



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 J & Mrs V Moore**

**Site at Petit Clos Luce, La Route de la Murette, St Peter**

Hearing held on 6<sup>th</sup> June 2017 at the Tribunal Offices, Bath Street, St Helier

An accompanied visit to the Appeal site and surroundings was held on the same day..

Department of the Environment Reference: P/2016/1912

## **Site at Petit Clos Luce, La Route de la Murette, St Peter**

- The appeal is made under Article 108 of the Law against a decision of the Environment Department to refuse planning permission under Article 19.
  - The appeal is made by Mr J & Mrs V Moore.
  - The application Ref P/2016/1912, dated 5<sup>th</sup> December 2016, was refused by notice dated 23<sup>rd</sup> February 2017.
  - The development is described as construct one 2-bed dwelling to south elevation of existing ruin with associated parking and landscaping.
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## **Summary of Recommendations**

1. I **recommend** that the appeal should be **dismissed**.
  2. However, in the event that the Minister disagrees with this recommendation, then I **recommend** that any permission granted should be subject to the conditions included in the Annex to this report.
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## **The scope of the report**

3. 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 he 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.
4. 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 appellants' 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.

## **Background and Description of proposals**

5. The appeal site is presently occupied by the remains of a nineteenth century cottage. The proposed development involves the construction of a new 2-bedroom bungalow to the rear of the ruin, which would be retained as an attached walled courtyard entrance.
6. The former cottage has been in the ownership of a number of generations of Mrs Moore's family. During the German occupation, the family were compulsorily evicted and the roof and much of the

interior were removed. Immediately after the war plans were drawn up for the reconstruction and enlargement of the cottage, but it was not progressed. However, permission was given in 2005 and again in 2011 for the reinstatement (re-building) of the cottage on the same footprint. As some work has been carried out pursuant to that permission [P2010/1014], it remains extant. If it were to be fully implemented, a new dwelling would effectively be created on the site. But the appellants take the view that it would not provide a reasonable standard of accommodation. There is little doubt that it would not meet modern standards. At the Hearing, the appellants stated that it would be unlikely that the 2011 permission for reinstatement would be taken up, but that it could be possible, for example if the house were to be sold. In view of the acknowledged low likelihood, I do not believe that this should be regarded as a probable "fall-back" position in the event that the appeal is dismissed.

7. Despite its age and historical connections with the Occupation, the ruined cottage is not Listed.

### **The reasons for refusal**

8. The reasons for refusal are:

1. *The proposed residential unit would be located within the Coastal National Park in which there is the strongest presumption against all forms of new development for whatever purpose. Consequently, given the size, scale and visual impact of the proposed development and the absence of any substantial grounds or justification to make an exception to the presumption against development, the proposal is contrary to Policies SP 1; SP 2; SP 4; GD 1; BE 6; and NE 6 of the adopted Island Plan (Revised 2014).*
2. *No information has been submitted to demonstrate how the waste material generated by the development will be disposed of. Accordingly the proposal is contrary to Policies GD 1 and WM 1 of the adopted Island Plan (Revised 2014).*

### **The grounds of appeal**

9. The appellants' grounds of appeal principally concern the relative weight that should be given to different factors in the decision making process. In particular, it is argued that insufficient weight has been given to:
  - Article 19(3) of the Planning and Building (Jersey) Law, which allows the Minister to make decisions that are inconsistent with the Island Plan;
  - the architectural quality of the proposed development in context and the improvement of the design compared to that previously approved;

- the environmental improvements that would flow from the development, including to landscape character;
  - the benefits for the ruin, which is regarded as a local non-designated heritage asset, and the contribution which it makes to the character of the historic environment;
  - a number of planning policies and their objectives including BE 6 (building alterations and extensions); GD 1 (General development considerations); GD 7 (Design Quality); SP 7 (Better by Design); Policy SP 4 (protecting the natural and historic environment); and the Supplementary Planning Documents 'A minimum Specification for new housing developments' and 'Roofscape';
  - the views of the Jersey Architecture Commission;
  - the fact that there would be no significant increase in occupancy on the site.
10. On the other hand, too much weight was given to an increase in floorspace, which has been incorrectly measured by the Department.
11. The appellants argue that the development complies with Policy SP 1 (Spatial Strategy), SP 2 (Efficient use of resources), SP 4 (Protecting the natural and historic environment, and SP 6 (Reducing dependence on the car; and with respect to the second reason for refusal, the development will comply with policies GD 1 and WM 1 and the adopted DPG on waste management.

### **Main Issues**

12. From my assessment of the papers submitted by the appellant and the Department, and from what was given in evidence during the Hearing and seen and noted during the site visit, I consider that there are 3 main issues in this case:
- (a) *whether the proposed development is consistent with the provisions of the relevant Policy NE 6;*
  - (b) *the effect of the proposed development on the character, appearance and purposes of the Coastal National Park; and*
  - (c) *whether there is sufficient justification to grant permission if the development is inconsistent with the Island Plan.*

### **Reasons**

#### *Policy NE 6*

13. The principal policy in dispute is NE 6, the primary purposes of which are the conservation and enhancement of the natural beauty, wildlife

and cultural heritage of the Coastal National Park (CNP); and the promotion of opportunities for the understanding and enjoyment of its special qualities by the public. The CNP will be given the highest level of protection from development, which will normally be given priority over all other planning considerations. There will be the strongest presumption against all forms of development. However, there are 2 exceptions relating to residential development that may be permissible, provided they do not cause harm to landscape character: 1(a) the extension to a dwelling; and 1(b) the redevelopment of an existing dwelling and/or an ancillary residential building and / or structure. In each case there are specific criteria that have to be met.

14. The use of the word *normally* in the policy is problematic, in that it may appear to provide flexibility for other planning considerations to take priority over the policy in certain undefined circumstances. But the context strongly suggests otherwise. In my opinion, *normally* is intended to mean no more than "other than in the case of the permissible exceptions set out within the policy". In support of this, I note that the policy says that *only* (my emphasis) *the following exceptions may be permissible ...*. Therefore, although the supporting text says that there is a strong presumption but not an absolute moratorium against development in the CNP, this is explicitly in the context of the limited defined categories of development that may be considered acceptable. Other than the use of the unfortunate word *normally*, there is nothing in the policy or the supporting text that suggests otherwise.
15. At the Hearing, the status of the existing structure and the nature of the development was discussed, with particular reference to the categories of potentially permissible development under Policy NE 6, with a view to determining into which, if any, of the exceptions the proposed development might reasonably fall.
16. The draft Statement of Common Ground states that the application was for the erection of a new dwelling rather than as an extension to the existing ruined building; and this was confirmed by the appellants at the Hearing. Therefore, in policy terms the development does not fit the definition of an "extension" to development. In their statement of case, they describe the existing building as a "ruin without a roof and with vegetation growing through it" and, to my mind, that is the most appropriate description. It has not been occupied for approximately 75 years and is uninhabitable. I understand that residential rates have continued to be paid on it, but now it is incapable of performing the function of a dwelling. It was once a dwelling, but is no longer.
17. Moreover the proposal does not intend to retain the existing structure as a dwelling. Rather it is intended to be used as walled entrance courtyard to what would be an entirely new house. It would be perverse to describe the proposed house as an extension of any kind, much less to a dwelling. In policy terms, the proposed development cannot in my view benefit from exception 1 and it is inappropriate to

consider the proposal as if it were.

18. Similarly, the proposal does not relate to "redevelopment of an existing dwelling ... involving demolition and replacement", firstly because there is no existing dwelling; second, no demolition is proposed and third, as the ruin would remain, there would be no replacement. Consequently it cannot benefit from exception 2 either.
19. The appellants state that there is a balance to be struck between the need to provide for the reasonable expectation of residents to improve their homes and the capacity of this highly valued landscape to accommodate change without causing serious harm. This relates to an extract from the supporting text to Policy NE 6 Para 2.59). However, it does not apply to the present case because the proposed development does not concern the appellants' home, nor to the improvement of an existing dwelling. It has been acknowledged that it relates to the creation of a new dwelling.
20. In policy terms, the strong presumption against development in the CNP Park applies: the proposal is clearly inconsistent with Policy NE 6.
21. However, in fairness to the appellants; in recognition of the discussion that took place at the Hearing and the fact that the Department implicitly considered the application by reference to exception 2, I will for the sake of argument briefly consider the development as if it could be regarded as a replacement of an existing dwelling. For development to be permissible under that provision, a number of criteria have to be met. It would have to be: (a) not be larger in terms of any of gross floorspace, building footprint or visual impact than the building being replaced; (b) not facilitate a significant increase in occupancy; and (c) give rise to demonstrable environmental gains, contributing to the repair and restoration of landscape character.
22. With respect to (a) the appellants agreed that the dwelling would be larger in terms of gross floorspace and building footprint. I consider the question of visual impact under the second issue but, in brief, whether considered alone or in combination with the ruin, I consider that the development would also have a greater visual impact, principally because of its greater mass and striking appearance. In short, it would be larger.
23. As for criterion (b) the proposed house would have 2 bedrooms: one large, with an ensuite bath / shower room and a walk-in wardrobe, and one much smaller, also with a shower room, but shown on the plans as a music room. There is also another small room, too small for use as a bedroom. The cottage had 2 bedrooms. I take the view that the layout of the new house, though larger, would be unlikely to facilitate an increase in occupancy, a certainly not a significant increase.
24. The third criterion (c) requires positive benefits to be shown. I

consider this under the second issue, relating to the effect on the CNP.

25. The appellants have sought to demonstrate that the development would comply with Policy NE 6 by reference to a number of criteria set out in paragraph 2.93 in the supporting text to that policy. But this is a mis-application: these criteria relate specifically to the redevelopment of existing employment buildings, not to dwellings.

*The effect on the Coastal National Park*

26. The site lies within the area of St Ouen's Bay, which has been subject to safeguarding policies since 1968, superseded by the CNP designation since 2011. The character of the locality was described very well in the St Ouen's Bay Planning Framework of 1999. That said: *St Ouen's Bay consists principally of the coastal plain and shoreline, which is contained by the long sweeping line of the former cliffs to the east. Its attractive landscape is the product of nature and management by people. The key components of the natural landscape are Les Blanche Banques dunes, the inter-tidal beach area, the coastal plain and the cliffs. Human occupation has produced small fields with raised boundaries grazing land, woodlands, farmsteads and small villages. St Ouen's Bay is valued for its sense of openness and as a place of quiet enjoyment.*
27. As a general description, that still largely holds true today. The area around the appeal site is within the flat and mostly undeveloped coastal plain, occupied by arable fields, within the setting of the former cliffs which provide an attractive green backdrop to the east. With respect to buildings, there are some old glasshouses moderately close by, which I understand form part of the former Sunset Nursery and its associated buildings, including a house. I am told that permission has been granted for a large new dwelling on that land, but do not have the details. There is a scatter of other buildings within the plain, but the appeal site does not form part of any group or cluster; and one of the key defining characteristics of the area is its openness. The dominating land use on both sides of La Route de La Murette in the direction of the coast is Les Mielles golf club. That is an artificial landscape which includes the club house and parking areas but, to a large extent, the open character of the land is retained. There is some infrastructure development visible in and on the higher ground including the airport and the Val de la Mare dam. But these features do not contribute materially to the character of the area in which the appeal site lies.
28. Also in 1999, a Countryside Character Appraisal for the *St Ouen's Coastal Plain* was produced. Amongst other things it identified the plain as being unique in being the only large open coastal plain left on the Island; and the only agricultural coastal plain backed by a virtually undeveloped escarpment. Its character is derived from the interaction between the physical features, namely flat topography, Atlantic edge, westerly aspect combined with human use of the area over the

millennia, which together forge a distinct local identity found nowhere else on the Island. In terms of the capacity of the area to accept change, it concluded that the plain must have the highest level of protection; and there is no capacity for any new development other than renewal, conversion and small-scale extension of existing buildings. That approach later found its way into Policy NE 6 of the Island Plan.

29. The appeal site has the appearance of derelict land. Apart from the ruined cottage, road scalplings have been deposited on the ground surface, which is mostly covered in poor grass and self-seeded trees, including within the ruin. There is a stone wall and hedge to the road frontage.
30. The proposed new house would sit behind the ruined cottage and be linked to it. It would therefore not create a wholly new structure where none existed before. It would be partly screened in views from the road, and set down below ground level so that it would not be taller than the gable ends of the cottage. But notwithstanding these genuine attempts to integrate the new into the old and to minimise its visual impact, the resultant structure – the house and the ruin combined - would be significantly larger and considerably more prominent locally. I note the appellants' claim that the location of the site on a sharp bend in the road would limit the prominence of the development. But I disagree: the building would be seen directly when approaching from the north.
31. I consider the design of the proposed dwelling in more detail under the third main issue, but in the landscape context I would observe that the unusual "barrel-vault" roof, clad in copper, would be particularly prominent. Having regard to the conclusions of the appellants' Landscape Statement, I disagree that the development would be sympathetic in scale and form to the more traditional and valuable buildings in the local area. Though the scale of the proposed house may be reasonably modest, its form bears no obvious relationship to that of traditional buildings in the area other than that of the historic ammunition store at Le Don Hilton. I regard the claim that the "linear extension approach to the proposed building addition is aligned to the vernacular of building evolution in the local area" to be fanciful.
32. The fact remains that the development would amount to the introduction of a new dwelling into the CNP. I acknowledge that the area around the site may not represent the highest quality landscape of the National Park. It has been heavily influenced by human activities: notably the arable fields and the golf course. It is not entirely devoid of buildings. But it is an integral part of the Park and worthy of protection from development that could further diminish, albeit in a limited way, the largely open and undeveloped rural character of the locality.
33. I also recognise that the appeal site is effectively derelict; and the



new house would provide an opportunity to improve its appearance, albeit at the expense of some loss of openness. But the development is not necessary in order to improve the site. By reference to the stated primary purposes of the CNP, and on balance, I do not believe that it would conserve or enhance its natural beauty.

34. I note that the intention to lay out the proposed garden as a "naturalised landscape", to introduce native species of ecological value and to encourage wildlife. I accept that the removal of waste and potential ground contamination may provide the opportunity to improve the ecological value of the land. To that extent, the development has the potential for conservation or enhancement of wildlife, which is another of the primary purposes of the National Park. But any such enhancement would, I believe, be modest in scale. I see no basis on which to conclude that the development would promote opportunities for the understanding and enjoyment of the Park's special qualities by the public.
35. I would acknowledge that an argument could be made that the new house might conserve or enhance the Park's cultural heritage, insofar as it might enable the ruined cottage to be recognised as a reminder of a critical time in Jersey's recent history. The Channel Islands Occupation Society (Jersey) (CIOS) considers it to be a memorial to those Islanders who experienced the deprivations of war; and its retention without embellishment is entirely appropriate, supplementing the heritage landscape and creating something unique. But to my mind the unembellished ruin already performs that function; and it could equally be argued that the current proposal would reduce the character of the ruin through its functional incorporation into the house.
36. As neither exceptions 1 or 2 to Policy NE 6 apply, I am not required to conclude on whether the development would *cause harm to landscape character* or whether it would *give rise to demonstrable environmental gains contributing to the repair and restoration of landscape character*. But if exception 2 were to be engaged (which it is not), I would say that such environmental gains as might arise would be small and could in any event be realised without the need for new development.
37. Overall, I conclude that the proposed development has the potential to support the primary purposes of the National Park only in respect of a modest contribution to ecological enhancement of the derelict site and through the retention of an historic symbol of the Occupation. However, neither is dependent on the construction of a new house. When balanced against the harm to the character of the landscape, I conclude on balance that the effect on the Park would be negative.

*Justification for making a decision inconsistent with the Island Plan*

38. Article 19(2) of the Law says that in general planning permission shall be granted where the development proposed in the application is in

accordance with the Island Plan. However, Subsection (3) adds that, despite this provision, permission may be granted where the development is inconsistent with the Island Plan, if the Planning Committee is satisfied that there is sufficient justification for doing so [for the purposes of applying this to an appeal, the Minister is held to exercise this power]. Subsection (1) also says that all material considerations shall be taken into account in the determination of an application.

39. The appellants say that the proposal is in accordance with the spirit of Policy NE 6, if not the precise wording, and on that basis there is sound justification for its requirements to be relaxed. I disagree. Although not formally applicable to Jersey, the UK Supreme Court judgment in the *Tesco Stores v Dundee City Council* ([2012] UKSC 13) is instructive. In that case, the court held that interpretation of policy is a matter of law, not a matter of judgment. It identified a number of principles, briefly that: the development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. The policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that in principle, in this area of public administration as in others, policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context.
40. Having regard to those principles, I suggest that it would not be appropriate to "relax" the terms of the policy, though, if justified, it would be proper for the Minister to take a decision inconsistent with the development plan. The distinction is subtle but important.
41. In this case, the terms of the principal relevant policy (NE 6) could hardly be more strongly expressed. It is worth repeating that the CNP is to be given the highest level of protection from development; and this will normally be given priority over all other planning considerations. In it there will be the strongest presumption against all forms of development (my emphases). In that context, I take the view that for a reason to be sufficient to justify making a decision inconsistent with the Island Plan, it must carry very substantial weight.
42. Against that background, a number of matters have been drawn to my attention which in the appellants' view should be accorded weight. Some have already been addressed earlier in this report, but others are considered below.

### *Heritage value*

43. Policy SP 4 says that a high priority will be given to the protection of the Island's natural and historic environment; and that its historic buildings, structures and places will be key material considerations in the determination of planning applications. Though the ruined cottage is not Listed, its historical and cultural value as a reminder of the war and its consequences for Jersey, and the contribution which the proposed development might make towards its retention and recognition, are discussed above in the context of the purposes of the National Park. I recognise the importance of maintaining physical reminders of the Occupation both for the family who were directly affected and for the Islanders and future generations. However, I take the view that the proposed development, itself not without adverse consequences for the National Park and potentially for the ruin, is not the only, or necessarily the best way of achieving that aim. The ruin is not under imminent threat and the CIOs considers that its retention without embellishment is entirely appropriate. It is not necessary to build a new house to ensure its retention or to maintain its historic value.

### *Design / Architectural Quality*

44. The design of the proposed new house is also considered above in general terms. The Jersey Architecture Commission in its consultation response said that it was intrigued by the design solution, considering it an original solution to extending the small residential unit. I agree that the design is original, but disagree that it can be regarded as an extension. Rather it is a solution for incorporating a new house into an existing ruin. I also reject the appellants' argument that, by seeking to make the new build element sympathetic in form, mass, scale and proportions to the ruin (criteria included in Policy BE 6 *Building alterations and extensions*) the ruin would then effectively become subservient to the new build element of the development. This approach, described as "re-ordering the hierarchical arrangement", actually turns the NE 6 policy for extensions – which requires the extension to be subservient to the existing building - on its head. In any event, as concluded earlier, the new house cannot be regarded as an extension of a dwelling, and no amount of convoluted argument can make it so.

45. That said, I regard the design as thoughtful and mostly respectful of the ruin to which it would be attached and which would provide part of its physical and historical context. The proposed partial setting down of the building below ground level limits the potential for physical domination and allows a 2-storey building to be contained within a single-storey envelope. In terms of materials, it incorporates traditional stone, but adds oak cladding and copper which, though both high quality materials, are not characteristic of the area and may draw attention to the building in the landscape.

46. The principal architectural feature is an unusual curved roof structure described as a "barrel vault", but actually closer to the shape of an elongated horse shoe. Clad in copper, it would be an unusual and striking feature that would contrast strongly with the aged, weathered and damaged ruin. It is a shape not unknown in Jersey, but certainly not common. However, as the supporting text to Policy GD 7 says, good design need not replicate local traditions, but will respect, re-interpret and be in harmony with the local context.
47. In that context, and having regard to the aim of the then Minister (set out in the supporting text to Policy GD 7) that priority should be given to the objective of promoting better design and to raise significantly the standard of building design on the Island, I do not criticise the design for being modern or unusual. Simply being different does not equate to being harmful or unacceptable.

### *Sustainability*

48. The Island Plan (principally Policy SP 6) promotes sustainable development. The proposed house has been designed with a number of sustainable features – the appellants describing it as "eco-friendly", and may therefore be regarded as sustainable in that sense.
49. However, I dispute the appellants' assertion that the location of the development is sustainable on the basis that permission has already been granted for a dwelling on the site. That permission is for the reinstatement or rebuilding of the cottage, which is a permissible exception to the Policy NE 6 presumption against development. It is not comparable and does not set a precedent for the present proposal, which is quite different. I regard the construction of a new house in a rural area, remote from community and other facilities, as not sustainable in principle in locational terms or by reference to Policy SP 6 which, amongst other things, seeks development to demonstrate that it will reduce dependence of the private car.
50. I accept that the retention of the ruin would limit waste and would maintain continuity with the past. But that could be of relevance only in the event that the fall-back position would be the demolition of the cottage and a requirement to dispose of the waste created. However, this is not a current option and unlikely to become one in view of the value the appellants place on the ruin. As for the argument that no agricultural land would be lost as a result of the development this could be employed too frequently to justify development on any previously developed land, irrespective of the suitability of the proposed use to its location in principle.
51. In summary, the heritage argument may be unique to this site and not likely to set any precedent for similar proposals. It is clearly of great importance to the appellants' family and may have wider public interest. But the retention of the ruin for historic reasons is not dependent on the building of a new house. Irrespective of its merits –

or indeed the fact that some of the same architectural principles have been incorporated into a building designed by the same architects and permitted in a national park in England – I do not believe that a design should in itself be sufficient justification to warrant granting permission for a building that is fundamentally inconsistent with policy in terms of its location. Finally, while the new dwelling would be sustainable in execution, it would not be so in locational terms.

52. In my view, none of these factors or any other matter raised provides clear, compelling and weighty justification for taking a decision which would be inconsistent with the Island Plan. This is particularly so having regard to the strength of the Policy NE 6 presumption against allowing new development in the CNP.

#### *Other matters*

53. The appellants draw attention to a number of general policies in the Island Plan that impose less stringent tests compared to Policy NE 6. Examples include GD 1, which says that development should *not seriously harm* the Island's natural and historic environment. It sets a test of not having *unreasonable impact* on the character of the coast and countryside, or not *unreasonably affect* the character and amenity of the area, including the CNP. But logic dictates that the policies specifically relating to designated areas such as the CNP should be applied alongside these general provisions. They are additional policies, not alternatives.
54. A number of other developments have been brought to my attention by the appellants who seek to use them as precedents for the current case. In my experience, so-called precedents are rarely directly comparable. However, I address each briefly. All relate to the demolition and replacement of an existing dwelling, which distinguishes them from the subject of this appeal in policy terms. The development at *Petit Saut*, St Martin, concerned the replacement of what was described as a visually prominent and poor quality structure. In the case of *La Moye Point*, St Brelade, the Inspector, amongst other things, concluded that the appearance of the new dwelling would be far superior and that demonstrable environmental gains would be delivered. Finally in the *Mudros*, St Brelade, case the existing building was in a very poor condition. I take the view that each may be distinguished from the present proposal and that in cases such as this it is important to assess the development having regard to the individual circumstances and their individual merits. This is what I have sought to do.
55. The appellants have observed that the ruin is within striking distance of stray or over-hit golf balls from the nearby course; and that this in part explains the decision to locate the new dwelling behind it. I do not doubt that stray balls could be a practical problem for any future occupiers, but I do not consider the matter a determining issue, and I accord it very limited weight in the overall balance.

### *Conditions*

56. In the event that my recommendation to allow the appeal is accepted, any permission granted should be subject to conditions designed to ensure that the development is carried out appropriately. Planning conditions were discussed at the Hearing on a without prejudice basis having regard to a number of conditions included in a draft Statement of Common Ground. A modified schedule is attached as an Annex to this report. It was agreed at the Hearing that the suggested condition relating to foul and surface water drainage would be unnecessary as it duplicates other legislation. I have modified some of the suggested wording in the interests of clarity and enforceability.
57. In brief: Conditions (1) and (2) relate to the timescale for commencement and compliance with the approved plans. These are standard conditions required in the interests of certainty. Condition 3 requires approval of the external building materials. It is particularly important in this case in the interests of integrating the new house with the existing ruin. Condition (4) requires the submission and approval of a scheme of landscaping for the site. Condition (5) requires the submission of an ecological assessment to provide the basis of improving its ecological value. Condition (6) requires a waste management scheme to be submitted, in order to overcome the second reason for refusal and to ensure that any contaminated material encountered is removed. Finally, Condition (7) requires a scheme to be submitted to ensure physical stabilisation and retention of the ruin, in view of its centrality to the development.

### *Overall Conclusion*

58. I conclude overall by reference to the 3 main issues that the proposed development would be contrary to the provisions of Policy NE 6 of the Island Plan concerning the Coastal National Park; that on balance the effect of the development on the National Park would be negative; and that having regard to Article 19 of the Jersey Planning Law 2002, there is no justification for a decision to be taken which is inconsistent with the Island Plan. On that basis, the proposed development is unacceptable and the appeal should be dismissed.

### **Formal recommendation**

59. For the reasons given above, I **recommend** that the appeal should be **dismissed**.
60. However, in the event that the Minister disagrees with this recommendation, then I **recommend** that any permission granted should be subject to the conditions included in the Annex to this report.

*Jonathan G King* Inspector

## **ANNEX**

### **CONDITIONS THAT MAY BE IMPOSED ON THE PLANNING PERMISSION IN THE EVENT THAT THE APPEAL IS ALLOWED**

1. The development shall commence within five years of the date of this decision.
2. The development hereby permitted shall be carried out in full accordance with the approved plans.
3. Prior to commencement of the development hereby permitted, samples of the materials to be used for the external walls and roofs of the dwelling hereby permitted shall be submitted to and approved in writing by the Department of the Environment. The development shall be carried out as approved.
4. No part of the development hereby permitted shall be begun until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Department of the Environment. The scheme shall include details of the following:
  - i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site;
  - ii) the measures to be taken to protect existing trees and shrubs;
  - iii) the presence of any invasive plant species on site, and if present, a detailed method statement for the removal and long-term management/ eradication of the species;
  - iv) the position of all new trees and/or shrubs to be planted, and their species, size, number and spacing and the means to be used to support and protect them;
  - v) other landscape treatments to be carried out including any excavation works, surfacing treatments, or means of enclosure; and,
  - vi) a timescale for implementation.

The scheme shall be carried out as approved and in accordance with the approved timescale.

5. No part of the development hereby permitted shall be begun until an Ecological Assessment of the site has been submitted to and approved in writing by the Department of the Environment. The Ecological Assessment shall be undertaken by a suitably qualified person and to a methodology to be first agreed in writing by the Department of the Environment. All mitigation measures shall be carried out in full and in accordance with the recommendations of the Ecological Assessment.
6. No part of the development hereby permitted shall be begun until precise details of the proposed waste management arrangements

involved with the proposed site engineering works indicated on the submitted drawings, including the removal of any contaminated material encountered, shall be submitted to and approved in writing by the Department of the Environment. The approved scheme shall be implemented in full prior to first occupation of the dwelling.

7. No part of the development hereby permitted shall be begun until a scheme for the structural and physical stabilisation of the existing ruined building on the site (including a timetable for those works) has been submitted and approved in writing by the Department of the Environment. The approved works shall be implemented in full prior to first occupation of the dwelling and retained as such.

**--ooOoo--**