

STATES OF JERSEY
PLANNING AND BUILDING (JERSEY) LAW
PLANNING AND BUILDING (PUBLIC INQUIRIES)
(JERSEY) ORDER 2008 (as amended 2015)

PUBLIC INQUIRY

PLANNING APPLICATION REFERENCE: P/2019/1042

APPLICANT: Broadlands Private Hotel Ltd

SITE: Broadlands, Le Mont Fallu, St. Peter, JE3 7EF

PROPOSAL: Change of use of Field P712 from haulage, waste management and recycling facility to residential use in connection with development to construct 19 No. two bed and 5 No. three bed dwellings with associated parking and landscaping. Change of use of Field P714 and P715 to agricultural. Alter land levels and create pond to Field P715. Create access track to South of Field P714. Alter vehicular access onto Le Mont Fallu.

REPORT TO THE MINISTER FOR THE ENVIRONMENT

by

Mr Philip Staddon BSc, Dip, MBA, MRTPI

An Independent Inspector appointed under Article 3

25 NOVEMBER 2020

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EXECUTIVE SUMMARY

In October 2020, I held a Public Inquiry into a Planning application made by Broadlands Private Hotel Ltd (P/2019/1042). The application relates to a commercial site, located within Jersey's Green Zone, which is currently used for waste recycling and reprocessing of waste materials, primarily from the building sector.

The site is situated in the countryside to the north of Mont Fallu (the B58) in the Parish of St Peter. It is about 1.35 kilometres from St Peter's village and just over 1 kilometre to the east of the end of the runway at the Jersey Airport. To the north of the site, the land falls away into the heavily wooded St Peter's valley and the A11 that runs along it.

In essence, the application proposal is to replace the commercial waste / recycling use with a residential development of 24 new homes along with landscaping, agricultural re-instatement and associated engineering works.

The Inquiry was held because the Minister decided that the application would be a departure from the Island Plan, because the Island Plan's Spatial Strategy [policy SP 1] asserts that outside the Built-up Area, Planning permission will only be given for development appropriate to the coast or countryside; for development of brownfield land, which meets an identified need, and where it is appropriate to do so; and for development of greenfield land, in exceptional circumstances, where it justifiably supports parish communities or the rural economy and which meets an identified need and where it is appropriate to do so.

My role in conducting the Inquiry was to provide an independent professional Planning assessment of the proposal, which is set out in this report.

I undertook site inspections and held the Public Inquiry on 5 – 6 October 2020. Some adjustments were necessary due to the Covid-19 pandemic. I heard evidence from the Applicant, the Department's officers and the Ports of Jersey.

I identified that the two main issues to explore through the Inquiry were:

1. Whether the proposed development is appropriate with regard to the provisions of the Island Plan.
2. In the event that any conflict is found with the Island Plan, whether there is sufficient justification that would override that conflict.

The assessment of the first main issue is wide ranging and covers a raft of Island Plan policies, which include high level strategic policies and more detailed topic specific policies. My assessment finds that the proposal would entail significant conflict with the Island Plan in terms of its strategic policies and other topic related policies.

At a strategic level, I have found that the proposal would conflict with policy SP 1 (spatial strategy), SP 2 (efficient use of resources), SP 3 (sequential approach to development), SP 5 (economic growth and diversification) and SP 6 (reducing dependence on the car).

With regard to more specific policies I have found that the proposals would be in direct conflict with the Green Zone policy NE 7 and with employment policy E 1. I have also found conflict with policy TT 17, which dictates that new houses

should not be placed within the airport public safety zone. I have further assessed that the location of the site would be poor in transport terms.

I reach positive findings in terms of the scheme's architectural design (policy SP 7) and biodiversity enhancements (policies NE 1, NE 2, NE 3 and NE 4). However, these are more discrete and limited positive benefits and do not outweigh the fundamental conflicts identified above.

On the first main issue, I conclude that the proposed development is not appropriate with regard to the provisions of the Island Plan, as it would conflict with its strategic policies and with policies concerning development within the Green Zone, the protection of employment land, and restrictions on development within the airport public safety zone. These are, individually and collectively, very substantial and significant conflicts with the Island Plan.

On the second main issue, I recognise that there are some benefits that would arise from the scheme and that the application represents an opportunity to remove a commercial use from the Green Zone countryside. However, I consider these benefits to be localised and limited and that they would not provide sufficient justification to override the substantial and wide ranging conflict with the Island Plan that I have identified under the first main issue.

Accordingly, I recommend that the Minister refuses to grant Planning permission for the application reference P/2019/1042 for the following reasons

Reason 1: The proposed development of 24 dwellings in the Green Zone would be wholly contrary to the strategic policies of the Revised 2011 Island Plan (2014). In particular, it would conflict with policies SP 1, SP 2, SP 3, SP 5 and SP 6, which, respectively, seek to concentrate development in the defined Built-up Area, use land resources efficiently and sustainably, adopt a sequential approach to new development, protect employment land, reduce dependence on the use of the car and establish more sustainable patterns of transport.

Reason 2: The proposed erection of housing in this location would conflict with policy NE 7 of the Revised 2011 Island Plan (2014) that establishes a high level of protection from development within the defined Green Zone and specifically excludes the development of most types of dwellinghouses. Furthermore, the proposal does not fall under any of the exception classes stated in policy NE 7.

Reason 3: The proposal would result in the loss of a significant and established employment site which would conflict with policies E 1 and SP 5 of the Revised 2011 Island Plan (2014), which seek to protect employment land in the interests of the Island's economy.

Reason 4: The proposal would introduce a significant number of new homes, and associated resident population, into the defined Airport Public Safety Zone. This would conflict with policy TT 17 of the Revised 2011 Island Plan (2014), which does not allow for new residential properties in this location in the interests of public safety.

Should the Minister not agree with my recommendation, and consider that there is sufficient justification to depart from the Island Plan's policies, a draft list of Planning conditions and the heads of terms of a Planning Obligations Agreement has been produced for his consideration.

Philip Staddon BSc, Dip, MBA, MRTPI

25 November 2020

1.0 INTRODUCTION AND IDENTIFICATION OF MAIN ISSUES

- 1.1 My name is Philip Staddon. I am an independent Planning Inspector appointed by Jersey's Minister for the Environment. I am a chartered town planner with over 30 years' relevant experience across the Planning and development industry in both public and private sector roles.
- 1.2 In England, I am a Director of a specialist Planning consultancy, PJS Development Solutions Ltd, established in 2013, and I undertake work as a Planning Inspector and Independent Examiner. In Jersey, I have worked as a Planning Inspector since 2015 and undertaken a number of complex Hearings and Public Inquiries.
- 1.3 I have been appointed to conduct this Public Inquiry to assess a Planning application made by Broadlands Private Hotel Ltd. The application relates to a commercial site within the Green Zone which is currently used for recycling and reprocessing of waste materials, primarily from the building sector. The application proposal is, in essence, to replace this commercial use with a residential development of 24 new homes along with landscape, agricultural re-instatement and associated engineering works.
- 1.4 On 17 October 2019, the Minister for the Environment decided¹ that a Public Inquiry should be held before he determines the application. The stated reasons were:
- "The Minister considers that in accordance with Article 12(1)(b) of the Planning and Building (Jersey) Law, 2002 (as amended 2015), the application would be a departure (other than an insubstantial one) from the Adopted 2011 Island Plan (Revised 2014).*
- The Island Plan's Spatial Strategy [Policy SP1] asserts that outside the Built-up Area, planning permission will only be given for development appropriate to the coast or countryside; for development of brownfield land, which meets an identified need, and where it is appropriate to do so; and for development of greenfield land, in exceptional circumstances, where it justifiably supports parish communities or the rural economy and which meets an identified need and where it is appropriate to do so."*
- 1.5 The Planning and Building (Jersey) Law 2002 (as amended) provides the legal framework for the operation of the Planning system in Jersey. In essence, Article 19 establishes that Planning decision-making in Jersey is 'plan-led' and the 'Island Plan' takes primacy in decision making. Article 19(1) states that all material considerations should be taken into account in the determination of a Planning application and Article 19(2) establishes that, in general, Planning permission must be granted if the proposal is in accordance with the Island Plan, i.e. there is a general presumption that

¹ Ministerial Decision MD-PE-2019-0090

development that is in accordance with the Island Plan will be allowed and, by implication, development that is inconsistent with the Island Plan will normally be refused. However, Article 19(3) does allow for conflict with the Island Plan to be overridden if there is sufficient justification to do so.

- 1.6 It is customary in Planning inquiries for the Inspector to identify the 'main issues' that will be explored through the process. In this case, the main issues flow directly from the Minister's decision and the legislative framework set out above. The main issues are:

1. Whether the proposed development is appropriate with regard to the provisions of the Island Plan.

2. In the event that any conflict is found with the Island Plan, whether there is sufficient justification that would override that conflict.

- 1.7 The first main issue is wide ranging in its scope and complexity, as it relates to a wide range of policies which include both the strategic policies of the Island Plan and a host of more specific topic related and detailed policies. Case law² has established that this assessment should be made holistically, by considering the proposal's conformity with the Plan as a whole.
- 1.8 The second main issue arises only if the proposal is judged (under the first main issue) to be a substantial departure from the Island Plan. If that is the case, as noted above, the Law allows a judgment call for the decision taker to consider departing from the Island Plan. What constitutes a "sufficient justification"³ for departing from the Plan is not defined, but such a decision would be exceptional, and would require clear reasons.
- 1.9 I held the Public Inquiry into this application at the Golden Apple Suite, Pomme D'or Hotel, St Helier on 5 and 6 October 2020. I inspected the site and surroundings on 5 October 2020 and viewed the site from a number of vantage points.
- 1.10 At the Inquiry, I heard evidence from the Applicant, the Department's officers and a Director from the Ports of Jersey. The Applicant was represented by Mr Huckson (Design Director for Dandara Jersey Ltd) and his Planning consultant, Mr Nicholson (Planning Consultant MSP Planning). The Department was represented by Mr Gladwin (Senior Planner), Mr Le Gresley (Director Development Control), Mr Monks (Head of Waste Regulation) and Mr Haywood (Senior Transport Planner). The Ports of

² Therin v Minister for Planning and Warwick [2018] JRC 098 (Royal Ct: Bailhache, Bailiff sitting alone)

³ Article 19(3) - Planning and Building (Jersey) Law 2002

Jersey was represented by Ms Bartolo (Deputy Director of Civil Aviation), who appeared by video link.

- 1.11 The site owner attended part of the Inquiry and spoke briefly to provide some background information. None of the third party representors took part in the Inquiry sessions.
- 1.12 I have also read and considered all of the other written submissions and representations made in respect of the application. I am grateful to all parties who attended the Inquiry and to those who made written representations, for their helpful and intelligent contributions, which have greatly assisted my understanding of the issues in this case.
- 1.13 In terms of the structure of this report, I begin by dealing with some procedural and administrative matters. I then set out a brief description of the appeal site, describe the development proposal and then summarise the cases for the parties. The report then assesses the two main issues. I then deal with some 'other matters' before reaching my conclusions and recommendations.
- 1.14 Accompanying this report, as separate documents, are an Inquiry Documents List and a Core Documents List.

2.0 PROCEDURAL AND ADMINISTRATIVE MATTERS

Covid-19 Pandemic

- 2.1 The holding of this Inquiry has been delayed and affected by the Covid-19 pandemic. The Inquiry was initially scheduled to take place on 30 – 31 March 2020. However, the Covid-19 related lockdown, and associated restrictions, necessitated cancellation and rescheduling. Due to the lengthy period of postponement, I allowed an opportunity for parties to submit any updates before the Inquiry commenced and have taken these into account.
- 2.2 The rescheduled Inquiry was also affected to some degree by the ongoing constraints and restrictions arising from the Covid-19 pandemic. There were also some limitations on witness attendances and one gave evidence virtually. Other Proofs of Evidence were taken 'as read'. Notwithstanding these delays and necessary adjustments, I am satisfied that the Inquiry process has enabled me to make a full assessment of the proposal.

States' officers

- 2.3 One of the interested parties in this case is a senior civil servant who has responsibility for Planning and related services. He has made representations in his capacity as a private individual who lives near to the application site. I have treated the submissions accordingly.
- 2.4 Restructuring of the civil service in recent years has resulted in the 'Planning authority' role becoming split between the departments of Infrastructure, Housing and Environment (IHE) and Strategic Policy, Performance and Population (SPPP). The former deals with the development management and decision making functions, whereas the latter deals with policy matters, including the Island Plan.
- 2.5 The IHE officer position was, on balance, to offer qualified support for the proposal, whilst recognising some policy tensions. However, the principal planner based in SPPP, who did not appear at the Inquiry, had issued a consultation response which assessed significant tension with the Island Plan.
- 2.6 In the light of the above, the Inquiry proceedings were a little unusual in the sense that the normally expected two 'sides' were absent. As a result, I undertook a more active questioning role of all participants than would normally be the case.
- 2.7 At the Inquiry, due to above sensitivities concerning officers and their differing views, comments were made by both the Applicant's and Department's representatives that the Minister should consider carefully the selection of any advisory team members in respect of this case, to ensure impartiality and fairness. Other than relaying that request from the

two main parties, this is essentially a governance issue for the Minister to consider, and not a matter for me to pass comment on.

Environmental Impact Statement

- 2.8 The application was accompanied by an Environmental Impact Statement (EIS)⁴ which provides the Applicant's assessments of the proposal in respect of a wide variety of matters including biodiversity, landscape and visual impact, transport, noise, air quality and socio-economic impacts. The relevant Order⁵ prescribes that certain types of development require an EIS. However, the proposed development does not fall under any of the categories listed and I do not consider that it constitutes 'prescribed development' requiring an EIS.
- 2.9 I raised this point at the Inquiry and it appears that there was no screening process undertaken and it was just assumed that an EIS would be needed. Notwithstanding the fact that an EIS was not strictly required in this case, its content remains a comprehensive and useful source of supporting information, much of which would have been required in any event outside of any matters arising from the Order.

⁴ Core Document SD12 and Appendices SD13 a) – g).

⁵ Planning and Building (Environmental Impact) (Jersey) Order 2006

3.0 THE APPLICATION SITE

- 3.1 The application site comprises a waste and recycling commercial operation covering an area of just under 3 hectares. It is situated in the countryside to the north of Mont Fallu (the B58) in the Parish of St Peter. It is about 1.35 kilometres from St Peter's village and just over 1 kilometre to the east of the end of the runway at the Jersey airport. To the north of the site, the land falls away into the heavily wooded St Peter's valley and the A11 that runs along it.
- 3.2 Mont Fallu runs in a roughly east-west direction connecting the A12 with the A11. Access to the site is gained from the north side of Mont Fallu, at a point where there is a bend in the road and moreover at the midpoint in the length of the road (from the A11 to A12 junctions). Just to the west of the access point there are several residential properties (Vale House, Vale Farm, Vale Lodge and Laurel House) and, a little further to the west, some more residential properties arranged in a loose, informal and low density pattern.
- 3.3 The access road heads northwards past 3 detached residential properties owned by the applicant (but outside the application site) and leads to a housing site under construction (to the north and north-east of the 3 houses). The application site itself is of an irregular shape, but the main part of it is roughly square shaped, and lies to the east of the 3 houses and the new housing site under construction.
- 3.4 The northern part of this square comprises the main waste and recycling operations and, when I visited, it contained significant mounds of processed aggregate, active machinery to move and process materials, and a skip waste recovery operation. South of the main operations are areas of commercial vehicle parking, open storage of materials and paraphernalia, a site office and a vehicle wheel wash facility, along with an open field (Field P714). This main square is connected by a smaller field (Field P718) to the existing access road and the Mont Fallu frontage, which is effectively the width of the access.
- 3.5 There is a significant embanked woodland area between most of the southern site boundary and Mont Fallu, which provides a dense screen, such that the commercial activities are not discernible by road users. There is also screening to the north by the densely wooded slopes of the southern side of St Peter's valley. Whilst the land falls away beyond the site, I observed that the trees on the upper reaches are higher than most of the site operations, such as the skip reprocessing area and mounds of materials.

4.0 THE PLANNING HISTORY

- 4.1 The site and its surrounding area have a complex Planning history. At the Inquiry, Mr Gladwin explained a long history of enforcement enquiries and Planning applications concerning the waste processing and recycling operations. However, the key Planning permission was granted in 2010 and permitted the haulage, waste and recycling use, along with the replacement of fire damaged residential accommodation which was described at the Inquiry as a lodging house.
- 4.2 Since that time, the details of the replacement residential development have been agreed in the form of a 25 house scheme which was at an advanced stage of construction when I visited. The reasoning for allowing a small housing estate in place of what was described as 'residential lodgings', is unclear, but the permission is extant and implemented. The commercial waste / recycling uses are fully operational, although much of the consented commercial building floorspace is yet to be constructed.
- 4.3 The key applications are summarised below:

P/2008/0288 – *Outline application to reinstate destroyed or damaged accommodation/buildings within a residential curtilage. Detailed proposals for the re-organisation of established haulage, waste management and recycling processing facility in Field 712. Introduction of associated landscaping and planting to provide screening. The creation of a separate commercial vehicle access from Le Mont Fallu* – approved – 08/12/2010

P/2013/0669 – *Vary condition 2 to extend timescale within which to obtain planning permission for reserved matters from permit P/2008/0288.* Approved – 16/07/2013

Note – the Department has confirmed that, for the above two applications, pre-commencement conditions have been discharged, development has commenced and the Permission is therefore extant.

P/2013/1508 – *Reserved matters for P/2008/0288: Re-instatement of residential accommodation, comprising of 26 No. dwellings, to replace 32 dwelling units previously destroyed by fire (model available) (EIS submitted).* Approved – 23/01/2014

P/2013/1860 – *Construct mixed waste reception shed to cover existing open reception area.* Approved – 01/04/2014

P/2017/1226 – Reinstatement of residential accommodation to create 18 No. two bed and 7 No. three bed dwellings with associated parking and landscaping. EIS submitted. 3D Model available. Approved – 12/03/2018

RP/2019/1011 – REVISED PLANS to P/2017/1226 (Reinstatement of residential accommodation to create 18 No. two bed and 7 No. three bed dwellings with associated parking and landscaping. EIS submitted. 3D model available): Omit substation to South-east of site and bin store to West of site to form parking. Construct substation to South-West of site. Install 1No. Satellite dish to East elevation of bin store to South-East of site. Approved – 20/09/2019

- 4.4 There is a useful annotated site plan showing the Planning status of various parts of the site, which appears to be common ground between the parties ('Site Plan – Existing Planning Status' drawing number 0025/P4)⁶. However, it should be noted that the layout shown on that plan does not coincide exactly with my observations on site.

⁶ Core Document P2

5.0 THE APPLICATION PROPOSAL

- 5.1 In essence, the application seeks full Planning permission to replace the commercial operations at the site with a 24 unit housing development. The formal description is as follows:

Change of use of Field P712 from haulage, waste management and recycling facility to residential use in connection with development to construct 19 No. two bed and 5 No. three bed dwellings with associated parking and landscaping. Change of use of Field P714 and P715 to agricultural. Alter land levels and create pond to Field P715. Create access track to South of Field P714. Alter vehicular access onto Le Mont Fallu.

- 5.2 The proposed housing development would be on the northern part of the site where the main commercial operations take place. It would link to the new housing scheme to the west and, should the scheme be permitted, it would omit the previously approved landscaped bund (to separate and screen commercial use from the newly built housing development).
- 5.3 The layout and form of the new housing would be similar to the adjacent new development. The dwellings would be 2 and 2.5 storey and comprise a mix of semi-detached houses and link houses, each with their own gardens, with some larger areas of communal open space. Parking would be provided in a courtyard style in close proximity to the residential units. The access road from Mont Fallu would serve the development and the largely constructed housing scheme to the west of the site. It would be surfaced along its full length and a segregated footpath is shown on the plans along one side, although it terminates before reaching the Mont Fallu entrance.
- 5.4 To the south of the proposed housing development, Fields P715 would be returned to grassland and Field P714 is proposed to be rented for potato growing. The plans indicate that the farm track alongside the southern boundary would be repaired, with access granted to the National Trust (which owns land to the east of the field). The plans also indicate that Field P713, to the east of the site and outside the application area, would be planted with trees. The plans further show that Field P717, to the west of the site and also outside the application area, would be returned to grassland.
- 5.5 The application was supported by a full set of plans, along with supporting information including the EIS, a Design and Access Statement, a Planning Policy Statement and a Percentage for Art Statement. All of these plans and documents are itemised on the Inquiry Core Documents List.

6.0 LEGISLATION AND PLANNING POLICY

- 6.1 The Planning and Building (Jersey) Law 2002 (as amended) sets out the legal framework for the operation of the Planning system in Jersey. This establishes a '*plan-led*' system whereby Jersey's development plan, the Island Plan, takes primacy in decision making.
- 6.2 The current Island Plan was approved in June 2011 and a subsequent review resulted in the Revised 2011 Island Plan being approved in July 2014. The Revised 2011 Island Plan (2014) (hereafter the Island Plan) sets the framework for development in Jersey for a 10 year period. It is a comprehensive and complex development plan which includes a strategic policy framework, a detailed set of policies and proposals maps.
- 6.3 Due to its complex nature and wide scope, there are often interconnections between different Island Plan policies. There can also be occasions where there are tensions, with policies seemingly pulling in different directions. Judging a proposal's conformity with the Plan is therefore a complex and holistic discipline, requiring careful judgements and a balancing of the assessed weight of different policies.
- 6.4 A wide range of Island Plan's zonings, strategic policies, general policies and topic specific policies are relevant to the application proposal. These are listed in the Department's Statement of Case⁷ and the Applicant's Planning Policy Statement⁸. I have set out the zonings and the most relevant policies in list form below, and these are explored in greater depth later in this report.

Zonings affecting the application site

Green Zone (see Policy NE 7)

Water Pollution Safeguard Area (Policy NR 1)

Airport Public Safety Zone 2 (Policy TT 17)

Airport Noise Zone 3 (Policy TT 16)

Strategic Policies

SP 1 – Spatial Strategy

SP 2 – Efficient Use of Resources

SP 3 – Sequential Approach to Development

SP 4 – Protecting the Natural & Historic Environment

⁷ Inquiry document GHE1

⁸ Core document SD14 and Inquiry document APP1

SP 5 – Economic growth and diversification

SP 6 – Reducing Dependence on the Car

SP 7 – Better by Design

General Policies

GD 1 – General Development Considerations

GD 3 – Density of Development

GD 4 – Planning Obligations

GD 5 – Skyline, Views & Vistas

GD 6 – Contaminated Land

GD 7 – Design Quality

GD 8 – Percentage for Art

Natural Environment Policies

NE 1 – Conservation & Enhancement of Biological Diversity

NE 2 – Species Protection

NE 3 – Wildlife Corridors

NE 4 – Trees, Woodland & Boundary features

NE 7 – Green Zone

NE 8 – Access & Awareness

Historic environment policies

Policy HE 1 – Protecting Listed Buildings and Places

Policy HE 5 – Preservation of Archaeological Resources

Economy Policies

E 1 – Protection of Employment Land

EIW 3 – Relocation of Bad Neighbour Uses

EIW 5 – Industrial Development in the Countryside

ERE 1 – Safeguarding Agricultural Land

Housing policies

Policy H 4 – Housing Mix

Travel and transport policies

Policy TT 2 – Footpath Provision and Enhancement of Walking Routes

Policy TT 3 – Cycle Routes
Policy TT 4 – Cycle Parking
Policy TT 8 – Access to Public Transport
Policy TT 16 – Aircraft Noise Zones
Policy TT 17 – Public Safety Zone

Natural Resources and Utilities policies

Policy NR 1 – Protection of Water Resources
Policy NR 2 – Water Capacity and Conservation
Policy NR 7 – Renewable Energy in New Development

Mineral Resources policy

Policy MR 2 – Secondary and Recycled Materials / Alternative Aggregate Production

Waste Management Policies

Policy WM 1 – Waste Minimisation and New Development
Policy WM 5 – Recycling Centres and Waste Collection
Policy WM 6 – Inert Waste Recycling
Policy WM 11 – Development in the Vicinity of Waste Management Facilities
Policy LWM 2 – Foul Sewerage Facilities
Policy LWM 3 – Surface Water Drainage Facilities

Implementation and Monitoring Policy

Policy IM 1 – Plan, Monitor, Manage

6.5 A review of the Island Plan is currently underway. The impact of the Covid-19 pandemic has meant that it is no longer possible to deliver an Island Plan as originally envisaged. The Minister has announced his intention to develop a shorter-term 'bridging' plan that will exist between two longer-term plans (the current Island Plan 2011 to 2021; and a future Island Plan 2025 to 2034).

6.6 The following Supplementary Planning Guidance (SPG) has some relevance:

A Minimum Specification for New Housing Developments (PPN6 1994)

Countryside Character Appraisal (1999)

7.0 SUMMARY OF THE APPLICANT'S CASE

- 7.1 The Applicant's case is set out in the suite of Application documents, its Statement of Case⁹, the Proofs of Evidence of Messrs Nicholson, Ingrey, Danks, van Dee and Huckson and Ms Bliss and Ms Safe¹⁰, and the evidence given in person through the submissions of Messrs Nicholson and Huckson at the Inquiry itself.
- 7.2 I have set out below a summary of the Applicant's case which is largely based on Mr Nicholson's closing statement to the Inquiry, with a few edits and additions for clarity.

The Applicant considers that the Inquiry has been a useful opportunity to review the Island Plan policy framework and to show how there is a clear path within the Plan (and more importantly to show how we meet the tests set by that path) so enabling the application to be approved within the current policy framework.

In relation to Spatial Strategy Policy SP1 and the sequential approach to development Policy SP3, the Applicant submits that this is a brownfield site and that housing is appropriate here and housing is indeed being constructed right next door, to the west. There are pressing housing needs, of an astonishing magnitude which have emerged in this Plan period, which have failed to be addressed by the policy requirement in IM1 to monitor and manage the housing needs situation. No evidence has been produced to substantiate an alternative position.

This development is appropriate in the countryside by reference to the wide ranging and significant package of environmental gains which are delivered by this application, which support the restoration of this severely degraded industrial environment and deliver the objectives of the Countryside Character Area and the overarching purposes of Green Zone designation. These are not achievable by other timely mechanisms as there is no restoration package associated with the current use.

In relation to Policy SP6 (reducing dependence on the car), all the criteria are met by the proposal. There is no unacceptable impact on the highway network and a package is being delivered to benefit the application site and, importantly, the wider community, by reference to the bus shelter, junction improvements and contributions to the bus service. This is betterment in terms of sustainability for the wider community, it is

⁹ Inquiry document APP1

¹⁰ Inquiry documents APP2, APP3, APP4, APP5, APP8, APP6 and APP7 respectively.

supported by the Highway Authority and is not readily achievable by other mechanisms.

The site is within the Green Zone and the policy has a pathway in NE 7(10) to consider this very form of development – this is accepted by the planning authority. Our submissions in relation to the tests on that pathway show the application accords with Policy E1 in relation to loss of employment land.

Criteria 3 and 4 of Policy E1 are met. The overall benefits to the community are considerable and can be itemised:

- a. meeting housing needs;*
- b. reducing visual impact;*
- c. repairing and restoring landscape character;*
- d. reducing site occupancy in the airport safety zone;*
- e. reducing the risk of bird-strike to aircraft;*
- f. reducing potential noise, dust, vibration and air pollution;*
- g. reducing heavy goods traffic on country roads;*
- h. reducing the risk of pollution to water;*
- i. reinstating agricultural land;*
- j. delivering ecological improvements;*
- k. improving the amenities of nearby residents;*
- l. improving public access to land and footpaths.*

The ongoing issues mean that employment operations here are problematic. The Parish has actively encouraged this application and neighbours have also made their views known in relation to the harm to their amenities.

At this moment in time, the employment uses are likely to be relocated and absorbed elsewhere meaning there is no loss of employment opportunities. The other sites are actively being pursued and are very much focused on business continuity, maintaining the employment activity and we can explore a formal mechanism to ensure this occurs.

Green Zone Policy NE7(10) also asks that demonstrable environmental gains are delivered, and indeed they are, particularly in relation to the situation taking account of the extant permissions. The bird's eye of the 3D model before and after illustrates this particularly well.

The identified demonstrable environmental gains are:

- Reductions in mass and scale within the landscape*
- Replacement with sympathetic buildings, taking the model of Broadlands 1*
- Significant reductions in the intensity of use*
- Removal of heavy traffic, on country lanes, which neighbours have concerns about*
- Reduction in overall trip numbers*
- Wider community benefits in relation to sustainable travel*
- All the natural environment policies are met, and there are significant ecological gains.*

In relation to the airport, Policy TT16 sets out that noise is a consideration. The site is in 'noise zone 3' which means that a framework of conditions is appropriate and acceptable, and this will ensure that the relevant BS8233 standard will be met, as is the case with the existing new housing development. With regard to Policy TT17 concerning development within the public safety zone, the proposal will result in a significant reduction in human occupancy, reduced by 51.9% during airport operating times (and 65.7% Monday to Friday during these same hours) and so accords with the objectives of the policy.

The Applicant concludes that the proposal delivers a very strong and compelling package which accords with the Island Plan such that, as per Article 19(2) of the Planning and Building (Jersey) Law 2002, Planning permission should be granted. The Applicant further submits that, if it is considered that the application is inconsistent with the Island Plan then the matters raised in support of the proposal, including the exceptional Planning gains identified, and endorsed by the Planning Authority and Highway Authority are such that there is clearly sufficient justification to grant planning permission in accordance with Article 19(3).

8.0 SUMMARY OF THE DEPARTMENT'S OFFICER CASE

- 8.1 The Department's officer view is set out in the document titled *Statement of Case of Department of Growth, Housing and Environment*¹¹ which was prepared by Mr Gladwin. At the outset the Statement makes the following disclaimer:

The Statement has been prepared by officers of the Department and does not necessarily reflect the views of members of the Planning Applications Committee, the Minister or other Departments of the States; none of whom have had any involvement in its preparation and none of whom have had sight of the statement prior to its release to the Public Inquiry.

- 8.2 The Statement provides a description of the site, a resume of the Planning history, a summary of consultation responses and representations; and a list of relevant Planning policies. It then identifies and assesses four main issues which are summarised below.

Issue 1: Compliance with Policy NE 7 – Green Zone

- 8.3 The Statement explains policy NE 7 reaches the following assessment:

The Department consider that in coming to a conclusion on Policy NE7, account needs to be taken both of the existing buildings/land on the site, but also the extant planning permissions P/2008/0288 & P/2013/1860 for substantial commercial development on the application site.

The pre-commencement conditions on the above planning permissions P/2008/0288 & P/2013/1860 have been discharged and development commenced on site for both the permissions. The Applicant has stated that if he stays on this site if permission is refused, then the buildings will be constructed. There is a strong probability that the approved buildings will therefore be constructed in this scenario and this needs to be considered in balancing the relative impacts on the Green Zone.

Account needs to be taken of the existing business and development on site, which includes the storage of materials and vehicles to the south of the main yard which have been in situ for over 8 years and therefore are immune from enforcement action under Article 40 (1a) of the Planning & Building (Jersey) Law 2002.

Account also needs to be taken of the 2 approved commercial buildings and other approved development on site referred to above, in coming to

¹¹ Inquiry Document GHE1

the comparative floorspace/footprint figures, which are substantial buildings/development with a resultant impact on the Green Zone.

The Department consider that taking account of the above factors, that the proposal would give rise to the required demonstrable environmental gains, contributing to the repair and restoration of landscape character; reduced intensity of occupation and use; and improved design and appearance of the land and building.

Issue 2: Compliance with Spatial Strategy and traffic issues

8.4 The Department's assessment is as follows:

The existing use of the application site is for a commercial haulage, waste management and recycling facility. In this location outside the Built-up Area, Policy SP3 as referred to above, states that the site should be used for its approved use, which in this instance it would not be as it would be redeveloped for residential use. Policy SP3 states that there is a presumption against its redevelopment for other uses such as residential as proposed.

Policy SP1 states that outside the Built up Area planning permission will only be given for development in certain listed circumstances. The Department consider that the application site is 'Brownfield land' that has an approved use as a waste site, which has been undertaken for many years. The Planning Department consider that the key issue with regard to the Spatial Strategy in this instance, is therefore does the application meet an identified need in the Island Plan for this type of housing?, and is it appropriate to do so?

The Applicant has asserted that there is the required housing need through the Island Plan for 2 bed dwellings as part proposed. But it is for the Applicant to demonstrate that they are in accord with Policy SP1 and there is limited evidence currently demonstrated by the Applicant of the meeting of this housing need in terms of the size (number of bedrooms) of the units and tenure for open market housing as proposed. At present, the Department are not convinced by the evidence put forward by the Applicant, but reserve judgement until the Applicants Statement of Case and the Inquiry Hearing hears the full evidence.

The Department refer to and endorse consultation comments received from the Transport section of GHE regarding the traffic issues for the proposed development.

Issue 3: Compliance with Policy E1 – Protection of Employment Land

- 8.5 The Department explains policy E1 which seeks to protect employment land. It assesses that the permitted exceptions 1 and 2 do not apply as, respectively, the site has not been marketed for alternative employment use, and it does not relate to office or tourist use.
- 8.6 It then discusses exception 3, which concerns whether 'the overall benefit to the community of the proposal outweighs any adverse effect on employment opportunities and the range of available employment land and premises'. It notes the existing use on site is still operational and offers employment opportunities, adding to the range of employment land and premises across the Island. It questions whether, if the recycling of waste material is such an undeniably good use for Jersey, is it appropriate to let the site be redeveloped and use discontinued, without a clear route to a new and better location. It then assesses whether the proposed housing is of overall benefit to the community and considers this to be 'arguable either way' and recognises certain environmental benefits, including to neighbouring residents and a Planning Obligation Agreement (POA) financial contribution for certain transport benefits, as well as a financial payment through a 'percentage for art' for the renovation of the National Trust property Le Moulin de Quetivil.
- 8.7 The fourth exception concerns the removal of employment uses which are generating environmental problems. Here, the Department considers that criteria 4 of policy E1 is met as the existing use and an alternative employment use on this site is in all likelihood likely to continue to generate complaints due to environmental problems.

Issue 4: Compliance with Policies TT 16 & TT 17 – Airport considerations

- 8.8 The Department considers that policy TT 16 concerning noise effects from the airport operations can be addressed by Planning conditions.
- 8.9 With regard to policy TT 17, the Department explains the policy, the objections from the Ports of Jersey and the Applicant's submissions concerning numbers of people who are likely to be present on the site during weekday and Saturday working hours. However, it states that:

The Department understand this is a finely balanced argument, taking account of different number of people on site at different times and days of the week for the existing and proposed uses and therefore do not conclude on this point at this time as to whether overall, the proposal is in accordance or contrary to policy TT 17.

9.0 SUMMARY OF THE CASES MADE BY OTHER PARTIES

9.1 The following representations, with my brief summaries, have been made in respect of the application:

Mr Scate (COM1 and COM1a)

As nearby residents we are very supportive of the redevelopment, as it will remove a commercial operation which is inappropriate in this countryside location. The landscape restoration is particularly welcome. Mont Fallu has suffered from commercial traffic for far too long and is treated as a rat run. Serious consideration needs to be given to pedestrians and children exiting the site and walking up Mont Fallu, as this is a dangerous highway situation and needs pedestrian refuges or a 'virtual' footpath marked for safety. We strongly object to the proposal to run buses along Mont Fallu.

Mr and Mrs Robertson (COM2)

In principle we support this application as it will be an improvement in terms of environmental impact, noise, unsightliness and heavy traffic. However, we do not support the bus proposal, as this will just replace one form of heavy traffic with another. If traffic calming and road speed reduction measures are included, we strongly support the application; without those measure we cannot support it.

Mr Stirling-Stewart (COM3)

Road safety is my only concern. Some sort of traffic calming is needed as the road is like a race track.

Mr Coles (COM4)

I am happy for this site to progress as residential but key concerns are road safety. Measures such as a bike / pedestrian lane and a 20 mph speed limit are critical. The suggestion of a new bus stop is ridiculous. Additional planting and protection / promotion of trees is critical.

National Trust Jersey (COM5)

The Trust reviews the proposal against Island Plan policies and concludes: *The Trust does not feel that the application is compliant with a number of planning policies and remains concerned that no alternative locations for the existing operations have been secured or finalised. The Trust would therefore recommend that the site should be submitted as a potential housing site for the new Island Plan, which will ensure that the suitability*

of the site for housing development as opposed to employment use, is subject to review and consultation in line with Island wide strategic requirements.

Mr Quenault (COM6)

The site is directly under the flight path. This application will put more families at risk of tragedy. I recognise the argument about removing employment but I consider that residential is more problematic because of children and vulnerable adults.

- 9.2 The Applicant has made a number of references to support and encouragement for the proposal from the Parish. Whilst I note these submissions, I have not received any formal submissions from the Parish or its representatives.

10.0 CONSULTATION RESPONSES

10.1 The following consultation responses, with my brief summaries, have been made in received.

Department of the Environment – Environmental Health (CON1)

No objection

Growth, Housing & Environment – Transport and Operations (CON 2)

This provides a detailed response on transport matters. It reviews the location, speed limit, road and junction characteristics. It notes the lack of footways along Mont Fallu and that walking is hazardous, given the narrow carriageway, high traffic flow and bends. It records that there have been reported accidents at the junctions at either end of Mont Fallu, although none in the last 3 years and none at the site access.

It assesses that there are few alternatives to the car for anyone choosing to live at this location, with walking and cycling difficult and the nearest bus stops difficult to access, and that the site is 'not at all sustainable'.

It provides detailed comments on the site history and the access for commercial activities which, whilst built, is not yet 'signed off'. It explains that the development will result in different patterns of traffic.

It assesses that a new bus stop and subsidy of a new service along Mont Fallu, along with highway junction improvements could be agreed by a POA and would help mitigate impacts.

Growth, Housing & Environment – Solid Waste Recycling (CON 3)

This response states that, if approved, prior to the acceptance of any waste materials at La Collette, full chemical testing would be required. The proposed bin stores are considered inadequate and future residents must have more space to store glass for monthly collections.

The proposal's Waste Management Plan indicates that waste timber arisings would be sent for energy recovery, but this should be updated to re-use as the primary outlet, with energy recover for any timber that cannot be reused.

Department of the Environment – Natural Environment (CON4)

The response states that more information is required. It says that the application comes with several aspects of a conservation strategy but there are a number of issues, missing information and inconsistencies. It

sets out that the greatest species impacts could be adjacent to the site and this has not been evaluated. It raises a range of more detailed matters concerning method statements, the proposed pond design, hedgerows, features for wildlife, and footpath connectivity.

Department of the Environment – Environmental Land Control (CON5)

No comment

Ports of Jersey (CON6)

Formally object to the application as the development is within the Airport's Public Safety Zone 2.

If the proposal were to be approved the Airport would require a range of safeguards covering construction phase management,; habitat and bird management; landscaping; external lighting; prohibition of solid fuel / wood burning; control of solar panels; and prohibition of threats such as gas cylinders.

Department for Infrastructure Operational Services – Drainage (CON7)

There is a public foul sewer in Mont Fallu with capacity for the proposal. There is no public surface water sewer and it is noted that the development will drain to a soakaway. It is a requirement that no surface water from the site should enter the public highway.

Department of Strategic Policy, Performance and Population (CON8)

Undertakes a review of the proposal against Island Plan policies and concludes:

The proposed development clearly runs contrary to policies SP1, E1, NE7 and TT17. The level of conflict with the Island Plan is considered to be substantial and significant.

Any justification for the development proposals on the grounds of it removing a bad- neighbour use are , perhaps, over- inflated given the fact that full compliance with the conditions on the original planning permission (P/2008/0288) and requirements of the EIA / Noise Action Plan would mitigate any unacceptable impacts of the commercial operations.

Article 12(2) of the Planning and Building (Jersey) Law 2002 states that where a development proposal represents a departure (other than an insubstantial one) from the IP, the Minister shall not determine the

application unless and until a public inquiry has been held concerning the application.

THE DEPARTMENT CONSIDERS THAT A PUBLIC INQUIRY MUST BE HELD INTO APPLICATION REF: P/2019/1042 PRIOR TO ITS DETERMINATION.

Waste Regulation, Environmental Protection (CON9)

Provides an account of the history of the site and explains licensing matters. It states that should permission be granted, conditions should be imposed covering contaminated land remediation; asbestos identification and removal; a waste management plan; and a construction / demolition environmental management plan.

11.0 INSPECTOR'S ASSESSMENT

MAIN ISSUE 1 – WHETHER THE PROPOSED DEVELOPMENT IS APPROPRIATE WITH REGARD TO THE PROVISIONS OF THE ISLAND PLAN.

11.1 As I set out at the beginning of this report, the first main issue concerns the general conformity of the proposal with the Island Plan and this is a wide ranging assessment. This is because there are a significant number of policies, both strategic and topic related, to consider, along with some significant overlaps and interplay between different policies.

Strategy

11.2 Policy SP 1 sets out the spatial strategy which is, in many ways, the cornerstone of the Island Plan. It sets out a concentrated growth strategy for the Island and states that 'development will be concentrated within the Island's Built-up Area, as defined on the Proposals Map, and in particular within the Town of St Helier.' As the application site is outside the Built-up Area, and outside St Helier, its development runs counter to this main strategic thrust.

11.3 However, policy SP 1 does allow certain exceptions and goes on to state that, outside the Built-up Area, Planning permission will only be given for development:

1. Appropriate to the coast or countryside;

2. Of brownfield land, which meets an identified need, and where it is appropriate to do so;

3. Of greenfield land, in exceptional circumstances, where it justifiably supports parish communities or the rural economy and which meets an identified need and where it is appropriate to do so."

The Applicant seeks to argue compliance with SP 1 under these exceptions.

11.4 Under exception 1, it is contended by the Applicant that the development is appropriate to the countryside location. Mr Nicholson argues that exception 1 is met as the proposal would substitute the authorised commercial use, which has extant permission for two large buildings in a countryside location, with a smaller scale, less intensive residential scheme that would better integrate with the neighbours, and provide significant improvements in relation to the landscape, ecology and environment of the area, to the benefit of countryside character.

- 11.5 Whilst this is a creative argument, it is not one that I support for a number of reasons. In my view, 'appropriate' to a countryside location relates to development deemed necessary to support the rural economy and / or otherwise requiring a countryside location; it does not extend to new homes. My view is confirmed by the supporting narrative to the spatial strategy¹² and by the suite of other Island Plan policies which support and reinforce it.
- 11.6 Those policies include SP 2 concerning the efficient use of resources; SP 3 which adopts a sequential approach to development; NE 7 which does not permit most types of new homes in the Green Zone; SP 5 and E1 which protect employment land (such as the application site); and SP 6 which seeks to reduce dependence on the car. All of these policies send clear messages that building new houses in this countryside location is not appropriate and would be unsustainable.
- 11.7 The Applicant's exception 2 submissions are that the site is brownfield and the proposal will clearly meet a need for new housing that it contends is substantial and pressing. It submits that housing needs have emerged in the Plan period and have not been addressed by monitoring, and that the Island Plan has lost touch with housing need, which has built up over the Plan period, and is substantially greater than was ever envisaged. Mr Nicholson's Proof includes appended evidence comprising Housing Needs Assessments which collectively cover the period 2005 – 2021, an 'annualised supply versus demand analysis', and the States 'Objective Assessment of Housing Need' (2018).
- 11.8 Whilst these are interesting submissions, the 'need' that the Applicant claims is a strategic matter that is more properly presented through the Plan review process. That process will inevitably need to take stock of the performance of the Plan to date, the current Planning and sustainability issues, including housing delivery and needs, and how best to address those issues. I do not consider that this claimed 'need', provides the basis of a SP 1 (2) exception case. This is because the claimed need is Island wide and not specific to this site, and the Island Plan policies must be applied in their adopted form which, for reasons I have identified above, direct that building houses on this site would not be appropriate.
- 11.9 The Applicant has also suggested that exception 3 applies because part of the commercial site (Field P715) would be returned to open agricultural land. I do not consider that this amounts to a SP 1 exception to allow a large housing development in the countryside.

¹² Revised 2011 Island Plan (2014) – page 17

- 11.10 I conclude that, in principle, the proposed development conflicts with the spatial strategy as set out in policy SP 1, which seeks to direct new development to the defined Built-up Area. The proposal would also conflict with the principles set out in policy SP 2 concerning the efficient use of resources and policy SP 3 regarding the sequential approach to development.

The Green Zone

- 11.11 The application site is within the Green Zone where policy NE 7 sets out a high level of protection from development. It states that there will be a general policy presumption 'against all forms of development'. It specifies a number of development types that will not be permitted and these include the development of new dwellings, unless it falls under one of the stated exceptions.

- 11.12 The only exception category that could potentially relate to the proposal, and is argued by the Applicant, is exception NE 7 (10) which states:

10. The redevelopment of an employment building(s), involving demolition and replacement for another use, but only where:

a. the redundancy of employment use is proven in accord with Policy E1: Protection of employment land or where the development involves office or tourism accommodation;

b. and it gives rise to: demonstrable environmental gains, contributing to the repair and restoration of landscape character; reduced intensity of occupation and use; and improved design and appearance of the land and building(s).

- 11.13 I have noted carefully the submissions of the Applicant and the Department on this exception and both tend to invert the analysis, with a perhaps understandable focus on what environmental gains may be delivered through the proposal. However, my analysis follows the order of the policy as drafted.

Scope of exception 10

- 11.14 The first part of exception 10 defines its scope. It very specifically relates to 'employment buildings' and their 'demolition and replacement'. There is a fundamental issue here in that, other than a small site office, there are no 'employment buildings' on the site at present to demolish and redevelop.

- 11.15 Both the Applicant and Department representatives have submitted that the extant permissions for buildings, including the mixed waste building (600 sq metres) and the secured storage building (750 square metres)

should be taken into account here. Whilst these permitted buildings are undoubtedly a fall back for the Applicant, and one that may be implemented if this current application fails, this does not translate as compliance with the first part of the policy. This is because the policy is premised on the 'redevelopment' of buildings which must clearly be built and existing, if they are to be demolished or replaced. The policy exception is therefore not engaged.

- 11.16 Notwithstanding my finding above, and mindful of the fact that the Minister may not share my view, I have considered whether the proposal would satisfy the two specified criteria.

Exception 10 criterion a) 'redundancy of the employment use'

- 11.17 NE 7 exception 10 criteria a) *concerns 'the redundancy of employment use is proven in accord with Policy E1: Protection of employment land or where the development involves office or tourism accommodation'*. For any qualifying development, this test would need to be satisfied.
- 11.18 Policy E 1 presumes against the loss of employment land, and this supports policy SP 5 which establishes the strategic priority of economic growth and diversification. It sets out four categories of possible exceptions from the presumption (to protect employment land). These include where it is demonstrated that sites are 'unsuitable and financially unviable' for employment use (exception 1); where the existing development is predominantly office or tourist accommodation (exception 2); where community benefits outweigh any employment loss (exception 3); and where the existing use is generating environmental problems and any alternative employment use would continue to generate similar environmental problems (exception 4).
- 11.19 The interplay between NE 7 10(a) and policy E 1 led to some interesting submissions and debate through the Inquiry process. The Appellant submits that fulfilling any of the four E 1 exceptions should equate to policy compliance, and in this case, contends that criteria 3 and 4 are satisfied. However, I disagree because exception NE 7 10(a) is specifically premised on either proven redundancy (of the employment use) or where the development involves office or tourism accommodation. The latter 'or' part (office / tourism) is not applicable in this case, but clearly aligns with E 1 exception 2. Therefore, the key test here relates to 'proven' redundancy which, in my view, means that the site is no longer needed or useful for employment purposes.
- 11.20 Whilst the word 'redundancy' is not used in policy E 1, exception 1 ('unsuitable and financially unviable' for employment use) aligns closely

with normally accepted notions of redundancy. By contrast, exceptions 3 and 4 are not necessarily associated with redundancy and, indeed, could apply to active and viable business operations. Furthermore, the supporting narrative¹³ to Policy E 1 states that: *all proposals to re-develop or convert employment sites will need to demonstrate that they are no longer viable for the existing use before they are considered for alternative uses by the Minister for Planning and Environment.*

- 11.21 In terms of E 1 exception 1, the employment use at this site is clearly not redundant and the Applicant does not contend that it is. Indeed, it is an active and substantial employment operation which the EIS says employs some 50 workers. The site has not been marketed and it has not been demonstrated with documentary evidence that the *'the size, configuration, access arrangements or other characteristics of the site make it unsuitable and unviable for any employment use'*. Exception 1 of Policy E 1 is therefore not satisfied and the employment use is not redundant. Accordingly, the proposal does not accord with criterion a) of NE 7 exception 10.

Exception 10 criterion b) demonstrable environmental gains

- 11.22 Notwithstanding my findings above, that the policy exception cannot be engaged as it lies outside of the scope of the exception (the first part of the policy narrative) and fails to meet criterion a), it is nonetheless useful to record here the 'environmental gains' that would arise. Whilst this will not lessen the conflict with policy NE 7, these matters are important to quantify in assessing any 'sufficient justification' case under Article 19(3).
- 11.23 The accompanying narrative to policy NE 7 exception 10 gives some helpful guidance on the principles of securing environmental gains and what these might comprise¹⁴. I offer my assessment below of the six identified example gains.

1. 'a significant reduction in visual mass, scale and volume'

There are no existing large buildings on the site. The mounds of materials have a notable mass, scale and volume although this is heavily screened and, within the site itself, dynamic, as loads of materials arrive, are processed and then exported from the site, mostly for re-use and some for disposal.

¹³ Revised 2011 Island Plan (2014) – paragraph 5.23

¹⁴ Revised 2011 Island Plan (2014) – paragraphs 2.153 – 2.158

With regard to buildings, the Applicant's fall-back position of implementing consented commercial sheds would, according to its submissions¹⁵, amount to an approximate development footprint of 2,535 square metres and an estimated volume (assuming a 7.5 metre building height) of 11,500 cubic metres.

There are some images comparing the consented commercial buildings with the current proposal contained in the Design and Access Statement¹⁶ and the EIA¹⁷. The virtual model is also a useful resource to review the existing site and the proposal in context.

The unbuilt commercial buildings would undoubtedly be large structures, but they do not currently exist. Furthermore, the extant permissions for the buildings and structures are relatively recent and the main permission was supported by a full EIS and the developments judged to be acceptable in environmental terms.

Moreover, from a purely visual perspective, the employment site's operations, mounds of materials and the unbuilt structures upon it, are (or would be in the case of unbuilt structures) extremely well screened, such that any benefit arising from their loss, at least in visual terms, is actually very limited and this is confirmed in the findings of the Visual Impact Assessment contained within the EIS.

Furthermore, whilst the proposed dwellings would be more domestic in mass and scale, there would be a much greater number and spread of buildings and the overall volume would still be about 9,653 cubic metres. When considered in the round, this does not feel like a particularly 'significant' reduction.

2. 'remove uncharacteristically large buildings'

As noted in 1. above, there are no existing uncharacteristically large buildings to be removed. Whilst 'trading' the extant permission for large buildings for a residential development would result in smaller and more domestic scale buildings (houses), the development would cover a similar area to the main commercial operations and would introduce an expanded residential enclave in to the Green Zone, which would not be necessarily more sympathetic to the countryside locality and its landscape.

¹⁵ Application drawing (00) 0025 Rev P4

¹⁶ Core Document SD10 – Design and Access Statement – section titled 'Current Planning Consent' (the document is not page numbered)

¹⁷ Core Document SD13b – Environmental Impact Statement - Appendix C

3. 'a significant reduction in intensity of use'

The existing employment use is intensive. I observed significant activities in terms of vehicles and processing of waste materials which are confined to the businesses operating hours, which are stated on its website as being 0730 – 1700 Monday to Friday and 0800 – 1300 on Saturdays.

The proposed housing development would result in a different type of intensity of use, with people living permanently on the site throughout the day and night and with associated comings and goings. The EIA indicates that development would generate 154 daily two way trips to and from the site.

4. 'sustainability'

At a strategic level, the proposed housing development would not be sustainable. It is in a location significantly divorced from the Built-up Area, remote from day to day services, and with poor accessibility by walking, cycling and public transport. Whilst the POA contributions to fund a bus stop and subsidise a bus service for a period of time are noted, this will not overcome the fundamentally unsustainable location and the likely very high dependence on use of the private car over the longer term life of the development. I explore these matters further under transport policy considerations.

5. 'more sensitive and sympathetic siting and design and 6. a more sensitive use of materials'

I note the Applicant's submissions that the replacement buildings would be sympathetic to the Jersey vernacular and would follow the design lead of the adjacent new housing development, which is of a good standard of design.

- 11.24 On a more general note, the proposals beyond the housing development would undoubtedly contribute to the repair and restoration of landscape character, notably in respect of Fields P715 and P717, which would be returned the grassland.

Green Zone Policy Conclusions

- 11.25 The application site is within the Green Zone where policy NE 7 sets out a general presumption 'against all forms of development' and states, specifically, that this includes the development of new dwellings, unless it falls under one of the stated exceptions.

- 11.26 The only exception category that could potentially relate to the proposal is exception NE 7 (10) which relates to the redevelopment of an employment building(s), involving demolition and replacement for another use. The proposal does not fall within the scope of the exception, as there are no notable employment buildings on the site and the policy wording does not extend to include permitted but unbuilt structures. In any event, the proposal fails to meet the pre-requisite of proven redundancy for employment use. There are some environmental benefits arising from the development, but these fall to be considered outside of policy NE 7.
- 11.27 I conclude that the application proposal falls outside any of the potential exceptions under policy NE 7 and fundamentally conflicts with its presumption against development in the Green Zone and its purpose.

Economy

Policy SP 5 and E 1 – General

- 11.28 Policy SP 5 establishes the strategic priority of 'economic growth and diversification' and attaches a 'high priority' to the maintenance and diversification of the economy and support for new and existing businesses. It sets out that it will do this by protecting employment land for employment-related use; the redevelopment of vacant and under-used existing employment land and floorspace for new employment uses; and the provision of sufficient land and development opportunities for new and existing employment use.
- 11.29 The supporting narrative¹⁸ states that: *There is pressure, for example, to redevelop brownfield sites in the countryside for residential use whilst at the same time, there is a shortage of sites available for new business development. The availability of employment land is vital to the sustainability of the Island's economy and it is important that employment land is protected.*
- 11.30 This strategic policy position is reinforced in policy E 1 which provides the decision maker with a list of possible exceptions to the presumption of protecting employment land for employment use. As noted above in my assessment of the Green Zone policy, of the four possible policy E 1 exceptions, exception 1 ('unsuitable and financially unviable') and exception 2 (office or tourist accommodation) are not applicable.

¹⁸ Revised 2011 Island Plan (2014) – paragraph 2.36

Policy E1 – Exception 3

- 11.31 Exception 3 allows for the loss of an employment site where ‘community benefits outweigh any employment loss’.
- 11.32 The Applicant contends that the ‘community benefits’ that will arise from the development are considerable. Mr Nicholson’s Proof¹⁹ lists these as including reduced built form and visual impact; the restoration and repair of landscape character; a contribution to the restoration of the Listed Moulin de Quetivel (the 1% for art contribution destination); removing heavy goods traffic; supporting improved public transport; delivering ecological improvements; improving public access; reduced risk in the airport safety zone; reinstating agricultural land and enhancing the amenity of nearby residents and the broader benefit of delivering much-needed family housing.
- 11.33 Weighing against those benefits would be the loss of an established employment site which provides employment for up to 50 people²⁰ and processes some 60,000 tonnes of waste per year, most of it being recycled for re-use. The existing employment use is therefore significant in scale and employment numbers. It must also be recognised here that the existing economic operation itself, of waste reprocessing and recycling, is inherently valuable to the Jersey economy, and contributes to the Island’s sustainability.
- 11.34 Furthermore, this type of commercial use is highly specialised and its very nature, which is inescapably messy, dusty and noisy, means that there are likely to be very few alternative sites and, perhaps, no ideal sites given the geographical constraints of the Island. Indeed, Mr Monks’ evidence confirmed that even the purpose built facility at La Collette attracts complaints from neighbouring uses (mainly concerning odour). In this regard, I note that policy EIW 5, which addresses industrial development in the countryside, lists ‘*waste management including recycling*’ as a potentially acceptable use. This indicates a policy recognition that many locations in the Built-up Area will not be suitable for such uses. However, I do note the Applicant’s submission that the site is not specifically allocated as a waste management site in the Island Plan, but it nonetheless represents a finite resource as a specialist operational waste / recycling site, and more generally forms part of the Island’s broader portfolio of existing employment land and premises.

¹⁹ Inquiry Document APP2 - Paragraph 3.21

²⁰ Core Document SD12 – Environmental Impact Statement – paragraph 12.5.3

- 11.35 The Applicant submits that the business operations and associated employment can be absorbed on to other, more appropriately located, sites, and that will be no material diminution in the provision of waste management and inert recycling facilities. Other sites put forward by the Applicant include La Collette, as the Island's purpose built waste operation, La Gigoulande Quarry, and Abbey Waste Management (on Rue de Pres Trading Estate). It was also submitted that the Simon Sands site in the Coastal National Park (CNP) could become a location for landfill material as part of its restoration and it was stated that the owner had agreed an option and that the site was capable of taking three times the volumes of those at Broadlands.
- 11.36 Whilst I have noted carefully the Applicant's submissions concerning the scope for the business to be absorbed elsewhere and for jobs to be relocated, the details and deliverability of such measures all appear uncertain and unquantified. Moreover, each of these possible business dispersal options may come with its own environmental impacts and potential benefits and disbenefits. That is to say that 'benefits' in the vicinity of the Broadlands site, through the removal of the existing commercial operations, may well be offset by 'disbenefits' elsewhere. Put simply, the processing of 60,000 tonnes of waste per annum is not something that be readily relocated without some environmental consequence.
- 11.37 Based on the evidence before me, none of the relocation options seemed to be worked up, committed, environmentally tested or certain, although an offer was made by the Applicant to agree a mechanism, through a POA, to facilitate more binding commitments to relocate the business operations. This is a matter for the Minister to consider should he be minded to grant permission.
- 11.38 However, even if it were demonstrated that the business and its associated jobs could be relocated to other places, this does not, in itself, satisfy exception 3. This is because the exception is not premised on any specific existing use, but more broadly on the effect on employment opportunities and the range of available employment land and premises. In the absence of marketing evidence, it has not been demonstrated that the community benefits justify the loss of this substantial employment site which forms part of the finite portfolio of employment land in Jersey.
- 11.39 I conclude that, whilst there is a range of community benefits that would arise from the development, these would not, individually and collectively, outweigh the loss of a quite substantial employment site. The proposal does not satisfy exception 3 under policy E 1 and the

presumption that the site should be protected for employment uses prevails.

Policy E 1 – Exception 4

- 11.40 This exception relates to circumstances 'where the existing use is generating environmental problems and any alternative employment use would continue to generate similar environmental problems'. Both the Applicant (Mr Nicholson) and the Department (Mr Gladwin) consider that there is a case to apply this exception, referring to the history of complaints, enforcement matters and the argued incompatibility with residential neighbouring uses, and the suggestion that the imminent occupation of the adjacent new houses nearing completion will introduce more sensitive neighbours and potential complaints.
- 11.41 However, based on the evidence before me, I do not share these views for a number of reasons. First, the supporting policy narrative makes clear that this exception is premised on an employment use within a 'predominantly residential area'²¹ whereas the site actually lies within a predominantly countryside location with a relatively sparse number of dwellings. Second, the evidence of Mr Monks and Mr Gladwin confirmed that there have not been complaints in recent years and attribute that largely to the somewhat belated compliance with Condition 1 attached to the 2010 permission (P/2008/0288) concerning site mitigation measures. Third, the compatibility in land use terms of the employment and housing uses was fully explored and assessed, including through a EIS in 2010 and the consented housing development includes substantial measures, through its layout and landscaped bund, to enable the residential and commercial uses to co-exist.
- 11.42 It has also been suggested that any alternative employment uses would generate the same environmental problems. However, such assertions are not supported by evidence and seem highly speculative. Without appropriate marketing evidence to test the site's attractiveness to alternative occupiers, it is not possible to confirm that other employment uses would create environmental problems of a scale and nature that would make them fundamentally unacceptable in Planning terms.
- 11.43 I conclude that the proposal does not meet exception 4 under Policy E 1.

²¹ Revised 2011 Island Plan (2014) – paragraph 5.21

Policy EIW 3

- 11.44 Policy EIW 3 relates to the relocation of 'bad neighbour uses' and both the Applicant and the Department indicated that the proposal could be considered under this policy. However, for the reasons stated above, under E 1 exception 4, there is no convincing evidence that the use should fall under this policy to the extent that it requires the draconian step of relocation. Indeed, far from being a historic or legacy use, it benefits from relatively recent Planning permissions and assessments, including the approval of a housing scheme alongside the commercial operations.

Economy policy conclusions

- 11.45 The application site includes a substantial consented employment use which employs a significant number of people and undertakes economic activity that is beneficial and desirable. The proposal does not satisfy any of the allowable possible exceptions that would justify the loss of this employment site. It therefore conflicts with policies SP 5 and E 1 which attach a high priority to the economy and seek to protect the finite resource of employment land in Jersey.

Airport

- 11.46 The proximity of the application site to Jersey Airport raises two important policy issues. The first relates to noise implications and the second relates to whether the development is acceptable within the Airport Public Safety Zones.

Policy TT16 – Noise

- 11.47 Policy TT 16 establishes three Aircraft Noise Zones and these are shown on the Proposals Map. The application site is within Zone 3 which identifies that noise will be taken into account when determining Planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise.
- 11.48 At the Inquiry, Mr Huckson for the Applicant advised that suitable measures will be included in the construction of the homes such as triple glazing, background ventilation and enhanced wall and roof construction to ensure that, internally, an acceptable noise environment would be created for future occupants. These matters could be secured by a Planning condition and I am satisfied that this would address policy TT 16.

11.49 However, I have to note that, having experienced the noise from a number of aircraft during my site inspection, the effects would detract from the enjoyment of the garden areas of the proposed homes. This is confirmed by the EIA which assesses a 'moderate adverse' daytime effect and notes the limited scope for mitigation.

Policy TT 17 – Airport Public Safety Zones

11.50 Policy TT 17 addresses development within the Airport Public Safety Zones (PSZ) which are shown on the Proposals Map. The PSZs are based on assessed risk contours of an incident occurring, most likely during take-off or landing. PSZ1 is the highest risk area and PSZ2 is where the assessed risk is somewhat lower. Policy TT 17 sets a general presumption against new development / or changes of use of land or existing buildings in both zones. In particular, it states that no new dwelling houses will be permitted²².

11.51 The application site is located within PSZ2, being immediately to the east of the main runway. Whilst the general presumption against development applies equally to PSZ2, policy TT 17 does allow certain limited exceptions. It states that *'the following types of development may, however, be permitted, where there is no increase in the number of people living, working or congregating in the Zone and where it is in accordance with other principles and policies of the Plan'*. The policy then lists 9 types of development that may be permissible, which includes home extensions; certain other building extensions and changes of use; long stay car parking, open storage and low intensity open space, sports, recreational and allotment uses.

11.52 The Applicant has provided assessments of the existing and proposed occupancy of the site. It contends that allowing the development would secure a significant reduction in occupancy. Specifically, it submits that occupancy would be reduced by 51.9% during airport operating times, and by 65.7% Monday to Friday during these same hours, and so accords with the objectives of the policy.

11.53 Whilst I have considered the Applicant's evidence on occupancy, I am concerned that this involves reconfiguring the policy to suit a particular argument. The key point here is that the proposed housing development entails a prima facie conflict with policy TT 17, which presumes against new development, and specifically against new houses within the PSZs.

²² Note – there is a typographical / wording issue with the published policy in the text as it crosses from page 329 to 330. The sentence which reads *"In particular, no new dwellinghouses, other than residential buildings or non-residential development will be permitted"* does not make sense. However, it is recognised that the policy precludes new dwellings in both public safety zones 1 and 2.

New houses are not allowed under any of the stated exceptions which, to my reading, comprise a closed list.

- 11.54 I do understand the point that the Applicant seeks to make concerning occupancy, but I have a number of concerns with these submissions. First, the policy is based on assessed risk and it specifically excludes new housing and does not allow for an occupancy type case to be made to override that presumption. Second, whilst not questioning the Applicant's assessments of occupancy (and it is likelihood to rise, if the consented buildings are constructed), my observations were that workers were dispersed across the site, and typically working in the open air or in machines; this is quite a different risk scenario to 24 households, which could include children and vulnerable people, contained within cellular and noise insulated homes. Third, air disasters are, by their nature, exceptional events and do not necessarily fall within normal operational days / hours, and could occur in hours when the existing site is not operational, but when the proposed housing would have high occupancy levels, e.g. at night and / or on the weekends.
- 11.55 For these reasons, I conclude that the proposal conflicts with policy TT 17 and its underlying precautionary principle, which presumes that new dwellinghouses should not be permitted in the PSZs.

Transport

- 11.56 The Applicant's evidence on transport matters is contained within the EIS²³ and the Proof of Mr Ingrey²⁴. Submissions on behalf of the States officers comprise the consultation response of Mr Prendergast²⁵ and the evidence given in person by Mr Haywood (Mr Prendergast being unable to attend). I have also considered the submissions of a number of representors on transport matters. Having assessed this evidence I reach the following findings.
- 11.57 First, whilst traffic generation from the proposed development will not result in any network capacity issues, it will increase trips at the junction of Mont Fallu and the A12. An upgrade to this junction is possible and could be funded by a contribution from the development secured by a POA.
- 11.58 Second, although I have noted concerns about existing commercial vehicle movements and safety, Mr Prendergast's submissions confirm that whilst there have been road accidents at the junctions at either end

²³ Core Document SD11 (Chapter 9) and SD13b (Appendix D)

²⁴ Inquiry Document APP3

²⁵ Inquiry Document CON2

of Mont Fallu (the A11 and A12) there have been none in recent years and there are no accidents recorded at the access to the Broadlands site itself.

- 11.59 Third, in transport terms, the site is an unsustainable location for new housing. It is a significant distance from shops, services, centres of employment and schools. Access by transport modes other than the private car is extremely poor. A combination of the 40 mph speed limit, a lack of footways, limited road width, walls and banks at the edge of the carriageway, gradients and relatively constant flows of traffic, make for a hostile pedestrian environment. It would also not be particularly attractive to cyclists, especially those less confident and experienced. After dark and in poor weather, walking and cycling would be very unlikely travel choices.
- 11.60 Fourth, existing bus accessibility is very poor. Although there are bus stops on the A11 and A12, for the reasons stated above, they are not accessible. However, there is scope to introduce a bus stop and secure a subsidy through a POA to encourage a new service along Mont Fallu. This would provide greater choice for future residents and the existing community, and could create a public transport link between St Peter's village and St Helier. I have noted some local residents concerns about introducing a bus stop / service here, but there is no evidence to suggest that it would not be physically workable. The proposal and suggested POA is supported by the States' transport officers. However, no guarantees could be given that such a service would achieve sufficient patronage to become financially sustainable over the longer term.
- 11.61 Fifth, notwithstanding the benefits that might arise from the subsidised bus service, it is likely that most travel to and from the site will be by private car (the Applicant's assessment assumes 99%).
- 11.62 In conclusion on transport matters, I consider that this is an unsustainable location for new housing. Future residents will be highly dependent on the use of the private car for trips to and from the site to access day to day provisions, services and healthcare, schools, employment, social and sporting activities. This would create a fundamental conflict with policy SP 6, which seeks to ensure that new developments reduce dependence on the car.

Other matters

Biodiversity

- 11.63 The EIS includes an Initial Ecological Assessment (February 2019), a Bird Strike Risk Assessment (March 2019) and an Ecological Enhancement Strategy (April 2019). The surveys have found low suitability of the site to support reptiles, amphibians and small mammals and medium suitability to support birds. Due to the airport's proximity, no bird enhancement measures are proposed. The enhancement strategy sets out a wide range of measures including permeable plot boundaries, wildlife houses, creation of a wildlife pond, wildlife corridors and hedgerow planting.
- 11.64 Whilst I have noted the concerns of the Natural Environment Team²⁶ suggesting the need for more survey work and details, I am satisfied that these are matters that could be addressed through a combination of Planning conditions and a POA. Subject to these mechanisms, I assess that the proposal would accord with policies NE 1 (conservation and enhancement of biological diversity), NE 2 (species protection), NE 3 (wildlife corridors) and NE 4 (trees, woodland and boundary features).

Design

- 11.65 Notwithstanding my findings on other matters, the proposed housing development, viewed in isolation, would achieve the high design quality required by policy SP 7. It would continue the successful design approach of the existing housing development on the adjacent site to the west, which has an attractive layout, form, architectural detailing and use of materials.

Heritage

- 11.66 There are heritage assets on or near the site. However, the Applicant proposes to direct the 1% for art contribution, required under Policy GD 8, towards the restoration of the Moulin de Quetivel. This is a Listed building near to the Mont Fallu / A11 junction which is owned by the National Trust.

Conclusions on Main Issue 1

- 11.67 My assessment finds that the proposal would entail significant conflict with the Island Plan in terms of its strategic policies and other topic related policies.

²⁶ Inquiry Document CON4

- 11.68 At a strategic level, I have found that the proposal would conflict with policies SP 1 (spatial strategy), SP 2 (efficient use of resources), SP 3 (sequential approach to development), SP 5 (economic growth and diversification) and SP 6 (reducing dependence on the car).
- 11.69 With regard to more specific policies, I have found that the proposal would be in direct conflict with the Green Zone policy NE 7 and with employment policy E 1. I have also found conflict with policy TT 17, which dictates that new houses should not be placed within the airport PSZ. I have further assessed that the location of the site would be poor in transport terms (and therefore in conflict with policy SP 6).
- 11.70 I reach positive findings in terms of the scheme design (policy SP 7) and biodiversity enhancements (policies NE 1, NE 2, NE 3 and NE 4). However, these are more discrete and limited positive benefits and do not outweigh the fundamental conflicts identified above.
- 11.71 I therefore conclude on the first main issue that the proposed development is not appropriate with regard to the provisions of the Island Plan.

MAIN ISSUE 2 – IN THE EVENT THAT ANY CONFLICT IS FOUND WITH THE ISLAND PLAN, WHETHER THERE IS SUFFICIENT JUSTIFICATION THAT WOULD OVERRIDE THAT CONFLICT.

- 11.72 My conclusion under the first main issue demonstrates that the proposal would entail significant and widespread conflict with the Island Plan. I am satisfied that the Inquiry process has enabled me to examine all material considerations as required by Article 19(1). Applying the legal principles of Article 19(2) would generally lead to a refusal of the application due to these conflicts.
- 11.73 Article 19(3) does allow for conflict with the Island Plan to be overridden if there is 'sufficient justification' to do so. There is no definition or guidance concerning what is, or is not, 'sufficient justification'. However, the Plan-led presumption embodied in the Law suggests to me that approving a development which conflicts with the Plan has to be exceptional, and that the justification would need to be clear and convincing.
- 11.74 I do recognise that there are certain benefits that will arise from this scheme. I also recognise that the application is presented as something of a 'moment in time' opportunity and it would remove a large commercial use from the countryside and secure some landscape repair and enhancement. The Applicant has made clear that, if the housing

proposal is not allowed, the commercial use will be consolidated through the erection of the consented large buildings, the use accordingly intensified and more employees present, and that there will be no easy (or any) future site restoration opportunity. I further recognise that some nearby residents would, understandably, prefer a housing development to a waste / recycling operation.

- 11.75 However, in the bigger picture, these benefits are quite limited and localised. The site is a consented waste / recycling premises and is covered by relatively recent Planning assessments, permissions and parallel regulatory controls. Moreover, such operations which play an important economic and sustainability role, are not altogether unusual, or indeed inappropriate, in countryside locations where they can operate away from high concentrations of residential neighbours and, in this case, heavily screened from view. I have also highlighted uncertainties about the (unknown) knock-on implications if this site were to be removed from its current use.
- 11.76 In my view, none of the claimed benefits, individually or collectively, provide a compelling reason to override such a wide range of strategic and other policies set out in the Island Plan. However, these are matters for the Minister to consider.

DRAFT PLANNING CONDITIONS AND PLANNING OBLIGATIONS AGREEMENT

- 11.77 In the circumstances where the Minister was minded to grant Planning permission, it would be necessary to impose a range of Planning conditions and to require a POA. The Applicant and the Department have prepared a document²⁷ on a 'without prejudice' basis.
- 11.78 With regard to conditions, I endorse the draft list which includes conditions in respect of noise measures, land contamination and remediation, bird hazard assessment / mitigation, means of access implementation, biodiversity, materials, landscaping electric vehicle charging points and a phasing plan to address clearance of the current uses. The heads of terms of the POA are simply stated as:
- Bus 'pump-priming' subsidy £35,000
 - Bus shelter £11,500
 - Junction improvement scheme £75,000
 - Mechanism to ensure the WP Recycling continues operating on alternative authorised sites

²⁷ Inquiry document ID5

11.79 The last bullet point item arose during the Inquiry sessions and could go some way to address the considerable uncertainties, and possible environmental effects in other places, that may arise from the dispersal / relocation of the existing substantial commercial operations.

12.0 CONCLUSION AND RECOMMENDATION

- 12.1 I conclude that the proposal to develop 24 dwellinghouses on this employment site in the Green Zone would entail significant conflict with the Island Plan in terms of its strategic policies and other topic related policies. It would conflict with policies SP 1 (spatial strategy), SP 2 (efficient use of resources), SP 3 (sequential approach to development), SP 5 (economic growth and diversification) and SP 6 (reducing dependence on the car). It would further conflict with Green Zone policy NE 7 and with employment policy E 1. I have also found conflict with policy TT 17, which dictates that new houses should not be placed within the airport PSZ. I have further assessed that the location of the site would be poor in transport terms.
- 12.2 Whilst I recognise that there are some benefits that would arise from the scheme and that the application represents an opportunity to remove a commercial use from the Green Zone countryside, I do not consider that this provides sufficient justification to override the substantial and wide ranging conflict I have found with the Island Plan.
- 12.3 I therefore recommend that the Minister REFUSES to grant Planning permission for the following four reasons:

Reason 1: The proposed development of 24 dwellings in the Green Zone would be wholly contrary to the strategic policies of the Revised 2011 Island Plan (2014). In particular, it would conflict with policies SP 1, SP 2, SP 3, SP 5 and SP 6, which, respectively, seek to concentrate development in the defined Built-up Area, use land resources efficiently and sustainably, adopt a sequential approach to new development, protect employment land, reduce dependence on the use of the car and establish more sustainable patterns of transport.

Reason 2: The proposed erection of housing in this location would conflict with policy NE 7 of the Revised 2011 Island Plan (2014) that establishes a high level of protection from development within the defined Green Zone and specifically excludes the development of most types of dwellinghouses. Furthermore, the proposal does not fall under any of the exception classes stated in policy NE 7.

Reason 3: The proposal would result in the loss of a significant and established employment site which would conflict with policies E 1 and SP 5 of the Revised 2011 Island Plan (2014), which seeks to protect employment land in the interests of the Island's economy.

Reason 4: The proposal would introduce a significant number of new homes, and associated resident population, into the defined Airport Public Safety Zone. This would conflict with policy TT 17 of the Revised 2011 Island Plan (2014), which does not allow for new residential properties in this location in the interests of public safety.

P. Staddon

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25 November 2020