (c) additional sun study material. This was passed on to the appellant, but no comment was received.

The grounds of appeal

8. The appellant's grounds of appeal, in brief, are as follows:
 - (1) The impact on the Sarina Road residents from the enormity, density and proximity of the development with regard to noise pollution, traffic congestion and general well-being.
 - (2) The overbearing height and length of blocks A and B greatly impacting on natural light and solar gain.
 - (3) The effect on privacy.
 - (4) Lack of green space and areas for children's play.
 - (5) The Planning Committee decision being influenced by an inference that the Parish of St Clement would sort out the traffic flow and parking concerns.
 - (6) Inadequate number of parking spaces allocated to the new development.
 - (7) Unanswered questions posed to Andium (re redistribution of flats within the development).
 - (8) The peak hours used to formulate the traffic flow survey is queried.
 - (9) The overwhelming density of the development along with the dramatic loss of green space will cause problems with the foul / surface water drainage system.
 - (10) Financial implications.
 - (11) Constant reference by the applicant to the Island Plan.
 - (12) Lack of control over contractors during the demolition process.
 - (13) Use of Le Squez Road as an emergency only access.

- (14) Disagreement with the schedule of works (phasing) for the development.

The site and background to the proposals

Description of the development

9. The site formed part of an area formerly occupied by social housing dating from the 1960s. This has now all been demolished as part of the wider Le Squez regeneration scheme, much of which has been completed. The site comprises the fourth and final phase. It is bounded by Samares primary school to the south; the Florence Boot playing fields and athletics facility to the west; Le Squez Phase 2 to the east beyond Le Squez Road; and private housing (occupied by the appellant and his neighbours), in the form of 3 pairs of houses arranged in a staggered fashion, fronting Sarina Road to the north. Between the rear of the houses and the site is a garage court.
10. Briefly, the development comprises 5 residential blocks arranged around areas of open space, together with areas of vehicle parking. It would provide 151 units of social housing, comprising 17 one-bedroom units; 42 two-bedroom units and 92 three-bedroom units. 261 parking spaces would be provided in the south west; in the north / north-west and to the south-east of the site, and beneath so-called "podiums".
11. Permission was granted in November 2015 (ref P/2015/0616) for the redevelopment of Phase 4, but this was successfully appealed by the residents of Sarina Road. In his recommendation, the Inspector concluded that the proposed development of the closest residential block (Block B), by virtue of its five storey scale, proximity and overlooking windows and balconies, would lead to unreasonable impacts on the residential amenities and living conditions of nos 27-32 Sarina Road by virtue of its overbearing presence, loss of daylight, shadowing effects at certain times of year, and loss of privacy, contrary to Policies GD 1 and GD 3 of the Island Plan 2011 (revised 2014).
12. He also recommended that the Minister advise the applicants that he is minded to allow the appeal (and refuse permission) for those reasons, but wishes to allow the opportunity for the preparation, submission and consideration of amended plans, reducing the height of the northernmost section of Block B by at least one full storey. The Minister allowed the appeal on the basis of the identified effects on the residents, but decided that the issues should be progressed through the normal planning application process. That in turn led to the application which is the subject of the present appeal.

Main Issues

13. From my assessment of the papers submitted by the appellant, the Department and the applicant, and from what was given in evidence during the Hearing and seen and noted during the site visit, I consider

that the main issues are:

- (a) The effect of the development on the living conditions of local residents in the vicinity by reason of proximity; overbearing impact; loss of privacy; noise; traffic, reduction in light and general quality of life. (*Grounds 1, 2, 3, 12 & 14*)
- (b) Whether the development makes adequate provision for green space and play areas. (*Ground 4*)
- (c) The effect of the proposed development on the safety and convenience of road users, with particular regard to the volume of traffic created; pedestrian movement and safety; the adequacy of parking provision; and the impact on local residents. (*Grounds 5, 6, 8, 13*)
- (d) The effect of the development on foul and surface water drainage. (*Ground 9*)

Main Policies and Guidance

- 14. The main documents that provide planning policy and guidelines include the Island Plan and Supplementary Planning Guidance (SPG). In general, planning permission must be granted if the development proposed in a planning application is in accordance with the Island Plan. When considering an application for permission to develop land, the Minister shall take into account the extent to which the proposed development complies with any relevant guidelines and policies which have been published.

The Island Plan

- 15. The Island Plan was adopted 2011 and revised in 2014. Its Spatial Strategy focuses development on the Island's built-up areas, particularly St Helier, while respecting its character. Opportunities for the regeneration of the urban environment and the realisation of the aspirations for the Town will be driven, amongst other things, by taking advantage of key development sites that already exist. In particular, the Plan says that it is imperative that to create an acceptable urban living environment, adequate provision of good quality and accessible public open space must be planned for and made.
- 16. Since the revision of the Island Plan in 2014 there has been no policy relating to the quantity of provision of affordable housing. However, a number of States-owned and private sites have been proposed (in Policy H 1) for the purpose. Le Squez is not amongst them, as it has already been in use for the provision of affordable homes. Nonetheless, Phases 2c, 3 and 4 are specifically identified in the Plan as likely to come forward by 2015.
- 17. Policy GD 1 amongst other things says that development proposals will

not be permitted unless: it is adequately serviced and includes the provision of satisfactory mains drainage; it does not unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents. In particular, it should not unreasonably affect the level of privacy or the level of light to buildings and land that owners and occupiers might expect to enjoy; and it should not lead to unacceptable problems of traffic generation, safety or parking; and provide satisfactory means of access, manoeuvring space within the site and adequate space for parking.

18. Policy GD 3 indicates that the highest reasonable density will be required for all developments. However, it is important to note that this should be commensurate with good design, adequate amenity space and parking, and without unreasonable impact on adjoining properties.
19. Policy GD 7 similarly seeks high quality design in all development that respects, conserves and contributes positively to the diversity and distinctiveness of the built context. It should respond appropriately to a number of criteria, of which the following are particularly relevant:
 - the scale, form, massing, orientation, siting and density of the development and inward and outward views;
 - the relationship to existing buildings, and settlement form and character; and
 - the design of safe pedestrian routes, vehicle access and parking.
20. Policy BE 5 defines tall buildings as being over 18 metres or rising more than 7 metres above their neighbours. They will be permitted only where their exceptional height can be justified.

Reasons

21. The main issues raised are addressed in turn. In some cases the matters raised fall under more than one issue.

Issue (a) Living conditions (Grounds 1, 2, 3 & 14)

22. The appellant has no objection to the development in principle, but is concerned principally about the potential for it to impact on his living conditions and those of his neighbours, particularly with respect to the effects of Blocks A and B, though at the Hearing the points made related solely to Block B. In many respects, his concerns are the same or similar to those put forward at the first appeal. Although the proposals have been revised following the earlier appeal, principally by the reduction in height of the closest part of Block B by one storey, the residents still believe that the quality of their lives would be diminished unacceptably. In particular, they seek a further reduction in the height of Block B, to 3 storeys.
23. The argument that the block should be reduced to the height of the buildings which have been demolished carries little weight to my mind.

The issue is not whether the new buildings would have a greater, or a different degree of impact, but whether the impact would be acceptable. Neither the Island Plan nor Supplementary Planning Guidance provides any objective measures for assessing the acceptability of development proposals with respect to their effect on residential amenity. Consequently planning decisions have to be made subjectively, by reference to all of the evidence.

Shading

24. The Inspector who conducted the earlier appeal concluded in the context of sun path and shadowing studies that a Block B height of 5 storeys would result in a loss of daylight for the occupiers of the houses in Sarina Road, and cause shading at certain times of year. That contributed to his overall conclusion that the impact on the residential amenities and living conditions of the residents would be unreasonable. In his view, the block would have been one storey too tall.
25. A revised analysis has been carried out with respect to the modified design of Block B, with the closest part to the houses reduced to 4 storeys. It shows that on March 20th the rear elevation of the houses would be in sunlight at 09.00, at 12.30 and, at least for the two southern pairs, at 17.00, a very marginal improvement over the pre-existing situation. On June 20th, the situation would again be largely unaltered at those times, apart from there being more shade in the rear garden of the northernmost pair at 17.00, caused by Block A. At 19.00, the rear elevations and the gardens would be in complete shade under both the pre-existing and proposed circumstances.
26. On 31st December at 09.00 the rear elevations and the gardens of all of the houses would be in shade under pre-existing and proposed situations. By 12.30, as proposed, only the upper parts of the houses would remain in sunlight whereas previously they would have benefitted from full sunlight. By 15.00, only the northernmost pair would have most of their back walls in sunlight, compared to the pre-existing situation where all 3 pairs would have most or all of their upper floors lit. By 16.00, the 2 northern semis would be lit at upper floor level and the third would be in complete shade; and by 17.00 all of the houses and their gardens would be fully shaded. The appellant has asserted that the analyses are misleading or partial, but I have not been provided with any evidence that casts doubt on their findings.
27. In his report on the earlier appeal, the Inspector referred to the Building Research Establishment document *Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2nd edition)*. This includes a useful "rule of thumb" for defining an "unobstructed zone of daylight", by imagining a line drawn from the centre of the lowest window of a property upwards at an angle of 25 degrees. Block B at 5 storeys would have marginally breached this line, but at 4 storeys, as presently proposed, it is well within it, suggesting that the windows would receive adequate daylight.

28. The amount of sunlight and daylight that has been enjoyed by the occupiers of these properties in former times has been exceptional, in my opinion. They will continue to benefit from levels little different. Insofar as there would be a small reduction at certain times, I do not think that would lead to a significant reduction in the quality of their lives. Their living conditions with respect to natural light and solar gain would be adequate and acceptable.

Overbearing impact

29. In relation to the earlier 5-story design for Block B, the previous Inspector concluded that it would be a very big building, with a facing elevation of around 800 square metres (sqm) and a height over double that of the Sarina Road houses. Viewed from the rear of those properties, he judged that a substantial amount of sky would be obscured and the building would appear overbearing.
30. The rear aspect from the houses in Sarina Road towards the revised proposed Block B would be at a distance of between roughly 31 and 35 metres (m). The block would be in the region of 50m in length and a maximum of just over 13m high, producing a total elevational area of some 650sqm. This compares to the height of the houses of about 7.3m. From the submitted elevations, I estimate that, viewed from the centre point of the lowest rear-facing window of the houses, the upper 2 floors and most of the first floor would be visible over the top of the intervening garages. The occupiers of the houses would therefore be well aware of the presence of the block. It would still be a large building, but not so tall as to qualify as a "tall building" under Policy BE 5. Moreover, its mass would be broken up into several elements incorporating a number of different external finishes, and a mix of vertical and horizontal emphasis.
31. The fact that the block would be large and visible does not necessarily equate to unacceptable harm. To put it into local context, the frontages of Blocks B and C to Le Squez Road, which would be one storey higher, would face the flats in Phase 2 of the overall development at distances as little as about 12m. And within the development, some flats in those blocks would face each other at similar distances. It is an inevitable consequence of building at higher densities, which Policy GD 3 promotes. I appreciate that the houses are of a much smaller scale, but I am satisfied that Block B would be at sufficient distance to avoid it being physically or visually dominating. Though having greater visual impact than the dwellings it would replace, Block B in its reduced form would not have an unacceptably overbearing impact on the occupiers of the Sarina Road houses. In terms of the policy, I consider that the impact would not be unreasonable

Privacy

32. The revised proposals incorporate a number of detailed design features, including some introduced since the previous appeal, intended to reduce

the potential for overlooking from the flats in Block B towards the houses. All balconies have been removed from the design, and all windows on the second and third floors would be fitted with graduated obscure glass. On the first floor, of the 11 windows serving rooms, 4 would serve kitchen/ diners; 4 would serve bedrooms; 2 would serve bathrooms; and there would be a single window serving a living room.

33. In my opinion, the use of graduated obscure glazing would remove any practical opportunity for overlooking from the 2 upper floors; and any from the first floor would be very limited and at some distance. It would be no greater, and possibly less than might be expected in a conventional housing layout. I am satisfied that the occupiers of the Sarina Road houses would not experience an unacceptable loss of privacy.

Disturbance

34. Based on their experience of the demolition process, the residents have no faith in the applicant controlling disturbance from contractors during building works. Demolition and building can be noisy, dirty and disruptive activities; and this is a natural reaction. However, the potential for disturbance is not in itself a good reason to oppose the development. Nonetheless, it is appropriate that the planning system should seek to minimise harm. This may be achieved by means of the imposition of a condition requiring the developer to submit a Construction Environmental Management Plan, and to comply with its provisions. The applicant is happy to do so, and I recommend the imposition of such a condition.
35. No proposed phasing schedule for the development has been finalised by the applicants, but the residents are concerned to ensure that the blocks closest to them should be built first in order to provide screening from disturbance brought about by the remainder of the works. On the face of it, that appears a reasonable suggestion, though naturally practical aspects of the building process may determine exactly how it may proceed. I recommend a condition to address the matter, requiring the submission and approval of a formal phasing scheme.
36. I consider the potential for disturbance for traffic noise under my third issue.

Issue (a) overall conclusion

37. Overall I conclude that the living conditions of the occupiers of the Sarina Road houses will continue to be satisfactory, consistent with Policies GD 1 and GD 3.

Issue (b) Play space (Ground 4)

38. The appellant is concerned that the development does not include any dedicated and safe children's play space, particularly in view of the

general lack of such provision in the earlier phases.

39. There is little doubt that in the vicinity of the site there is a wide range of formal and informal recreational facilities, including the Florence Boot fields directly adjacent, a golf course and beaches close by, together with the facilities available at the school and youth club, also adjacent. The proposed development is also proposed to incorporate over 1 hectare (ha) of public amenity open space (POS), which comfortably exceeds the area requirements set in Planning Policy Note 6 (PPN6). In most respects, the recreational needs of the new occupiers of the development would be extremely well catered for.
40. However, I agree that the lack of any dedicated children's play space is an important omission, because neither the formal sports provision nor the POS would properly satisfy this very particular need, especially in a development comprised of flats. Moreover, PPN6 specifically requires children's play space to be provided at a rate of 0.2ha per 1000 population. With a projected population of 528, play space amounting to over 0.1ha should have been incorporated.
41. At the Hearing the applicants indicated that they would be happy to make such provision, but could not indicate where it might be located without first consulting the occupiers. I agree that the choice of location of the play space would be critical to its success and proper functioning; and that the views of the residents would be an important consideration. Following the Hearing, the applicants and officers from the Environment Department agreed a draft condition that could be attached to a planning permission, designed to ensure that an appropriate amount of play space would be provided in a suitable location. Subject to that condition being imposed, I am content that the development would make proper provision for both amenity space and play space.

Issue (c) Parking, Traffic & Road safety (Grounds 5, 6, 8, 13)

42. The Inspector who conducted the earlier appeal reported that parking issues had been resolved and so he did not address the question of its adequacy. Moreover, the Minister did not allow the appeal by reference to any perceived inadequacies. Nonetheless, the matter has been raised in the context of the present appeal; and so I have considered it.
43. As a result of the revisions to the scheme, there would be 3 fewer units of accommodation and 16 more parking spaces compared to the earlier application. Policy GD 1 requires that development should not lead to unacceptable problems of traffic generation, safety or parking. It is acknowledged by the applicants that the number of spaces proposed – 261 (which would amount to an average of 1.7 spaces per unit, based on 1 space per 1-bed unit; 1.3 spaces per 2-bed unit; 1.5 spaces per 3-bed unit and 10% visitor spaces) falls below the standard set out in Planning Policy Note 3. But it is also recognised that those standards do not reflect the thrust of the more recent Island Plan (Policies SP 2 & SP 6), which is to increase the general density of development; to reduce

dependence on the private car and to promote more sustainable travel options including walking, cycling and use of buses. The site is sustainably located relative to St Helier; the development will be linked to the Eastern Cycle Path; a bus stop / shelter is to be provided on School Road; and a Travel Plan is the subject of a condition. Further, given the nature of the development as social housing, household car ownership may be expected to be somewhat lower than the average.

44. I understand that the Parish of St Clement has also raised concerns about the level of car parking provision. However, no objection to the proposed level has been made on behalf of the Highway authority, having regard to an updated Transport Assessment and Travel Plan. Against that background, I agree with the applicant that a reasonable balance has been struck between the practical concerns of Policy GD 1 and the broader sustainability objectives promoted in the Island Plan. I regard the proposed parking provision as adequate.
45. The appellant brought forward no evidence to show in what way the traffic flow survey is incorrect, or to demonstrate that the development would lead to congestion and consequential impact on living conditions including by reason of noise. I understand that the Highway authority is satisfied; and I have no basis on which to draw any different conclusion. In the event that other proposed developments in the future may have a cumulative effect on the ability of the local road network to cope with projected traffic flows, it will be for the Highway authority and the Environment Department to assess its impact at that time.
46. With respect to the appellant's Ground 13, traffic on Le Squez Road is to be controlled by rising bollards, allowing it to be used by school buses, emergency and service vehicles only, together with cyclists and pedestrians. It would not be used by other vehicles including scheduled bus services and could not therefore be used as a "rat-run" as the residents fear. Their concerns may be based on a misunderstanding, or on temporary circumstances. I am satisfied that the proposed controls would effectively limit traffic on the road, thereby creating a safe environment for residents, pedestrians and cyclists.

Issue (c) overall conclusion

47. I conclude on this issue that the development would not create a highway hazard through excessive traffic or inadequate parking. It would pay appropriate regard to the need to provide a safe environment for pedestrians, and would not adversely affect the living conditions of existing or future occupiers of the locality. The parking provision would be adequate in context.

Issue (d) Drainage (Ground 9)

48. The appellant believes that the increased density of the development compared to the former situation, combined with the loss of green space will overload the foul and surface water drainage systems. He cites

problems that have occurred with the same system on Rue de Maupertuis and on Le Squez Road.

49. The applicants acknowledge that there has been a history of blockage and collapse in the sewers and that the drains on the site are agreed to be in a poor state owing to their pitch fibre construction. A survey has been carried out following demolition and new drains will be installed in accordance with a new foul drainage system agreed with the Infrastructure Department on the basis of calculated flow rates and volumes. Problems with the existing provision in the roads have been rectified though upgrading and relining. If existing connections are damaged during the process, they will be repaired.
50. As for surface water drainage, the applicants have also agreed a system of temporary underground storage for storm-water runoff in order to avoid overloading the drains in this area where the opportunities for natural drainage are limited owing to the high water table.
51. I am satisfied that the applicants have recognised and appropriately addressed the practical aspects of drainage derived from the development. The appellant has put forward no alternative evidence to demonstrate that what is proposed would not be suitable. I recommend a condition requiring the submission of the details of the drainage systems for approval and the carrying out of the work as approved.

Other Matters

52. The appellant raises a number of other matters under his grounds of appeal Nos 7, 10 and 11.
53. Under Ground 7, he seeks to promote an alternative distribution of accommodation throughout the development but without reducing the overall number of flats, so that Block B may be lowered further in height. There may or may not be some merit in the suggestions, but the purpose of the appeal system is to address issues of substance concerning the acceptability of what is proposed. It is not designed to further a process of refinement. In any event, I am satisfied that the height of Block B as proposed is acceptable. Consequently, it is unnecessary to consider any redistribution of the accommodation.
54. Ground 10 is concerned with a perception that certain financial matters were taken into account in the decision to grant permission. For the avoidance of any doubt, I can confirm that no evidence has been put to me concerning any financial matters; and I have taken none into account in making my recommendations.
55. Ground 11 takes issue with the applicants' references to the Island Plan in support of the development. The Island Plan is the principal formal planning document for Jersey which identifies Le Squez as a suitable location for affordable housing in principle. It is entirely reasonable that it should form the basis of any decision.

56. I accord these arguments no weight.

Planning Obligation Agreement

57. A Planning Obligation Agreement made under Article 25 of the Law has been entered into. Its principal provisions relate to: (a) securing the 151 residential units as affordable housing in perpetuity; (b) securing a financial contribution towards the provision of the bus shelter and to the provision and construction of links to the Eastern Cycle Network; and (c) the provision of a cycle / scooter shelter at the Samares school, or a commensurate financial contribution. Although these matters are material considerations in this appeal, they have little bearing on the issues raised by the appellant, save with respect to emphasis placed on the promotion of sustainable forms of transport. I agree that all these matters are reasonably necessary in the interests of securing an appropriate form of development.

Conditions

58. In the event that my recommendation to dismiss the appeal is accepted, the permission granted should be subject to conditions designed to ensure that the development is carried out appropriately.

59. The planning permission issued on 14th October 2016 includes 17 conditions. These were discussed at length at the Hearing on a without prejudice basis. The Department agreed that some were unnecessary and many of the others were in various ways flawed, for example because they were insufficiently precise or clear as to their requirements, unenforceable or otherwise impractical or unreasonable. In these circumstances I have suggested alternative wording. I have also combined or separated some of the conditions where this appeared to add clarity; and have also made a few additional alterations of a minor nature. Modified conditions were agreed in principle at the Hearing, and these are attached in the Annex to this report. I have added 3 further conditions:

60. No 2 requires the approval of an overall Phasing Plan for the development, in order to ensure that its various elements are properly co-ordinated, in addition to addressing the concerns of the appellant regarding the minimisation of disturbance to local residents.

61. No 3 requires details of the drainage systems to be approved and installed. Although I understand that these systems have been agreed by the Department for Infrastructure, I have seen no details submitted with the planning application.

62. No 16 requires the provision of play space further to the discussion at the Hearing with respect to Issue (b). The wording was agreed between the Department and the applicant following the Hearing.

63. The condition numbers below are those used in the permission. In view

of the alterations made, the Annex naturally employs a revised numbering. I consider the reasons for each in turn briefly:

Conditions A & B. Commencement and compliance with plans. These conditions are standard for all planning permissions. They are necessary in the interests of certainty.

Condition 1 Demolition / Construction Environmental Protection Plan
An Environmental Protection Plan is necessary in the interests of protecting the amenity of the locality from the effects of the development while it is in the course of construction. I have deleted reference to demolition (and to processing of waste) as this has already taken place. The requirements are in some cases imprecise – for example the requirement to demonstrate best practice in relation to noise, vibration, dust and emissions. I have also addressed these matters.

Condition 2. Waste Management Strategy. The Department agreed that this condition is unnecessary.

Conditions 3 & 4. Landscaping. These conditions are necessary to ensure that the hard and soft landscaping of the site takes place in a managed way. I have added reference to compliance with the Phasing Plan and combined them.

Condition 5 – Refuse management. This is necessary to ensure that provision is made for the storage and sorting of waste. I have, however, deleted reference to arrangements for the recycling and disposal of waste, as this would take place elsewhere and outside the control of the developer.

Condition 6 – Electric charging points. This is required in the interests of sustainable travel. I have modified it to refer to the dwellings having "convenient access" to an electric charging point rather than requiring each to have its own

Condition 7 - Removal of Permitted Development rights. In view of the fact that the development is in the form of flats, it would be inappropriate in the interests of maintaining the appearance of the buildings that individual householders should be permitted to modify the dwellings.

Condition 8 – Details of windows & doors. The Department agreed that this condition is unnecessary.

Condition 9 – Samples of materials etc. This is required to ensure an acceptable appearance to the proposed buildings. The reference to surfacing has been incorporated into the condition relating to landscaping.

Condition 10 – Retention of architect. The Department agreed that this condition is unnecessary.

Condition 11 – provision of cycle path. This is required in order to ensure that the Eastern Cycle Path is provided through the site. It has been linked to the provisions of the Phasing Plan and combined with the requirement to submit details of surfacing and other minor matters for approval.

Condition 12 – fitting of obscure glass. This is to ensure that the residents of the Sarina Road properties are not overlooked from facing windows in Blocks A and B. It has been modified to relate solely to the occupation of those blocks, rather than the whole development.

Condition 13 – Visibility splays. Provision of splays is required in the interests of road safety. It has been modified to require details to be submitted, as they are not shown on the submitted plans.

Condition 14 – Vehicle manoeuvring & parking. Provision of parking and manoeuvring space is necessary for practical reasons. It has been modified to require the provision to be made prior to occupation of the blocks to which they relate rather than to the whole development.

Condition 15 – Provision of bus stop. This relates to the proposed provision of a bus stop in School Road. The timing of the provision has been modified to relate to the substantial completion of the nearest residential block (Block C) rather than first occupation of the development.

Condition 16 – Details of cycle route. This has been combined with Condition 11.

Condition 17 – Travel plan. The requirement to submit a Travel Plan is necessary and reasonable in the interests of sustainability, and in accordance with policy of the Island Plan. It has been modified to relate its timing to the occupation of the development rather than its commencement.

Overall Conclusion

64. For the reasons given above, I **recommend** that the appeal should be dismissed and that the planning permission dated 14th October 2016 should be varied by the substitution of the revised conditions set out in the Annex to this report for those originally imposed.

Jonathan G King

Inspector

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ANNEX

CONDITIONS THAT MAY BE IMPOSED ON THE PLANNING PERMISSION IN THE EVENT THAT THE APPEAL IS DISMISSED

A. The development hereby permitted shall commence within 5 years of the date of this decision.

B. The development hereby permitted shall be carried out entirely in accordance with the approved plans, drawings, written details and documents.

1. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Department of the Environment a Construction Environmental Management Plan. The approved Plan shall thereafter be implemented in full until the completion of the development. Any variation from the approved Plan shall be first approved in writing by the Department of the Environment.

The Plan shall secure an implementation programme of mitigation measures to minimise the adverse effects of the proposal on the environment, and shall include, but shall not be limited to the following:

- (a) the control of noise, vibration, dust and other emissions;
- (b) details of a publicised complaints procedure, including office hours and out-of hours contact telephone numbers; and
- (c) specified hours of working, by reference to days of the week, Bank and Public Holidays and specified activities, including noisy activities.

2. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Department of the Environment a Phasing Plan which shall include details of the order in which the principal elements of the development are proposed to be carried out. These shall include ground preparation works, construction of the housing blocks, provision of foul and surface water drainage, vehicular and pedestrian access, provision of the links to the Eastern Cycle Path, provision of the bus shelter on School Road, car parking, the public realm and landscape works. The development shall thereafter be implemented only in accordance with the approved Phasing Plan. Any variation from the approved phasing shall be first approved in writing by the Department of the Environment.

3. Prior to the commencement of any superstructure works on site, full details of the proposed foul and surface water drainage systems shall be submitted to and approved in writing by the Department of the Environment in consultation with the Department for Infrastructure. The approved systems shall be installed in accordance with the approved details and the provisions of the Phasing Plan approved under condition 2, and retained for

the lifetime of the development.

4. Prior to the commencement of the development in any phase approved under condition 2, a scheme of landscaping shall be submitted to and approved in writing by the Department of the Environment. The scheme shall provide details of the following:

- (a) all existing trees, hedgerows and other plants, means of enclosure and other features which it is proposed to retain on the site;
- (b) the presence of any invasive plant species on the site and a detailed method statement for its removal and long-term management or eradication;
- (c) the measures to be taken to protect existing trees and shrubs;
- (d) the position of all new trees and /or shrubs, details of their species, size, number and spacing and the means to be used to support and protect them; and
- (e) other landscape treatments to be carried out including any excavation works, surfacing, including that of roads, footpaths and driveways, and means of enclosure.

The details required to be submitted and approved under this condition shall include details of the phasing of implementation by reference to the matters addressed in the approved Phasing Plan approved under condition 2. The approved scheme shall be implemented in full and thereafter retained as such.

5. Prior to the commencement of the development hereby permitted, a report setting out the arrangements for the management of the landscaped areas shall be submitted to and approved in writing by the Department of the Environment. The Report shall be implemented as approved. If, during the first 5 years from the date of planting, any tree or shrub planted in accordance with the approved landscape scheme dies, is removed or becomes seriously damaged or diseased, it shall be replaced in the next planting season by a similar tree or shrub, unless the Department gives written consent for a variation of the scheme.

6. Prior to the commencement of any superstructure works on site, full details of all of the external materials to be used in the construction of the development hereby permitted, including roof and wall materials, rendering, windows and doors, railings, and rainwater goods, and shall be submitted to and approved in writing by the Department of the Environment. The development shall be carried out as approved.

7. No phase of the development as shown in the Phasing Plan approved under condition 2 shall be occupied until provision for the storage and sorting of refuse have been put in place to serve that phase in accordance

with the approved plans. Such provision shall thereafter be retained for these purposes.

8. All dwelling units within the development shall have convenient access to an electric outlet for recharging electric vehicles off-street. Before the first occupation of any dwelling in any phase of the development approved under condition 2, the outlets to serve that phase shall be installed in full accordance with details which shall first be submitted to and approved in writing by the Department of the Environment.

9. Notwithstanding the provisions of the Planning and Building (General Development)(Jersey) Order 2011 (or any Order revoking or re-enacting that Order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Department of the Environment:

- extension to any dwelling;
- free-standing buildings within the curtilage of any dwelling;
- addition to or alterations to any roof;
- erection of a porch; and
- the insertion of any window or dormer window.

10. The Eastern Cycle Path through the site, together with route signage and lining, shall be provided in accordance with the provisions of Phasing Plan approved under condition 2, subject to its route having first been agreed by the Department for Infrastructure or other relevant Highway Authority. The surface finish of the Path, signage and lining shall be carried out in accordance with details which shall first have been agreed in writing by the Department of the Environment. The Path shall thereafter be retained unless otherwise agreed in writing by the Department of the Environment.

11. No part of residential Blocks A or B shall be occupied until the proposed windows indicated on approved drawings 4978/025A and 0978/027B have been fitted with graduated glass. Once implemented, the graduated glass shall be retained for the lifetime of the development.

12. Prior to any vehicular access to the site being first brought into use, details of the visibility splays to be provided shall be submitted to and approved in writing by the Department of the Environment. The splays shall be provided as approved and shall be retained for the lifetime of the development.

13. No part of the development hereby permitted shall be occupied until the vehicular manoeuvring area(s) and respective car parking spaces intended to serve that part have been laid out, surfaced and provided with drainage

as indicated on the approved plans. The car parking shall be retained solely for the use of the occupants of, and visitors to the development.

14. No later than 6 months following the substantial completion of Block C, Details of the bus shelter to be erected at School Road shall be submitted to and approved in writing by the Department of the Environment. The shelter shall be provided in the location shown on the approved plans and in accordance with the provisions of the Phasing Plan approved under condition 2. It shall thereafter be retained unless otherwise agreed in writing by the Department of the Environment

15. No part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the Department of the Environment. The approved Plan shall be implemented in full over the period covered.

16. Within three months of 50% of the flats hereby permitted being occupied, a children's play space or play spaces shall be constructed on site and thereafter made available to the occupants of the development hereby approved. The details of that play space or spaces shall be submitted to and approved in writing by the Minister in advance of their construction.

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