

SUPPLEMENTARY REPORT TO MINISTER FOR THE ENVIRONMENT

By Graham Self MA MSc(Eng) DipIC FRTPI

Applications for Planning Permission by JAJ Properties Ltd.

Sites at Retreat Farm, Rue de la Frontière, St Mary and Rue des Varvots, St Lawrence.

Introduction

1. This is a supplementary report following submission of my report dated 26 March 2018 on a public inquiry held on 19-22 February and 13-14 March 2018. The inquiry was into two applications for planning permission by JAJ Properties Ltd. For the reasons explained in that report I did not provide any assessment of the planning merits of the development proposed by the two applications, and did not make any recommendations on whether planning permission should be granted. That is now the purpose of this supplementary report. It should be read in conjunction with my earlier report where the cases for the applicant, the Department, and other parties were summarised and various legal issues were discussed.
2. In my report of 26 March I recommended that the applications be returned to the applicant, in essence for legal reasons because one of the applications (reference P/2017/1023) had been subject to such inconsistency and change, combined with other defects, that it was not capable of proper and fair determination. Other options I mentioned were either refusing planning permission or inviting the applicant to withdraw the applications so that revised applications could be made.
3. You have decided to hold the applications open rather than pursuing other options. You have required that a revised description and list of drawings be agreed between the Department of the Environment and the applicant, and that the revised application 1023 be advertised, allowing interested parties 21 days to comment. For completeness, the text of your letter to me setting out how you were minded to proceed having read my earlier report is reproduced as Appendix 1.¹
4. I understand that this process has been carried out and that an amended version of application 1023 was advertised on 24 April 2018. The 21 day period for comments to be submitted to the Department expired on 15 May 2018. About 26 written representations were received. Later responding comments from the applicant's agent were also submitted, apparently following an invitation from the Department. Written representations were also received on application 0805, although as far as I know this was not specifically re-advertised. Copies of the representations were emailed to me on 21 May and I refer to them later in this supplementary report.
5. Other documents sent to me included copies of signed statements confirming Mr Jonathan Ruff's company ownerships and consents to the planning applications on behalf of company landowners (this relates to questions I raised at the inquiry

¹ The time of writing this is soon after elections in Jersey, and I do not know whether changes to Ministerial posts will occur. In addressing "you" I am addressing the post of Minister, which may or may not refer to a predecessor.

about incorrect ownership information specified with the application), plus a copy of the latest schedule of drawings.

6. The description of the development now proposed by application 1023, as evidently agreed between the Department and the applicant, results from a number of changes since the original application (approximately four or five changes of description, though there have also been other significant changes including site boundaries, and some of the plans have had up to about 11 revisions). As was explained in my earlier report, I consider that the alterations to the proposals relating to the west site since application 1023 was made, including alterations during the course of the inquiry, go beyond the sort of minor revisions which can be dealt with by re-advertising an application. I know that you disagree, as of course you are entitled to do, so for the purpose of this supplementary report I am making the following assumptions:
 - a) You are satisfied that application 1023 relating to the west site can be properly and fairly determined, notwithstanding the changes to the proposals since the application was made and the defects in the original application.
 - b) You are treating as now incorrect or superseded the evidence given on the applicant's behalf that the proposed lodges would have wheels and be moveable. For the avoidance of doubt, this applies in particular to:
 - (i) the specification of the proposed lodges in the Design Statement ("constructed on a chassis with wheels that allow them to be moved....transient structures that can be relocated");
 - (ii) the description of the proposed lodges in the Planning Statement ("moveable....built on a chassis with wheels that allows them to be moved");
 - (iii) the drawings supplied in December 2017 in response to my request for elevation drawings showing what is proposed (these showed that the lodges would have wheels and would be supported by corner "legs" or stabilisers);
 - (iv) the evidence presented by Mr Stein at the inquiry, describing the proposed lodges as suspended above the ground on a chassis with wheels and stabilisers sitting on small concrete pads (Document AB 11, page 6); and
 - (v) the evidence given by Mr Dennis in his main proof (referring to "small wheels....small pad foundations"), and in his rebuttal proof (referring to "localised support/fixing points at the two ends in addition to the four wheels to each chassis") (Documents AB 14 page 29 and AB 19 page 5).
7. During the inquiry the applicant's representatives did not withdraw these points of evidence or attempt to reconcile them with later evidence. Neither Mr Stein nor Mr Dennis formally resiled from their evidence about the wheeled units. Nor was there any satisfactory explanation of why the drawings supplied in December 2017 before the inquiry should be treated as wrong. However, in order to meet your request it is necessary for me to discount this evidence and adopt the above assumptions.
8. On that basis, the proposals I am now assessing under application 1023 are for development involving both operations and making a material change of use of the land. The "operations" component of the proposal *as it is now specified* would involve the construction of 31 buildings, 27 of which would be the residential accommodation units described by the applicant as "lodges". These

27 units would have footings comprising steel supports welded to the underside of the lodges and set into concrete foundations in the ground, which would be much larger and deeper than the "pads" shown in the application plans; once in place, the units would not have wheels and would not be moveable.

9. Two of the other four buildings would be to provide a shop and an entry reception building for use as part of the Tamba Park tourist attraction (not for purposes ancillary to the 27 lodges as described in the original application and related documents including the Environmental Statement, the Design Statement, and the Planning Statement²).
10. The "use" part of the overall development subject to application 1023 would involve making a material change of use of the land to a mixed use. I make some further comments on this aspect of the proposed development in my assessment below (paragraphs 66-67).
11. The latest descriptions of the proposals are as follows.³

Application Reference P/2017/0805

"Demolish glasshouses to Field No. L78. Alter vehicular access onto La Rue de la Frontiere. Construct 1 No. four bedroom single storey house, detached three car garage and swimming pool to car park south of Field No. L78 with associated landscaping and parking. 3D MODEL AVAILABLE. AMENDED DESCRIPTION: Additional plans and documents received in support of submission and in response to representations received. AMENDED PLANS RECEIVED. FURTHER AMENDED DESCRIPTION: Refined red line application site. FURTHER AMENDED PLANS RECEIVED."

Application Reference P/2017/1023

"Demolish glasshouse and ancillary structures in Field 770. Construct 13 No. two bed and 14 No. three bed self-catering accommodation units and ancillary structures with associated hard and soft landscaping. Change of use of resulting agricultural field to car park, including hardstanding and associated works. Widen La Rue de la Frontiere and alter vehicular access. Construct bus shelter and form footpath to South-West of site. Construct terraced seating area to North of existing café. 3D model available. AMENDED DESCRIPTION: Additional plans and documents received in support of submission and in response to representations received. AMENDED PLANS RECEIVED. Environmental Impact Statement (EIS) submitted. FURTHER AMENDED DESCRIPTION: Additional plans received in response to previous Department for Infrastructure highway comments. FURTHER AMENDED PLANS RECEIVED. FURTHER AMENDED DESCRIPTION: Secondary Tree Inspection Results Report received. FURTHER AMENDED DESCRIPTION FOLLOWING PUBLIC INQUIRY DEFFERAL: "Demolish existing glasshouse and associated structures and hardstandings in field M770. Restoration of land to a condition suitable for agriculture. Creation of permeable surfaces and landscaping. Changes to existing means of access to La Rue de la Frontiere including road widening, creation of link footpath, 2 No. bus platforms and 1 No. shelter. Install pumping station and associated surface and foul water drainage.

² The Environmental Statement (on page 19) refers to "4 ancillary buildings.....to support the self-catering use of the site". The Design Statement (in the second unnumbered paragraph on the second unnumbered page under the heading "Proposals") refers to two ancillary entrance buildings for the holiday park, one of which would house a shop. The Planning Statement is less precise but makes similar reference (on page 6) to the "moveable self-catering lodges and 4 ancillary buildings" (ie obviously meaning ancillary to the lodges).

³ The latest changes agreed between the applicant and the Department relate to the last 13 lines of application 1023.

Erect 27 No. units for Class F (d) self-catering accommodation with 2 No. associated ancillary units for laundry and gym and 2 No. associated ancillary units for reception/ticket office and shop (and canopy) ancillary to Tamba Park leisure facility with associated bases. Use of land for mixed use for a) car parking associated with Tamba Park; b) reception/ticket office and shop facilities with office for leisure and tourism and c) Class F (d) self-catering use with associated car parking. SUBMITTED PLANS CLARIFIED FOLLOWING PUBLIC INQUIRY."

Further Representations

12. I do not propose to report here all of the points made in the latest written representations in response to the re-advertisement, since they are available for you to read and many of them are similar to those made previously. In summary, the main comments by interested third parties are:
- The development would conflict with the Island Plan, with particular regard to the Green Zone, policies NE 7 and ERE 7, policies relating to the area's designation as part of the central plateau and Countryside Character Area, and various strategic policies.
 - The proposals would provide insufficient environmental gain to overcome the harm caused to the rural character of the area. The claims about economic benefits and job provision are unconvincing.
 - The applicant has pursued frequent repeatedly amended applications, in the hope of unfairly wearing down opposition. The applicant's approach has been arrogant.
 - There is a lack of demand for self-catering units, as shown by proposals to convert such units elsewhere into apartments (for example Corbiere Phare). The proposal would be a device to develop housing.
 - The claim that the proposals are "enabling development" to pay for the removal of glasshouses is not accepted. Considerable profit has already been obtained when buildings at the former Retreat Farm site were developed for housing; this profit should have been used for clearing redundant glasshouses. On the west site there was already a codicil⁴ requiring the glasshouses to be removed.
 - The proposed 27 accommodation units would be caravans, which are subject to strict controls in Jersey.
 - The proposals have been put forward purely to make money for a property developer, not for the benefit of Jersey or for local people. The applicant bought the land knowing of the agricultural restrictions. The applicant's valuation figures are distorted and do not allow for the restrictions on the site
 - The development would be car-dependent and traffic would have an unacceptable impact on the local environment.
 - The proposed exit junction would be too large-scale and the proposed road widening and other changes to La Rue de la Frontière would take away an agricultural field.
 - Local residents already suffer noise and light pollution from activities at Tamba Park and the development would make the situation worse. Noise would not be controlled by the proposed legal obligations.

⁴ I use the term "codicil" here because this is the term used by objectors, although it is not the correct term for a planning condition.

- The development would set an undesirable precedent which would be followed up by other glasshouse owners elsewhere.
 - The area has a high water table and suffers from surface water drainage and sewerage problems which would be worsened.
13. The written responding comments on the applicant's behalf are also available to you. These point out that there has been no change in evidence since the inquiry. The main topics covered are:
- Application description - the application was validated by the Department on the basis that the proposed units would be lodges for tourism use. Whether the lodges would involve operational development (buildings) or the use of land (caravans) is a matter for the Minister to decide.
 - Application clarification - at no point has the refinement or clarification of information resulted in fundamental change to the purpose of the application. The applicant has responded to the Island's planning process.
 - Green Zone and Policy ERE 7 - the development proposed can be provided in accordance with the Island Plan as a whole. The glasshouses are redundant but not derelict.
 - Environmental and economic gain - the applicant has set out a clear programme for securing environmental gains through the planning obligation agreement. Providing self-catering accommodation for visitors would meet a shortage of such accommodation.
 - Planning obligation agreement - this provides for the removal of the proposed lodges and the return of Field M770 to agricultural land if the tourism use concludes.
 - Noise and lighting controls - No significant noise impact would result from the proposals. Mitigation measures are explained in the Environmental Impact Statement. Lighting would be controlled by planning conditions.
 - Transport and traffic - the access was designed to meet DFI standards and could be made less wide if required. The provision of car parking is to replace spaces lost at the east site.
 - Privacy - the site would be well screened by planting, secured by planning condition. The west site is already used for car parking.
 - Drainage - would be covered by the planning obligation agreement. The DFI has no objection.
 - Ecology - the proposal would enhance local ecology and biodiversity.
14. In further representations various points are made for the applicant about the intention of application 1023 to provide "self-catering lodges/units" in line with sustainability aims. The arguments in these representations mostly repeat the submissions at the inquiry which were covered in my previous report.

Assessment

Policy Background

15. The main issue raised by these applications is the likely effect of the proposals on the primarily rural character of the area, having regard to relevant planning policies, and whether adverse impacts of the development would be outweighed by planning benefits.

16. I take the Island Plan as a starting point. The general aim of the plan is to concentrate most forms of urban development in built-up areas, to conserve the rural character of the countryside - especially where designated as Green Zone - whilst also promoting Jersey's economy, in part by encouraging tourism. I do not propose to consider every conceivably relevant policy of the Island Plan in detail since, as is normal in most plans, policies pull in different directions. I focus on three policies - NE 7, ERE 7 and GD 7.
17. The application sites are in the Green Zone as designated for policy purposes in the Plan, and a key policy relevant to this case is policy NE 7. It provides that there will be a general presumption against all forms of development, including "redevelopment of glasshouses involving demolition and replacement with a building(s) or conversion to another use, or their conversion to a non-employment use". However, certain exceptions may be permissible. One of these exceptions, under the heading "employment", is stated as: "The redevelopment of employment buildings....for another use, but only where (a) the redundancy of employment use is proven....or where the development involves tourism accommodation; (b) and it gives rise to demonstrable environmental gains....". Another exception is: "New cultural and tourism development, but only where it (a) is appropriate relative to existing buildings and its landscape context, and does not seriously harm landscape character".
18. The general thrust of the policy quoted above is that a proposal for tourism-related development may be permissible as an exception to normal policy in the Green Zone provided that various criteria would be met. To be acceptable, the development must result in demonstrable environmental gains by, for example, helping to repair and restore landscape character, reducing the intensity of occupation, and improving the design or appearance of the land or buildings.
19. Policy ERE 7 of the Island Plan refers specifically to "derelict and redundant glasshouses". It states that there is a presumption against the redevelopment of redundant and derelict glasshouses for other uses, unless the alternative use is directly related to agriculture or diversification of agricultural activity. This policy also provides for "exceptional circumstances", and the supporting text states that any development of glasshouses sites will be considered on the planning merits of each site, and that any development will be limited to that having "a value commensurate with the costs of removing the glasshouses and restoring most of the land to agricultural use".
20. Of the two policies just quoted, Policy ERE 7 has lesser relevance, because although the glasshouses on both of the application sites are evidently redundant, they are not yet derelict; and Policy ERE 7 only applies where glasshouses are both redundant and derelict. Nevertheless, in my view it is sensible to have regard to this policy, since without intervention of some sort, redundancy is likely to lead to dereliction in the course of time and a strict interpretation of this policy could merely encourage dereliction.
21. The Island Plan also contains policies aimed at promoting or requiring good design. Policy GD 7 requires all development to have a high quality of design which (among other things) respects, conserves and contributes positively to the diversity and distinctiveness of the landscape. This policy also states that development proposals will not be permitted if they do not "adequately address and appropriately respond to" various criteria.

The Proposals - Negative and Positive Points

22. Considered in the light of the policy background, there are flaws and weaknesses in the applicant's case. The proposals would mean that the site would be much

more intensively occupied and used than it is at present, with side-effects such as traffic generation similarly increased. In these respects, the applicant's comparison between the proposal and the past use of the site is artificial, given the evidence that the glasshouses are redundant and not likely to be re-occupied for their designed purpose. In making this comparison, I discount any attempt to return to the sort of use carried on at one time in the past for the operation of an import-export business. That would require planning permission, since this past use (which appears to have been unauthorised, though never enforced against) has evidently been abandoned.⁵

23. The proposed buildings would have "sustainable" features such as sedum roofs and would not be visually unattractive, but the basic form of the 27 lodges converted from mobile homes would be undistinguished. The comment by the Department's witness about ordinary timber chalets may be a little harsh but is near the mark, since the lodge area would be rather like a bungalow estate. In my judgment the proposed lodges would not have the "high quality of design" sought by Policy GD 7 of the Island Plan. The proposed planting would help to soften the urban appearance of the development but the lodges and decking areas would be closely spaced (within about 5 metres of each other in some places) and the density of development within the "holiday village" itself would be high. Screening by vegetation could not take away the fact that the development would have an essentially urban character, probably more so than the existing largely unused glasshouses.
24. Some of the other points made for the applicant about the design of the proposals are in my view inflated. One example is the claim that the lodges and other buildings on the west site would "utilise the site's orientation and aspect". This appears to refer to the way the lodges would be positioned at different angles facing in various directions in the irregular way shown in the proposed layout. The evidence indicates that this resulted from suggestions during pre-application discussions aimed at making the layout less regimented than was originally proposed. Many of the lodges would have their main outlook and decking areas facing north, and it is difficult to see how this feature of the proposed layout would "utilise the site's aspect".
25. The claim that the proposed dwelling on the east site would "maximise its connection to place" is also overblown waffle. The single-storey dwelling would have several interesting and attractive features, but its design and finishing materials would contrast with the more traditional buildings in the vicinity. It would therefore have its own individual character and design quality, rather than maximising its "connection to place".
26. The listed building at Retreat Farm House is separated from the east site by another building. The proposed single-storey dwelling and landscape setting would look more attractive than the existing car park, but given the separation from Retreat Farm House the degree of improvement in the setting of the listed building would be slight.
27. The visual impact of the proposed development would also be affected by the proposals to make various alterations along La Rue de la Frontière. These would include realigning the carriageway, removing the existing embankment and vegetation, and constructing a bus passenger shelter and footpath. The access

⁵ The abandonment of any use rights for the operation of an import/export business is shown by the length of time this use has ceased, the fact that the site has not been advertised for sale or let for such a use, and the presence of an intervening use (for offices on part of the site, not involving the sale or transport of any goods).

into the west site would also be altered and widened. All these changes would take away some of the area's rural character, although in the long term, planting on the re-positioned embankment would become established and would help to restore some of this character.

28. Part of the applicant's case is that the proposals would significantly reduce the intensity of use of the sites. That would only be so if it were legitimate to compare the proposals with the situation when the Flying Flowers business was fully operational. That business ceased to operate some years ago and all the evidence suggests that there is no prospect of either site being used in anything like the same intensive way.
29. The latest proposal to fix the 27 proposed lodges in place with welded steel supports set into large blocks of concrete in the ground takes away part of the applicant's argument that the development would have a "light touch" and the would be easily reversible.⁶ As noted in my earlier report, the concrete would have a volume around 15 times larger than the small "pads" shown in the original drawings and described in the supporting documents for the application (indeed, that is one of the factors which contributed to my judgment that the changes made during the inquiry were more than the sort of minor revisions which could be considered acceptable at that stage). Therefore the amount of work needed if or when the land were to be restored into a state suitable for agriculture would be significantly greater than would have been the case with the originally proposed scheme. Restoration would still be possible, but it would not be as easy as claimed in evidence for the applicant.
30. The arguments put forward for the applicant about property valuation and costs are in my judgment misguided. Two points are clear from the evidence: first, there is no market for the existing glasshouses; second, the cost of removing the glasshouses, together with associated features such as the concrete base, would be substantial. In these circumstances, a market valuation based on past transactions is artificial, even if it did follow standard valuation surveyors' practice. If there is simply no market for a property, it has no market value, and where considerable expenditure is necessary before a property can be brought into beneficial use, it may well have a negative market value. In my view that is the situation here, except for the influence of "hope" value arising from the possibility of future development - a topic on which I add further comment later.
31. The applicant's argument about Condition 4 of the 1995 planning permission for the erection of a new glasshouse on the east site⁷ is also weak. The permission being granted was for "demolish existing pair of glasshouses and replace with new single glasshouse. The condition stated:

"Should the glasshouses fall into disuse or disrepair they shall be removed from the site and the land restored to agricultural use".
32. This condition was badly worded, not only because of the reference to "glasshouses" (plural) while permitting a glasshouse (singular), but also because the phrase "fall into disuse or disrepair" is imprecise. Any attempt to enforce such a condition might have to wait until any disuse or disrepair became blatantly obvious. Nevertheless I do not accept the applicant's contention that this

⁶ This refers to various pieces of evidence, one example being Mr Stein's evidence (page 26 of his proof) that the proposed lodges "have been designed to have a very light touch on the ground, so that the land on which they are located can remain agricultural quality land and the small volume of concrete pad foundation can also be restored to agricultural use".

⁷ Permission reference 3199/PA.

condition applies to the glasshouses which existed before the permission was granted, since the condition would only come into effect one step was taken to implement the permission, and that would involve demolishing the existing glasshouses as an initial stage. As a matter of logic, the condition could only apply to the glasshouse being permitted, and despite its poor wording using the plural "glasshouses" I think this condition is reasonably capable of being interpreted in the way it must have been intended.

33. Despite the flaws and weaknesses in the applicant's case reviewed above, the proposed development would be beneficial in various ways. There would be a substantial reduction in the area and volume of buildings on both sites, and an increase in the amount of open land, restored into a condition suitable for future open field agricultural use. Although the glasshouses are not derelict, it seems probable that without some reason to remove them, they will become increasingly dilapidated.
34. One reason to remove the glasshouses could be if in the future the States used Article 84 of the 2002 Law, under which a notice may be served requiring any building which is in a "ruinous or dilapidated condition" to be removed, together with any resulting rubbish. However, there are evidently other sites in Jersey with glasshouses in a much more ruinous or dilapidated condition than at Retreat Farm, and from what was said at the inquiry it seems that the Article 84 powers have never been used. That undermines the planning authority's case, because it suggests that the States is unwilling to take firm action against dilapidation and diminishes the threat of possible future action if the glasshouses were allowed to become dilapidated. The evident lack of action under Article 84 is also likely to increase the "hope value" of all disused glasshouse sites, which would reduce the likelihood of such sites being voluntarily returned to open land.
35. The changed pattern of traffic movement which would result from the development would be another benefit. At present, vehicles going to and from the main Tamba Park car park off La Rue des Varvots pass along this narrow lane close to several dwellings. Several written representations refer to the disturbance caused. Local residents also express concern about safety at the junction of La Rue des Varvots and La Rue de la Frontière, although there is no evidence that there is a real safety problem here and I think these concerns are exaggerated. Even so, the existing "split" arrangement with two car parks serving Tamba Park is clearly undesirable. On busy days at present, drivers going to Tamba Park might head for the main car park off La Rue des Varvots and then, on finding no spare spaces, go to the car park off La Rue de la Frontière, thereby in effect doubling the impact of traffic on the area around La Rue des Varvots. Subject to a suitable junction design (on which I comment later below), it would be preferable in principle to have only one access to Tamba Park and for traffic to be able to access Tamba Park without having to use a narrow lane closely bordered by residential properties.
36. On the broader issue of transport in general, and the desirability of encouraging public transport usage, I consider that there would be either neutral or slightly beneficial effects. As some objectors have pointed out, providing a larger car park than presently exists for Tamba Park could encourage private car traffic, contrary to policies intended to achieve "sustainable" development. However, the propensity for holiday visitors with a car available to use the car for a trip to Tamba Park appears unlikely to be much affected by its car park capacity. The provision of new bus stops, one northbound and one southbound, plus the proposed footpath leading off La Rue de la Frontière, should help to encourage the use of public transport. The provision of bicycle storage and electric charging

points would be a further small but useful way of encouraging sustainable forms of transport.⁸

37. The proposals would include a substantial amount of planting and other landscaping. Although some time would be needed for new growth to become established, the benefits would not only be visual, but also ecological. The removal of large areas of glass and replacement by open land, and by land which would be developed but well vegetated, should improve local biodiversity.
38. The development would have beneficial effects regarding surface water and foul drainage. The applicant has evidently recognised that surface water at present causes some local flooding problems, a contributory factor being the runoff from the large area of glass. Replacing this with more absorbent surfaces, including the restored areas of open field, the sedum roofs of the proposed buildings and the proposed porous car park surfacing, would make a significant improvement. As for foul drainage, the existing sewerage system in this area is evidently operating at or above its capacity. The proposal under a planning obligation agreement to install a new pumping station and new sewer, which would take foul drainage from the west site northwards to La Rue des Buttes would deal with the effects of the development and help to alleviate existing problems.
39. Turning to economic matters, the evidence about the number of jobs likely to be created by the proposals is thin. The Planning Statement claims that if the proposed development on the west site were approved, "a further 14 full-time jobs" would be created. This claim is apparently based on the Operational Statement - but as far as I can see, that statement only indicates that 8 full-time jobs would be created, plus one part-time job as a car park marshal, and even some of those might be seasonal. Either way, some additional employment would be generated by the proposals, although I suspect that the direct effect would be less than claimed for the applicant. What would perhaps be more likely is some indirect job creation, through increased trade at some of the Tamba Park facilities such as the restaurant. Any such effect is difficult to quantify at this stage as it would depend on future management and marketing. I see this as a slight economic benefit, which anyway if it arose would be partly offset by the environmental disbenefit of increased traffic to and from Tamba Park itself.
40. Tourism is an important part of Jersey's economy. The States' Economic Development, Tourism, Sport and Culture Department supports the proposals, as perhaps might be expected. Several objectors have drawn attention to the closure of tourist facilities elsewhere as indicating a lack of demand for self-catering accommodation. I do not know the full reasons for the closure of other tourist premises, but the available evidence suggests that what would be offered by the proposed development of the west site would be different to other tourist offerings. Future demand would depend on numerous factors such as marketing and pricing, and it seems to me that if an entrepreneur is prepared to take the investment risk associated with developing a tourist-related project which could benefit the island's economy, this should be regarded as a point of support for the proposal.
41. Some of the objections by local residents are concerned with the noise or other impacts of activities at Tamba Park. It is not for me to comment on past

⁸ According to the Operational Statement submitted with application 1023 (Document AW 12), tourists staying at the proposed lodges would be offered bicycle rental and electric car hire. This could have environmental benefits, though they may be offset by the operation of a car hire facility from the site, and in practice it would be difficult to enforce any such provision if planning permission were granted.

planning permissions and the conditions attached to them. If the planning permissions now being sought were to be granted, it would result in some westward expansion of Tamba Park (for example, the proposed shop and entry reception building would be outside the existing operational area of Tamba Park), but the direct effects of this would be offset by the advantages of consolidating car parking into one place and reducing the environmental impact in the south around La Rue des Varvots. From what I have seen and heard, it appears likely that noise from Tamba Park sometimes causes disturbance for local residents. However, this should be more a matter for enforcing existing restrictions than a reason for refusing permission for the present proposals.

42. The occupiers of La Sergenté Farm have a particular concern about overlooking from the high ground on the west edge of the proposed car park next to La Rue de la Frontière. Having checked the situation during my inspections, I consider that the proposed development would be unlikely to cause any real loss of privacy from overlooking. There is a vegetated embankment along the boundary of the existing car park, and with extra planting (potentially controlled by the landscaping conditions which would be imposed if permission were granted) users of the proposed parking area would have to make a determined effort to look over the property on the opposite side of the road.

Specific Highway and Traffic Matters

43. The proposed new bus stops in La Rue de la Frontière would result in pedestrians crossing the road in order to go to or from northbound buses. Many of these pedestrians would be children. In principle, this is undesirable for safety reasons. Visibility northwards from the western edge of the carriageway of La Rue de la Frontière is restricted by the bend in the road, so I can see why objections have been raised by local residents and, originally, by the transport section of the Department for Infrastructure.
44. However, the initial proposals have been modified to improve pedestrians' view of approaching traffic, and drivers' view of pedestrians crossing the road. The proposed footpath on the east side of the road would also help to separate pedestrians from road traffic. The existing bus stop immediately next to the junction where La Rue des Varvots meets La Rue de la Frontière is itself far from ideal, and although this bus stop would remain under the current proposals, the proposed new locations may well mean that buses would be less likely to stop at the existing stops. The Department for Infrastructure has withdrawn its objection and apparently accepts that the proposals would not be likely to cause any significant safety hazards. Taking these factors into account, I find that these aspects of the development would be acceptable.
45. The proposed alterations to the access off La Rue de la Frontière would have advantages and disadvantages. The applicant's advisers have evidently designed the proposed alterations to this junction in order to meet Department of Transport requirements. The advisers can hardly be blamed for that, since their brief would have been to help their client obtain planning permission. But the result would be an access to the west site around three times the width of the adjacent main road - with resultant environmental impact - and a two-lane exit layout which the applicant's specialist witness admitted (in response to one of my questions) would provide capacity far greater than would be needed.
46. Moreover, the two-lane exit layout could be potentially hazardous. The proposed design is apparently based on the premise that drivers of large vehicles leaving the west site to go southwards would approach the main road using the lane marked for right-turning vehicles and then turn left, cutting across the lane marked for left-turning vehicles. It is easy to see the potential for accidents

here, if inattention by drivers were to be combined with an assumption by an impatient driver of a vehicle in the left-turn lane that a large vehicle in the right-turn lane was turning north and leaving the left-turn lane clear.

47. In my view the revised or alternative layout produced during the inquiry after I had raised the above points would only be slightly better. A narrower entrance, having a total width of about 9.8 metres, would be less visually intrusive than the scheme shown in the application drawings with its width of about 14.2 metres; but the introduction of a central island in the site entrance (as suggested for the applicant) would not be much use as any sort of pedestrian refuge, since there is no evidence of any significant existing or future pedestrian movement from north to south or vice versa across this entrance; and a physical island here could be more of an obstruction than a benefit.
48. I get the impression that the need to allow for the swept path of the kind of large vehicles which might occasionally use the west site access if permission were granted has overridden other considerations. Both the layout shown in the application drawings and the alternative put forward during the inquiry would have disadvantages; but on balance I judge that the latter would be preferable to the original proposal, as a compromise between capacity, safety and environmental impact. This matter could potentially be controlled by a condition, leaving the detailed design of the access junction to be in effect a "reserved matter" subject to approval by the planning authority. The extent to which the planning authority would take account of the views of the Transport Department would be a matter for the planning authority.

Objection under 1974 Agricultural Land Act

49. The Environmental Land Control section of your Department⁹ has objected to the proposal relating to the west site on the grounds that it is subject to agricultural restrictions under the Agricultural Land (Control of Sales and Leases (Jersey)) Law 1974. This evidently provides that without your consent Field MY 770 shall not be occupied by anyone other than a bona fide inhabitant of the Island specifically approved by the Minister who is wholly or mainly engaged in work of an agricultural nature in Jersey for his [or her] own benefit and profit. The Law also provides that this land can only be used for agricultural purposes, which excludes horse grazing and growing trees, without Ministerial consent.
50. Clearly neither the applicant company nor any of the companies who own these sites come within the definition of "a bona fide inhabitant of the island wholly or mainly engaged in work of an agricultural nature in Jersey for his [or her] own benefit and profit". The current occupation for what appears to be office use is not agricultural; nor is there any evidence that any of the companies or Mr Ruff personally have received Ministerial approval for their occupation. Therefore on the face of it the current occupation of the west site would appear to be unlawful under the 1974 Law, and to have been so for some years, irrespective of the lack of planning permission for what appears to be office use.
51. However, it is difficult to see why a law dealing with the control of sales and leases should be regarded as a planning matter. Mr Jones accepted on the Department's behalf that the Environmental Land Control section's objection would fall away if you were to grant planning permission. It therefore seems to me that this objection is primarily a matter of procedure, in that if planning

⁹ The writer of this objection refers to this section of the Department as: "The land controls and agricultural developments section". Either that is incorrect or the Department's letterhead is wrong - in the text above I have taken the section's title from its letterhead.

permission were granted it may be necessary for a specific consent or waiver to be issued under the 1974 Act.

Precedent and Other Glasshouse Sites

52. Several local residents have mentioned the issue of precedent in their objections. I share their concern.
53. Planning decisions are often quoted as a precedent, and even though the detail of each case is rarely identical, there is a need for reasonable consistency in decisions. As you will know, there are large areas of disused glasshouses in Jersey, some of which are dilapidated. In a situation where the governing authority has apparently been unwilling to use its available powers to require the removal of redundant and derelict glasshouses, there is a danger that permitting these proposals in the Green Zone could increase pressure for other urban-type development in the countryside, based on the argument that there is no other way of getting redundant eyesore structures removed. The contentions about benefits to the tourism industry and other "planning gains" are the sort of arguments likely to be repeated.
54. The evidence presented for these applications suggests that the lack of action by the States against derelict glasshouses influences land valuations upwards, and in turn makes any voluntary removal of derelict glasshouses less likely. The combination of circumstances behind these proposals is unusual, and I think just sufficient to avoid setting any undesirable precedent. However, you may wish to consider the Jersey-wide implications.

Representations Following Re-Advertisement

55. As noted in paragraph 12 above, most of the written submissions received as a result of the re-advertised modified proposals raise objections similar to those previously raised, and I have commented (either in my earlier report or elsewhere in this supplementary report) on most of the points covered. I add the following comments on five topics.
56. First, several objectors suggest that no reliance can be placed on the applicant's intentions, bearing in mind that planning permission was only applied for retrospectively for some earlier development (that is to say, development which was unauthorised at the time). This is also a view expressed by people who have suffered noise disturbance from the Tamba Park site. Some objectors describe the attitude of the applicant company, or Mr Ruff personally, as arrogant and an instance of this is that the parts for some of the proposed units have already been purchased and are stored in containers at the site. Opposition is also expressed on the grounds that the proposals are primarily aimed at making money for a property developer.
57. Although those views are understandable, only planning matters can be taken into account when considering a planning application. There is nothing wrong with operating as a property developer, though the involvement of numerous limited liability companies with these sites creates concerns and does not make it acceptable for incorrect ownership information to be supplied with planning applications. Whether planning conditions or legal undertakings are adhered to should be an enforcement issue for the planning authority, like the control of noise from the existing Tamba Park site. The fact that one of Mr Ruff's companies has bought parts for some structures which have not received planning permission is a commercial risk which is up to the applicant (though whether the addition of storage has constituted a further, perhaps temporary, material change of use is a separate matter).

58. Second, the evidence that the owner or owners of Retreat Farm have carried out developments converting buildings formerly used by the Flying Flowers business into dwellings, without being required to remove any of the glasshouses, suggests that the planning authority may have failed to spot past opportunities. If so - and I do not know the full historical circumstances - I can see why local people would feel let down. However, what has happened is in the past. The situation now has to be assessed in the light of existing circumstances.
59. Third, the objection to application 1023 recently submitted by National Trust Jersey (Mrs S Kerley on behalf of the Planning Applications Advisory Committee) refers to "a previous letter of objection to a similar development of this area". The letter from Mrs Kerley also states that the Trust "must again object to this application". As is recorded in my earlier report (paragraph 122), the Trust submitted a previous written representation, but this was about application 0805 and anyway was not an objection: it stated that the Trust was unable to support the application - which expresses neither support nor objection. Although I have searched again through all possible sources and have asked the Department to make additional checks, I have not found any previous objection by the Trust to application 1023.
60. Fourth, two objectors (Mr and Mrs Guthrie) have referred incorrectly to a point which arose during the inquiry about Article 84 of the 2002 Law (mentioned in paragraph 34 above). The objectors - apparently misunderstanding a question I raised - believe that this Article requires the owner of dilapidated glasshouses to remove them.¹⁰ That is not so, and is not what I said at the inquiry. Article 84 provides that "the Chief Officer" *may serve a notice* requiring the removal of dilapidated buildings. I questioned the Department's witness about this because I was trying to find out why this power had not been used. Contrary to the understanding of these objectors, there is no requirement under Article 84 to remove dilapidated buildings *unless such a notice is served*.
61. The fifth topic arises from the written responses by the applicant's agent (Mrs Steedman) to the latest representations. Mrs Steedman points out that the Department validated application 1023 without raising any concerns about the proposed "lodges" being defined as caravans, and she has written:
- "The initial mobility of the structures that has been relied upon to indicate the proposals' environmental light touch, regrettably, has resulted in a mis-conception by third parties that the proposals are a mobile home park but this has never been the ultimate intention. Because of this mis-conception, further constructional details have been produced (in response to the inspector's questions) in the planning sphere to show (in our view) sufficient fixation of the structures to the land. The iterative nature of the responses was reflected in the evidence also given by witnesses as (to be detailed) fine grained constructional processes were explored progressively in the planning sphere of the inquiry."
62. Those statements appear to claim that the proposals relating to the lodges were misunderstood and that the proposals were merely refined, not altered, during the inquiry. The applicant's agent also refers to the "clarification" of the proposals. Such claims are wrong. As I have previously explained,¹¹ it was

¹⁰For example, Ms Jean Guthrie states: "At the inquiry, the inspector informed the applicant that if a building becomes dilapidated then the owner is required to remove the dilapidated building under Article 84 of the Planning and Building (Jersey) Law 2002".

¹¹ Here I am partly repeating my earlier report (eg paragraph 153) - this is because I am responding to claims for the applicant which are themselves repeated.

evident from the application and supporting documents that the proposed "lodges" would be wheeled, moveable units, falling within the definition of caravans for the purposes of planning law. Those who understood the original application as proposing development involving the stationing of mobile homes or caravans did not misconceive anything - rather, they correctly interpreted what was then proposed.

63. A potential source of initial doubt might have been the application drawings showing the units "floating on air"; but any doubt was removed by the elevation drawings submitted in response to my query in December 2017 (as explained in paragraph 45 onwards of my earlier report). These drawings showed a chassis, wheels and small corner stabilisers and clarified that the units would indeed be mobile homes or caravans for the purposes of planning law in Jersey. Then further confirmation came from Mr Stein's evidence to the inquiry, again referring to wheeled, moveable units, and from Mr Dennis' evidence mentioning among other things "four wheels to each chassis", despite his evidence about the units being fixed. But later, after I had raised questions on this issue and handed out my note on the law relating to the definition of "caravans", new drawings appeared - presumably after some urgent legal advice¹² - showing revised proposals.
64. What happened was not refinement or clarification (or what Mrs Steedman calls "fine grained constructional processes"); it was significant change, because there are important planning differences between a caravan and a permanent structure. Planning law in Jersey does not prevent repeated different applications being made for development on the same site. What is not legally valid is granting planning permission for a form of development materially different from that applied for. One way of testing the situation in this case is by reversing it and considering whether, following an application for a group of bungalows, permission could validly be granted for caravans, if an applicant sought to change the application in such a way before it was determined. In my judgment the answer is no. You have evidently taken a different view, and that is your prerogative.
65. Since I was not party to the pre-application discussions or the initial processing of the application I do not know why the Department apparently accepted that an application which clearly referred to wheeled moveable units would involve the erection of permanent buildings. This may perhaps have been because static caravans (residential units which stay in one position but are caravans under planning law) are an unfamiliar concept in Jersey. Again I have commented on this point in my earlier report (paragraphs 151-152).

Descriptions of Proposed Developments

66. As already noted, the amended re-advertised proposal relating to the west site follows an agreement between the Department and the applicant. There are flaws in the latest description agreed between the two main parties. One of these is that the proposed development on the west site is described in part as: "Use of land for..." etc. The mere "use" of land is not development under the 2002 Law - it is *making a material change of use* which amounts to development.¹³ Also the

¹² An inspector is not allowed to inquire into the advice provided to an applicant by a legal adviser because that is privileged information; but the obvious conclusion can be drawn that the applicant's advocate must have agreed with my interpretation of the law relating to caravans as it applied to the application, otherwise the sudden quite radical changes involving welding the units to steel supports concreted into the ground would not have been devised. This scheme had not been mentioned anywhere in any previously submitted evidence.

¹³ See paragraph 62 of my earlier report.

references to "car parking associated with Tamba Park" and "self-catering use with associated car parking" are inconsistently switched around - and in any case, where car parking is ancillary to a primary use and within the same planning unit, the "real" use of land is the primary use,¹⁴ and the mixed use description agreed between the applicant and Department does not fully reflect the expansion of the "Tamba Park use" which would result if the proposed development were to be carried out. (For example, the ticket office and shop would really be an integral part of the Tamba Park use - that is to say, not just ancillary, but part and parcel of a westward expansion of Tamba Park).

67. However, I think the description put together by the parties is capable of reasonable interpretation, and so can be regarded as adequate. The proposed "use" of the land can reasonably be taken to infer a change of use. The words "associated" and "associated with" should also be sufficient to ensure that the proposed development would not inadvertently include the use of land for car parking (that is to say, parking as a use in its own right with no link to Tamba Park or the holiday lodges), which anyway seems unlikely in this location. So I do not propose to interfere any further by recommending yet more changes.

Conclusions on Planning Merits

68. In summary, both of these proposals would have planning benefits and disbenefits. The proposals are linked in such ways that they stand or fall together - it would not make sense, for example, to grant planning permission for the proposed dwelling on the east site, which if implemented would take away the parking for the Tamba Park tourist attraction, unless the replacement car park were to be provided on the west site. Nor would it be sensible to permit the proposed holiday village and enlarged parking and other facilities for Tamba Park on the west site whilst leaving the existing car park off La Rue des Varvots on the east site.
69. The decision whether or not to grant planning permissions depends on the weight put on various aspects. The cases are more evenly balanced than has been claimed for the applicant, and than might be suggested by the relative volume of evidence or submissions presented by the two main parties; but in my judgment the benefits of the proposals - including removing the redundant glasshouses, restoring a substantial part of the land to a condition suitable for agricultural use, helping the tourism-related economy, taking traffic away from La Rue des Varvots and enabling improvements to be made to local drainage - carry considerable weight. On balance, I judge that the public interest planning gains would be sufficient to overcome the objections to the proposals, including the normal presumption against most forms of urban development in the Green Zone.

Conditions

70. This part of my report only becomes relevant if you decide to grant either or both planning permissions. The main reference source is the schedule of conditions, with comments for the Department and the applicant, in Document IQ 13. The comments below follow the sequence in that schedule.

Conditions for Both Applications

¹⁴ I tried to explain this point, using the example of an office car park, in Footnote 18 on page 12 of my earlier report. Since the parking at the west site would be for customers only, it would be ancillary to the mixed use, ie ancillary either to the tourist attraction component of the mixed use (Tamba Park) or to the holiday lodge component. To illustrate the point in another way, for planning purposes the use of a driveway of a typical house where occupiers and visitors may park their cars is not "car parking"; it is "residential".

71. Condition A would be the standard commencement condition and would be appropriate. Conditions 1-8 in the schedule are agreed between the two main parties and would be appropriate, including the words "including all surfacing materials" in Condition 4 and taking the "latest" wording for other conditions (that is to say, the wording in the column headed 8 February where this supersedes earlier wording). Condition 9 on the subject of potential contaminants would only be appropriate for application 1023 as the available evidence indicates that a "watching brief" type of condition would be suitable for the east site.

Other Conditions for Application 1023 - West Site

72. Condition 1 as suggested in the first column of the schedule would specify that no self-catering lodge shall be occupied by the same visiting household for more than 3 months in any calendar year. This would clearly be unsuitable and I suspect must have been a "try-on" by the applicant's advisers, since even ignoring the potential for non-tourists to stay for 3 months, it would be easy for occupiers to switch lodges so as to become permanent residents of the site whilst still complying with this condition. The applicant's suggested restriction using the words "short-stay accommodation only" would not be suitable either, because the expression "short-stay" is imprecise.
73. The requirement that the units shall not be occupied as a person's sole or main residence, combined with the maintenance of a register which would have to be available for the planning authority to inspect and would contain details of occupiers' main home addresses, would be appropriate and necessary. I suggest that including occupiers' telephone and email contact information (subject to current data protection law) would also help the Department to carry out checks for enforcement purposes. Defining a tourist or holidaymaker is difficult but restricting occupation to such people could be usefully reinforced by preventing occupation by anyone working in Jersey.
74. I also consider that it would be reasonable to impose a time limit instead of the term "short stay", and I suggest that this should be four weeks, which should be ample for accommodation aimed at tourists. If you wish to allow more flexibility a 5 week limit would perhaps be an alternative. This control would not prevent specific arrangements being made with the planning authority if an unusual circumstance were to arise involving a holidaymaker wanting to stay for an unusually long period or to return for repeated stays during a calendar year.
75. Oblique stroke punctuation (as in the Department's wording "owners/operators" and "owners/occupiers") should not be used in conditions as this can cause enforcement problems, because oblique strokes are open to different interpretations.
76. Thus I suggest that this condition should read:
- "The self-catering units hereby approved shall not be occupied by any person as his or her sole or main residence and shall not be occupied by any person working in Jersey, whether as an employee, contractor or in any self-employed capacity; and no person shall stay overnight anywhere on the site as a whole for more than 4 weeks in any calendar year. The operators of the site shall maintain an up-to-date register of the names of all occupiers of the self-catering units and their home addresses, including telephone and email contact details, and shall make this information available at all reasonable times to the Department of the Environment."

77. Conditions 2-12 would be appropriate, including the amendments in red shown in the schedule. The additional conditions numbered 14 and 15 would also be appropriate so that the means of restricting access to Tamba Park for people staying in the lodges would be subject to the planning authority's prior approval, and so that the car park is made available and kept available for visitors.
78. If my suggestion about making the layout of the proposed access junction for the west site a "reserved matter" were to be adopted, a suitable wording for an additional condition could be:

Notwithstanding the proposals submitted as part of the application for the layout of the proposed junction between the site access and La Rue de la Frontière, no development shall be carried out until details of a revised layout with a narrower width site entrance have been submitted to the planning authority for approval and have been approved. The development shall not be carried out other than in accordance with the approved details."

Other Conditions for Application 0805 - East Site

79. Conditions 1 and 3 in the schedule would be appropriate to ensure that detailed arrangements for surface water and foul drainage are approved and implemented. Condition 2 is the "watching brief" condition relating to potential contaminants, which would be suitable for this site as mentioned above.

Legal Agreements

80. The planning obligation agreements in Document IQ 18 set out covenants which have been drafted by agreement between the applicant and the Department and would come into effect under Article 25 of the Planning and Building (Jersey) Law 2002 if planning permission were to be granted. One of the agreements covers various environmental improvements including demolition and removal of the glasshouses and associated structures, removal of concrete and hardstanding, installation of new foul and surface water drainage, land restoration, realignment of La Rue de la Frontière, alterations to the access to the west site, provision of new bus stops, and arrangements for closing the existing car park off La Rue des Varvots. This agreement also contains an undertaking that after a period of ten years from the first occupation of a self-catering lodge, the owner will remove the lodges and associated items from the land within a calendar year of any year during which there is less than 25% occupancy of the self-catering lodges.
81. The other agreement relates specifically to drainage items, including the provision of the proposed new pumping station and a new sewer between the west site and the existing public sewer at the junction of Rue de la Frontière and Rue des Buttes. The agreements also contain covenants by the Minister on certain administrative arrangements and the transfer of payments to the States Treasurer.
82. If you are minded to grant planning permissions which would activate the obligation agreements, they would first need to be finalised (for example by inserting the dates of my reports where there is a gap in the draft text). You have evidently taken separate legal advice on this case,¹⁵ so it seems likely that you will obtain additional advice to ensure that these documents are legally satisfactory. I have two reservations which I explain in the next two paragraphs.

¹⁵ This is mentioned in the Minister's letter (Appendix 1).

83. The first is the reference to "less than 25% occupancy of the self-catering lodges"¹⁶. Although the Department's representatives at the inquiry evidently agreed with and did not query this provision, it could be taken to refer to several different situations, and it is not clear which of them are meant to apply. A simple possibility could be where, for a whole year, 25% of the lodge units are fully occupied whilst 75% are unoccupied. But another "less than 25% occupancy" situation could be where all the lodge units are occupied throughout a calendar year, but only by, say, one person in each unit, or perhaps an average of one person per unit. Alternatively, this restriction could be taken to refer to the percentage of total bedrooms or beds occupied, and since the proposal would involve 13 two-bedroom units and 14 three-bedroom units this could be a cause of dispute. And all those points are without even considering what would happen if a future operator, on finding by Autumn that bookings were at a low level and likely to trigger the 25% threshold, removed some of the units so that occupancy stayed above 25% for the calendar year.
84. Another reservation is that some of the obligations appear to assume that future owners (including a future owner in the period more than ten years after first occupation of a self-catering lodge) would be bodies with financial resources. That might not be so if a future owner were to be, say, a limited liability company which was in administration, perhaps with a bank having first charge over assets. Such circumstances can sometimes be safeguarded against by means of a financial bond, but no strong argument has been made for that type of pre-payment.
85. If you are satisfied about those reservations, I consider that the planning obligation agreements would provide suitable safeguards on matters which need to be covered and are relevant to the development for which planning permissions are sought. If any details remain to be confirmed, one possibility might be issuing a "minded to permit" notification, together with publication of my reports, so as to give time for legal undertakings to be finalised.

Concluding Comments on Timing and Changes

86. I realise that by the time these applications are decided, around a year will have elapsed since the applications were made in June and July 2017. Some people may consider that to be an over-long period and since it is common to blame "the planning system" for delays I make the following comments.
87. I am well aware that in the field of property development "time is money", and I have sought to minimise delay - my main report was dispatched less than two weeks after the close of the inquiry, and I have completed this supplementary report within less than a week of receiving the written submissions from the re-consultation process. The delay which has occurred in this case has been regrettable. But much of it could have been avoided if the proposals had not been subject to repeated changes after the applications.
88. When an applicant is seeking detailed planning permission, the application should provide a reasonably accurate description of what is proposed, as well as specifying other basic points such as application site boundaries and whether or not proposed residential units would be moveable. The time for deciding on these details should be *before* an application is submitted, not afterwards - and certainly not months later by presenting shifting evidence at a public inquiry after an inspector has explained the law. This especially applies where the proposed development is likely to be of public interest.

¹⁶ This is in the draft planning obligation agreement on page 24 of Appendix 7 of Document IQ 13.

89. I sympathise with the numerous local residents who have complained about the frequent, repeated post-application changes to these proposals. For example, objectors refer to "one plan after another" and to "relentless modified applications". One local resident says: "constantly moving goal posts do not make a fair game". I agree, and this was one of the reasons behind the recommendation in my previous report. I invite you to read through the description of what is proposed under application 1023 in paragraph 11 above (which is quoted from the government's planning applications website) and agree with me that many people would find it confusing.
90. Judging by what has happened in this case it seems that in Jersey at present, repeated amendments to applications after they are made are regarded as acceptable normal practice, even where the amendments may have legal or planning significance. The extent of revision you have evidently decided is acceptable would not be so regarded in other jurisdictions but this is perhaps a wider issue which could only be properly considered separately from these applications.

Recommendations

91. These recommendations are made on the basis of the assumptions set out in paragraph 6. I am also assuming you are still satisfied that application 1023 can validly result in planning permission for the latest version of the proposals, not for the development specified in the original application and supporting documents. I have made known my view on this point.
92. Suggested reasons for both permissions would be that considered overall as linked proposals, the benefits of the developments with regard to the removal of existing glasshouses, the restoration of land for potential open-field agricultural use, landscape enhancements, drainage provision, potential benefits to the tourism economy and reduction of traffic along La Rue des Varvots would outweigh the adverse effects on the environment, amenities and rural character of the area. The proposals would therefore be acceptable judged against planning policy, as an exception to the normal presumption against development in the Green Zone.

Application P/2017/0805

93. I recommend that planning permission be granted, subject to conditions as discussed in paragraphs 71 and 79 above and to the finalisation of the legal agreements under Article 25 of the 2002 Law.

Application P/2017/1023

94. I recommend that planning permission be granted, subject to conditions as discussed in paragraphs 71-78 above and to the finalisation of the legal agreements under Article 25 of the 2002 Law.



Inspector

26 May 2018

APPENDIX 1: Text of Letter from Minister to Inspector, dated 6 April 2018.

Dear Mr Self

Retreat Farm Public Inquiry

Thank you for your report into these 2 applications.

Having read that report I am not minded to pursue either of the two main options you have promoted, but instead I would ask you to submit the supplementary report suggested in your paragraph 163. However before that I intend to allow for further comments from the public on the final set of drawings.

My reason for this is that having taken legal advice I do not believe that I have the option to return an application at this stage. In addition, given the time and effort spent by all parties to address the Public Inquiry, I want to be able to make a final decision on these 2 applications, and to do so as quickly as reasonably possible.

I do however take your comment that the application for the western site has been amended a number of times, particularly during the inquiry itself, and that those neighbours who did not attend the inquiry will not have been able to comment upon those amendments. The overall site layout and the number and scale of the mobile homes as you refer to them, and the ancillary buildings, has not changed however. I am therefore content to hold the applications open rather than require new applications be submitted, but I will require a final description and a final list of drawings to be agreed, which will then be advertised allowing interested parties 21 days to comment if they wish.

After that I will forward such comments to you to take into account in preparing your supplementary report, so that what is being considered is clear, and has been open to public comment.

I would anticipate that the deadline for these comments will be in around 5 weeks' time, and I will send any comments to you after that.

Yours faithfully

[Signature]

Deputy S Luce
Minister for the Environment