

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/2019/1183

APPLICANT: G R Langlois 1991 Ltd

PROPOSAL: Change of use of part of Field J525 to residential use in connection with development to construct 16 No. three bed dwellings with associated parking and landscaping. Change of use of part of Field J525 to create playing field, vegetable garden, wildlife pond and various ancillary structures in connection with St. John's School. Block existing and create new vehicular access onto La Rue de la Mare Ballam. Alter existing footpath between La Rue des Buttes and La Rue de La Mare Ballam.

SITE: Field No. J525, La Rue des Buttes, St. John, Jersey

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 G R Langlois 1991 Ltd (P/2019/1183). The application relates to a field within the Green Zone adjacent to St John's Village in the north of the Island. It seeks full Planning permission for a proposal to build 16 houses and lay out a playing field and associated facilities to serve St John's Primary School, which is adjacent to part of the site. The proposed new homes are intended to be 'assisted purchase' affordable homes.

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 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.

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 in August and October 2020. I held the Public Inquiry on 8 – 9 October 2020. Some adjustments were necessary due to the Covid-19 pandemic. I heard evidence from the Applicant, the Department's officers and a range of interested parties, most speaking in support of the proposal and others objecting to it.

Assessing the appropriateness of the proposal with regard to the Island Plan is a complex exercise. This is because 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 policies. Sometimes the policies can pull in different directions and a proposal may satisfy certain policies, but conflict with others. Case law has established that this assessment should be made holistically, by considering the proposal's conformity with the Plan as a whole. In the event that substantial conflict is found with the Island Plan, the Law does allow the decision maker to depart from the Plan if there is 'sufficient justification' that would override that conflict.

The proposal raises some complicated Planning issues concerning the application of the Island Plan policies and the interplay between them. It is also relevant that the application is being considered towards the end of the current Island Plan's tenure and at a time when a new revised Plan is being prepared, and these are material considerations in this case.

At a 'principle' level, the Island Plan's spatial strategy policy SP 1(3) allows for development on greenfield land where it justifiably supports parish communities and which meets an identified need and where it is appropriate to do so.

The proposal seeks to support the parish community through meeting two elements of 'identified need' in the form of a school playing field and 16 affordable homes.

With regard to the playing field element, the village school operates on an undersized site which has no green play space. This limits the school's ability to

provide for children's play, physical education, team sports such as football and netball, science, nature and art. It also creates logistical issues such as staggered breaks, movement of children to the relatively remote public recreation ground on the eastern side of the village, and regular incidences of minor accidents and injuries due to all outdoor play being on hard surfaces.

This deficiency in educational facilities is significant and has been recognised for many years. In Planning policy terms, it is recognised in the safeguarding of the playing field site through policy SCO 1, although that policy contains no mechanism, or suggestion, to guide how the facilities would be delivered. There is no evidence of a States led process to acquire and deliver the playing field during the Plan period, and no evidence before me to suggest there will be in the coming years, although there is a political commitment to fund the laying out works if the land becomes available. As a consequence of these factors, the proposal's ability to deliver the clearly identified need of the school playing field, which will unquestionably support the parish community, is a significant and weighty consideration.

The delivery of the affordable homes would also serve an identified need and support the parish community. However, unlike the playing field, the identification of 'need' for the affordable homes is less clear cut and straightforward. Nonetheless, I assess that the homes would be 'affordable housing' and that a well-established mechanism can be employed to manage their provision, allocation to qualifying households and to maintain the market discount in perpetuity. I also find that the affordable homes would satisfy an element of housing need, much of which is likely to be drawn from within the parish. This would contribute to the viability and vitality of St John's Village. I assess that the proposal accords with policy H 5 which supports the provision of affordable housing in rural settlements.

When considered as a package, the proposal's delivery of the needed school playing field and 16 affordable homes provides a compelling 'in principle' case under SP 1(3). Both elements address identified needs and would justifiably support the parish community of St John's. However, a broader assessment against other policies is required to determine whether the proposal is acceptable and appropriate.

As the SP 1(3) exception is successfully engaged, I consider that there would not be any inherent tensions with policy SP 2 (efficient use of resources) and SP 3 (sequential approach to development). This is a neutral finding.

However, whilst the playing field is acceptable in terms of Green Zone policy NE 7, the housing element is not. The housing proposal does not fall under any of the NE 7 exceptions and would directly conflict with the policy. This weighs against the proposal, although I am mindful that this is always likely to be the case with SP 1(3) exception development.

The proposal would result in the loss of some agricultural land and this would conflict with policy ERE 1. However, Field J525's attractiveness to farming is compromised in any event by its reduction through the SCO 1 allocation, and there is no suggestion that its loss would impact on the viability of a farm holding. The harm would therefore be limited and would be offset by community benefits.

I find support for the proposal under policy H 5, which supports the provision of affordable housing in rural settlements. This weighs in favour of the proposal. I

find no tension with policy H 4, which deals with housing mix to meet identified needs.

The proposal would result in some harm to the setting of nearby Listed buildings and hence conflicts with policies SP 4 and HE 1 and the submitted proposal is unacceptable in this regard. However, this conflict could be easily resolved by some limited design refinements.

Other than revisions needed to address heritage impacts, the design of the scheme is of a good standard and has the ability to satisfy policies SP 7, GD 7 and GD 1(6). I am satisfied that the landscape and visual impacts arising from the proposal would be quite limited and would not cause significant or undue harm to the countryside character, including in longer views, in this part of Jersey. I find no conflict with the respective policies in this regard.

In terms of transport matters, subject to financial contributions towards sustainable travel connections and improvements, the proposal would be acceptable in terms of the Island Plan's transport policies SP 6, GD 1(5), TT 1, TT 2, TT 3, TT 4, TT 5, TT 7 and TT 8.

The proposal would enhance biodiversity and species protection in accordance with policies NE 1 and NE 2 respectively. The proposal would not result in any unreasonable harm to the living conditions enjoyed by occupants of neighbouring properties and would satisfy policy GD 1(3).

My overall assessment finds that the proposal would entail some conflict with the Island Plan but that, when considered as a whole, the development would largely accord with the Plan. I use the word 'largely' because there are still some matters requiring attention and final agreement that prevent me from making an unqualified recommendation to grant Planning permission. Specifically, this relates to design refinements to enhance the setting of the Listed Melbourne House to the east, and confirmation of the terms of a Planning Obligations Agreement.

Without these refinements and commitments, important policy matters concerning heritage impacts and sustainable travel would not be fully addressed. Given that these matters are capable of being resolved in a short space of time, my recommendation to the Minister is contingent upon their satisfaction. I therefore recommend that the Minister be MINDED TO GRANT PLANNING PERMISSION subject to:

- a) The Applicant submitting amended plans that satisfactorily refine the layout and building form to address policy HE 1 in respect of the setting of the Listed Melbourne House, immediately to the east of the site.
- b) Any re-consultation and publicity deemed necessary and appropriate as a result of the amended plans submitted in respect of a).
- c) A set of Planning conditions based on the draft list contained within this report, updated as necessary in the light of the further amendments.
- d) The Applicant entering a Planning Obligations Agreement to secure the affordable housing, playing field transfer, a new public footpath route across the site, sustainable transport contributions and the relocation of the 30 mph speed limit zone.

I also recommend that the Minister consider making a tree preservation order to cover the line of mature trees to the south of the application site.

1.0 INTRODUCTION

- 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 land, Planning and development industry in both public and private sector roles.
- 1.2 In England, I am a Director of a specialist Planning consultancy 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 G R Langlois 1991 Ltd. The application relates to a green field site adjacent to St John's Village in the north of the Island. It seeks detailed Planning permission for a proposal to build 16 houses and lay out a playing field and associated facilities to serve St John's Primary School, which is adjacent to part of the site. The proposed new homes are intended to be 'assisted purchase' affordable homes.
- 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 the Planning system in Jersey is 'Plan-led' and that 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 development that is in accordance with the Island Plan

¹ Ministerial Decision MD-PE-2019-0091

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 Assessing the appropriateness of the proposal with regard to the Island Plan is a wide ranging and complex exercise. This is because 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. Sometimes the policies can pull in different directions and a proposal may satisfy some policies but conflict with others. Case law² has established that this assessment should be made holistically, by considering the proposal's conformity with the Plan as a whole.
- 1.7 If the above assessment finds substantial conflict with the Island Plan, the Law allows the decision maker a judgment call, to depart from the Island Plan if there is sufficient justification. What constitutes a 'sufficient justification'³ is not defined but such a decision would be exceptional, and would require clear reasons.
- 1.8 I held the Public Inquiry into this application at the Golden Apple Suite, Pomme D'or Hotel, St Helier on 8 and 9 October 2020. I inspected the site and surroundings in August 2020 (unaccompanied) and on 5 October 2020 (accompanied by representatives of the main parties). The October site visit included an inspection of the school grounds facilitated by the head teacher during school hours.
- 1.9 At the Inquiry, I heard evidence from the Applicant, the Department's officers, the Connétable St John, the Minister for Education and a range of third parties both for and against the proposal. 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 on the issues in this case.
- 1.10 After dealing with some procedural and administrative matters, this report sets out a brief description of the appeal site, the Planning history, describes the development proposal and then summarises the cases for the parties and the views of consultees. The latter half of the report then sets out my detailed assessment, conclusions and recommendations.
- 1.11 Accompanying this report, as separate documents, are an Inquiry Documents List and a Core Documents List.

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

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 in Spring 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 proposals.

Further plans and information

- 2.3 On 9 March 2020, the Applicant's agent submitted some further plans and documents. These submissions amounted to further information and corrections of earlier omissions, rather than any fundamental amendment to the submitted scheme. However, the following documents now form a formal part of the application:

Drawing No 2948/004/RevP2 – Site Ownership Plan (new plan showing site ownership within the application area, the field being privately owned and the access strip through the school grounds being in public ownership)

Drawing No 2948/101/RevP11– Proposed Site Plan (area schedule added)

Drawing No 2948/116/RevP3 – House Type 6 (missing section drawing added)

Spreadsheet – Field J525 – Areas and Occupancies (new schedule of house types, areas, garden sizes and occupancy)

Environmental Impact

- 2.4 One interested party made submissions based on the assumption that the proposed development should have been accompanied by an Environmental Impact Statement (EIS)⁴. However, this assumption is not correct. The relevant Order⁵ prescribes that certain types of development require an EIS, but the proposed development does not fall under any of the categories listed and I do not consider that it constitutes 'prescribed

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

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

development' requiring an EIS. I am satisfied that the Applicant's supporting information is sufficient to enable a full and proper assessment of the application proposal.

School pupils' evidence at the Inquiry

- 2.5 At the request of the school, I allowed two pupils from St John's Primary School to address the Inquiry and express their support for the proposed playing field and associated facilities. There is no age limit (upper or lower) in terms of participating in Planning Inquiries. However, I determined that, in accordance with the powers vested in me through the Order⁶, it would not be appropriate to allow questioning of primary school children by other participants.

⁶ Article 14 of the Planning And Building (Public Inquiries) (Jersey) Order 2008 (As Amended 2015)

3.0 THE APPLICATION SITE AND ITS SURROUNDINGS

- 3.1 The application area includes a privately owned field (Field J525) and an attached access strip which runs through the existing St John's school grounds and is in public ownership.
- 3.2 Field J525 is an agricultural field of some 4.3 vergées (0.7727 hectares⁷) located immediately to the south of the Built-up Area of the main part of St John's Village. The field is relatively flat and broadly rectangular in shape, but with a splayed eastern frontage to La Rue de La Mare Ballam.
- 3.3 The Built-up Area to the north of the site comprises existing housing, for the greater part of the boundary length, and the grounds of St John's primary school, covering a shorter length. The existing housing is a cul-de-sac known as Clos de l'École, which is made up of two storey dwellings, with eight of the properties having their rear gardens facing the site.
- 3.4 The school grounds adjoin the remainder of the northern site boundary. This area includes the school building itself, an outdoor hard surfaced court (which appears to be used in part as a staff car park), some play equipment and some small areas of green space. The red lined application area includes an appendage to the field, which would link its north-western part, through the southern section of the school grounds, and connect to La Rue des Buttes to the west.
- 3.5 Immediately to the west of Field J525, and just to the south of the school playground, there is a detached house set within mature grounds. To the south of the site is the open countryside. There is a defined mature treeline alongside this boundary, although most of the trees have their trunks outside the red lined area and within the adjoining fields to the south.
- 3.6 The eastern site boundary comprises a road frontage of about 50 metres to La Rue de La Mare Ballam. There is a low boundary wall defining this frontage along with an established vehicular access point to the field. To the east, and across the road from the site, is Melbourne House, a substantial Grade 4 Listed property set within mature grounds, which includes a stone wall with tall hedge above, providing a screen along the road boundary facing the application site.

⁷ The site area stated in the Applicant's Design and Sustainability Statement (June 2019)

4.0 PLANNING HISTORY

- 4.1 I have not been made aware of any previous applications on this site. However, I understand that the field has been previously considered as a potential housing site, but was not included in the current adopted Island Plan.
- 4.2 I am aware of a further application in the village on land to the west of La Rue des Buttes (reference P/2019/0903). This seeks Planning permission for a car park, public gardens and relocation of the village's war memorial. That application is pending a determination.

5.0 THE APPLICATION

- 5.1 The application was validated on 17 September 2019 and seeks full Planning permission for a development described on the application form as:

"Change of use of part of Field J525 to residential use in connection with development to construct 16 No. three bed dwellings with associated parking and landscaping. Change of use of part of Field J525 to create playing field, vegetable garden, wildlife pond and various ancillary structures in connection with St. John's School. Block existing and create new vehicular access onto La Rue de la Mare Ballam. Alter existing footpath between La Rue des Buttes and La Rue de La Mare Ballam."

- 5.2 In essence, there are two main elements to the proposal. The first is the proposed creation of a school playing field and related facilities on the western part of Field J525. The second is the erection of 16 houses on the remainder of the field.

The proposed playing field development

- 5.3 The playing field would comprise a total area of about 3,275 square metres and this is stated⁸ as being 42% of the whole site area. Most of this space would be occupied by a junior football pitch and associated margins. However, towards the eastern end of the proposed field, a vegetable garden and wildlife garden with a pond are indicated.
- 5.4 The Applicant's Design and Sustainability Statement explains that, if permission was granted for the proposal, this part of the site would be ceded to the Parish, which would lease it for a peppercorn rent to the Education Department, which would landscape, maintain and insure it. It also states that a 'no build' covenant would be placed on the ceded land.

The housing development

- 5.5 The housing element would comprise 16 x 3 bedroom dwellings and associated garaging, parking and landscaping on the eastern balance of the site (58% of the area). The dwellings would all be two storey houses and about the same floorspace (just under 100 square metres), with a total of 7 different house type designs.
- 5.6 The dwellings would be laid out in small linked groups around a meandering cul-de-sac which would be created from La Rue de la Mare Ballam, with visibility splays and footways proposed along the eastern site frontage. All of the homes would have private garden areas which would

⁸ the Applicant's Design and Sustainability Statement (June 2019)

range from the smallest of 55.3 square metres to the largest of 118.5 square metres. Parking and garaging is provided in blocks throughout the layout, including a bank of spaces running alongside the garden boundaries of the existing residential properties to the north at Clos de L'Ecole.

- 5.7 Whilst not explicitly stated in the application description, the Applicant is proposing that the new dwellings are all provided as affordable homes and would be sold at a discount from market value to qualifying purchasers through the housing Gateway system. Legal measures would be put in place to maintain that market discount and affordable housing status in perpetuity.

Other elements of the development

- 5.8 The proposal also includes a pedestrian route which would run westwards from the new residential cul-de-sac, along the northern site boundary of Field J525 and then run through the existing school grounds to emerge via a new gate on to La Rue des Buttes.

Application documents

- 5.9 The application is supported by a full set of plans and drawings, along with a Planning Statement (with appendices), a Design and Sustainability Statement, a document titled 'St John's Village Planning Statement', a Transport Statement, an Initial Ecological Assessment, a Noise Impact Assessment and Waste Management Plan. Supporting documents added after the initial application submission include a Heritage Impact Statement (February 2020) and a Species Protection and Ecological Enhancement Plan (March 2020).

Planning Obligations Agreement (POA)

- 5.10 The application document submissions make clear that the Applicant is willing to enter a POA which would secure:
- i. the delivery of affordable homes for purchase with priority for St John's parishioners;
 - ii. the gifting of land to the Parish of St John for the provision of an outdoor play area, including a playing-field arranged to meet FA Junior 9-10 standards, and informal outdoor play space;
 - iii. the provision of a public route through the site from La Rue de La Mare Ballam and La Rue des Buttes; and,
 - iv. the relocation of the 30mph speed limit on La Rue de la Mare Ballam further south, to a location agreed with GHE Highways Section.

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, for the most part, listed in the submissions of Mr Gladwin for the Department⁹ and the Applicant¹⁰. 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

⁹ Inquiry document GHE1

¹⁰ Core document SD14 and Inquiry document APP1

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 and Vistas

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

Historic environment policies

Policy HE 1 – Protecting Listed Buildings and Places

Policy HE 5 – Preservation of Archaeological Resources

Economy Policies

ERE 1 – Safeguarding Agricultural Land

Housing policies

Policy H 4 – Housing Mix

H 5 – Affordable Housing in Rural Centres

Social, Community and Open Space

SC01 – Educational Facilities

Travel and transport policies

Policy TT 2 – Footpath Provision and Enhancement of Walking Routes

Policy TT 3 – Cycle Routes

Policy TT 5 – Road Safety

Policy TT 8 – Access to Public Transport

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

Waste Management Policies

Policy WM 1 – Waste Minimisation and New Development

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 its Statement of Case¹¹, along with the supporting Statements of Case of the Head Teacher¹² and the school pupil representatives¹³. This is supplemented by the Proofs of Evidence¹⁴ of Mr Taylor, Connétable of St John; Mr Le Boutillier, Director of the Applicant company; Senator Tracey Vallois, the Minister for Education; Mrs De La Haye, the Head Teacher of St John's Primary School; Mr Bull, Axis Mason, Architecture and Design; Ms Bliss, Axis Mason, Landscape Design; Mr Strawbridge, Heritage Consultant; and Mrs Steedman of KE Planning, Planning and Transport Consultant. Mrs Steedman presented the overarching case, and I have based the summary below on her Proof with some additions where appropriate.
- 7.2 The Applicant states that the application was validated in September 2019 and is being considered at a time when the Island Plan Review process is underway and will determine the Island's future approach to land use Planning for Jersey. The direction of travel of the Island Plan review indicates a focus on the creation of sustainable communities, addressing population growth, a need for affordable housing and a strategy that will take account of the future sustainability of parish centres.
- 7.3 GR Langlois Ltd's evidence explains that the proposal is presented as a 'package' and enables the land for the school field development to be gifted to the Parish at no cost to the tax-payer. The need for outdoor play space is explained and confirmed by the Minister for Education and the Head Teacher of St John's School in their Proofs. The Minister for Education also confirms a Government funding commitment for the works to lay out the space.
- 7.4 The Connétable explains and confirms the need for affordable homes for St John's parishioners. The current Island Plan and process for islanders to apply for affordable housing ,through the Affordable Housing Gateway (AHG), does not provide for a nuanced 'parish- focused' assessment of need. Through engagement with his parishioners, the Connétable has identified that many living in rural parishes often do not apply to the AHG, because they have little chance of being offered a home in their parish and community. The Connétable also observes that the demographic of St John's Village is aging. Young families are unable to afford housing in the village or the parish. A recent review identifies the cheapest house in St John as being available for £850,000. The Parish of St John has carried out work to evidence the need of parishioners and the application scheme

¹¹ Inquiry document APP-SOC

¹² Inquiry document SOC4

¹³ Inquiry document SOC5

¹⁴ Inquiry documents APP1 – APP8

has been endorsed through a Parish Assembly. It is considered that the evidence provided by the Connétable and the Parish of St John should be given considerable weight in the decision-making process.

- 7.5 The Application is supported by an alternative non-vehicle route, connecting La Rue de La Mare Ballam and La Rue des Buttes. The need to support improved non-vehicle access across the south of the village was identified in 2014, following assessment work undertaken by the parish. The desirability of improving access to the south of St John's Village is confirmed by GHE Highways Section.
- 7.6 It is contended that this is an appropriate location for the development as it lies immediately adjacent to St John's School and the Built-up Area of St John's Village. Future residents would be within walking distance of the School, St John's Village Centre and the bus terminal. It is hard to think of a more appropriate or sustainable location.
- 7.7 The Application would support the viability and vitality of St John's Village though the ability for a younger demographic to live close to the Village, further supporting parish facilities, services and the village's commercial centre.
- 7.8 With regard to the built and landscape character of the area, the Proofs prepared by Axis-Mason explain how an assessment of essential landscape character and built character has informed the design of the scheme. The retention of mature landscape boundaries prevents long distance views of the site and views of the development only become available at close quarters. A landscaping scheme has been prepared explaining how additional planting will create new internal and external boundaries. A Heritage Impact Assessment, and the Proof prepared by Mr Strawbridge, provides an opinion that the impact of the development proposals upon heritage assets located within the vicinity of the site would be neutral, provided that attention to detail is given to the design of new and existing landscape boundaries and the development itself. The development therefore retains important landscape character and is sensitive to the built character of the village.
- 7.9 The Applicant's ecological assessment of the site has confirmed that it currently has low ecological value, apart from existing planted boundaries. The development proposes new planting designed to increase opportunities for local biodiversity.
- 7.10 On transport matters, the Applicant submits that the proposal meets the technical standards required to provide safe highway use and meet required parking standards. It includes measures that increase sustainable transport choices for future residents and users of the site. The proposal

also includes measures which provide the opportunity to secure wider accessibility connections to the south of St John's Village.

- 7.11 The development would result in the loss of approximately 1.1 acres of agricultural land. There have been no objections to the loss of the field to the agricultural industry. The Land Controls Section has objected on principle but the Applicant considers that the loss of 1.1 acres of agricultural land would not be harmful to the agricultural industry.
- 7.12 In conclusion, the Applicant submits that the proposal delivers an opportunity to meet identified educational and affordable housing needs in an appropriate location to support the viability and vitality of St John's Village. It would also provide an opportunity to reduce dependence on private car trips by future residents.
- 7.13 The Applicant considers that the proposal is in accordance with the Island Plan as a whole, taking the individual policies and considerations together, and having regard to all material considerations, relevant draft and adopted supplementary Planning guidance and other policies. In particular, it complies with the strategic aims of the Island Plan in terms of:
- The development of greenfield land in exceptional circumstances, where it justifiably supports parish communities and which meets an identified need and where it is appropriate to do so in accordance with policy SP 1(3).
 - The delivery of a more sustainable pattern of development in accordance with pPolicies SP 2 and SP 3, reducing dependence on private vehicle use in accordance with Policy SP 6.
 - Through careful design and the protection of built and landscape character, the development delivers the protection and enhancement of the Island's environment and landscape character in accordance with policies SP 4 and SP 7.
 - Policy H 5, which supports the provision of affordable housing to support the viability and vitality of Jersey's rural settlements.
- 7.14 The Applicant submits that the policy tests of the Island Plan have been addressed and are complied with in most regards. On the basis of the mitigation measures that are included with the proposal, the Applicant further submits, that there is sufficient justification for the Minister to allow the approval of Planning permission, subject to a Planning Obligations Agreement (POA) to secure the benefits that have been identified and are proposed by this project.

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*¹⁵ which was prepared by Ms Duffell. 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 Committee, nor the Minister, 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 sets out a description of the development site and its surroundings, the proposal, the relevant Planning history, consultation responses and representations and lists the relevant policy considerations. It then identifies and explores what it considers to be the main issues. These were further explored through the officers' submissions at the Inquiry. In essence, the Department sees two distinct parts to the development, the playing field element and the housing scheme. They are largely supportive of the former, but oppose the latter on policy grounds.
- 8.3 With regard to the playing field element, the officers note that that the western third of Field J525 is zoned as a Site Safeguarded for Educational Use (policy SCO 1). The proposed football pitch, pond, vegetable patch and outdoor seating cover this allocation, and extends a little further to allow for a full sized mini soccer pitch. It is the Department's view that this element is acceptable within the SCO 1 allocation. They also consider that the additional land (just beyond the SCO 1 allocation) would be unlikely to cause serious landscape harm, given its recreational use and it would therefore satisfy Green Zone policy NE 7. Officers also consider that it would be unlikely to undermine the viability of the remainder of Field J525 for farming purposes (policy ERE 1). Therefore, it is considered that, if submitted in isolation, it is likely that this aspect of the scheme would be supported at officer level.
- 8.4 However, officers have a range of policy concerns about the housing element of the scheme. This is because the site is an agricultural field located in the Green Zone and is therefore protected from development by policy NE 7 which establishes a presumption against all forms of development. Whilst there are a number of exceptions within NE 7 which *may* be permitted, officers say that none would apply to this proposal. The housing proposal, being outside the Built-up Area, therefore would run counter to the Island Plan's spatial strategy set out in policy SP 1 and the

¹⁵ Inquiry Document GHE1

associated policy SP 3, which addresses the sequential approach to new development.

8.5 Officers state that the Island Plan does have a route, through policy H 6, for affordable housing proposals to be brought forward in rural centres. However, they say it requires a Village Plan to be produced and there is no approved Village Plan for St John's, so they are of the view that the policy cannot be satisfied.

8.6 Further policy concerns are raised in respect of transport, loss of agricultural land, design and heritage considerations. The Statement of Case concludes:

The Department has now reviewed the planning application thoroughly and for the reasons stated within the Statement of Case consider the planning application contrary to the Island Plan with particular reference to the following Policies:

- *SP 1 and SP 3 – the application is contrary to the spatial strategy policies of the Island Plan which direct development to the Built-up Area.*
- *NE 7 – the application seeks to introduce 16 dwellings in the Green Zone, which the policy specifically presumes against.*
- *HE 6 – the application seeks to construct affordable housing outside of the Built-up Area. St John's has no adopted Village Plan.*
- *SP 6, TT 2, TT 3, TT 5 and TT 8 – the application fails to reduce dependence on the car and promote alternative modes of travel.*
- *ERE 1 – the application results in the loss of agricultural land.*
- *GD 7 – the application seeks to replace an open field on the edge of the Village with 16 dwellings – the proposed design is not considered to meet the high standards required.*
- *HE 1 and SP 4 – the application fails to preserve or enhance the setting of Listed Buildings.*

8.7 At the Inquiry, I heard evidence in person on behalf of the Department from Ms Duffell (Principal Planner), Mr Le Gresley (Director Development Control), Mr Coates (Principal Policy Planner), Mr Haywood (Senior Transport Planner) and Ms Ingle (Principal Historic Environment Officer). Ms Ingle gave evidence by video link.

9.0 SUMMARY OF THE CASES MADE BY OTHER PARTIES

- 9.1 In addition to the in person evidence submissions to the Inquiry, the application has attracted written submissions from 62 individuals. Of the 62 contributors, 55 appeared to support the application without qualification, and most of these submissions were succinct and stated the importance of the playing field for the school, with a number also expressing support for affordable housing, which was considered to be needed in the village. A further 2 contributors supported the playing field but had some concerns about the housing. The remaining 5 contributors expressed concerns and objections about the proposals.
- 9.2 It is not practical to summarise every submission, but I have set out below a selection of quotations which I consider capture the main points made by supporters, opponents and commentators. All of the written representations are available to view through the links in the Inquiry Documents list¹⁶.

SUPPORTERS

- 9.3 The following extracts capture the views of most supporters:

I wholeheartedly am in favour of this application, to allow the children to have a school playing field, and to improve road safety for them. I also welcome the new housing, which is much needed in the parish...[COM2]

The school are in desperate need of a playing field. It would open up a wealth of learning opportunities and would greatly enhance the children's school life [COM6]

A playing field is desperately needed and has been needed for a long time [COM12]

I am in full support of this proposed development and green space for St John's primary school. The Island is in desperate need of affordable housing [COM20]

Fully support...can't believe for a rural parish school there isn't any green space for the children to enjoy and play [COM26]

New housing for families in St John's is something that will benefit the community as a whole for future generations...Children thrive in the outdoors [COM32]

¹⁶ Inquiry documents referenced COM1 – COM62

I wholeheartedly support this application. The small and sensitive development of 16 houses are much needed to provide families with affordable housing and to allow the community and village to thrive [COM39]

I support this proposal. I think it will be massively beneficial to families in St John and the children who attend St John's primary school [COM47]

I daily see the need for a field / green space for the school to use...Access to green outside space is essential for good health and well being and would be of benefit to every single member of the school community [COM56]

OBJECTORS

9.4 The following extracts capture some of the key points made by objectors:

This constitutes the 'thin end of the wedge'...we chose to live in the middle of a Green Zone in the sure and certain knowledge that all the fields in this part of the Central Plateau are protected from any such wayward Planning proposals... Send a clear message that Green Zone fields are never to be developed. They are there for the enjoyment of the whole population of this Island and for the benefit of future generations.[SUB1]

It goes against Island Planning Laws that safeguard the countryside.... It is planned within the Green Zone area both on a good agricultural field and will damage the vision of St John as a country parish on a major approach road into the village from the South. Total lack of options offered! There would be a further serious traffic impact on this approach road into St Johns. [SOC2]

Does not comply with the island plan ...the planning application is not fair i.e. this planning application has been prepared by GHE, has been assessed by GHE and the land is owned by GHE....When additional green zone land is sought in the past the planning process was to review the island plan....It is not in the public interest for an individual landowner to propose a planning application on green zone for the benefit of the neighbourhood whereas allocating of land for green Zone land should be the benefit of the whole Island not of local parishioner. I object No environmental impact even though there is more than 10 housesobject to GHE planning chief officer deciding no EIA was required for a GHE planning application.... The housing Project overlooks a junior school children's playground....I object to more traffic making walking to school and bikes more dangerous and the risk of injuries and fatalities... I object to more traffic making more air pollution. [MCC1]

Melbourne House is a Listed Building. Policy HE 1 sets a presumption in favour of preservation. It is difficult to envisage how the proposal for fairly utilitarian designed dwellings; the fact that they overlook Melbourne House; and the very engineered principal vehicular entrance to the site; enhances the setting of Melbourne House, as is required. [COM38]

The proposal is a substantial departure from the Island Plan and insufficient justification is given to make a decision that is inconsistent with the Island Plan [COM38]

We must be far more careful and intelligent especially when building in the countryside. St Johns has an exceptionally well developed village layout...once it has gone it is lost forever. [COM55]

We have lived in St John for over twenty five years...Field J525 is situated on this very busy stretch of road. Despite the 30 mph speed limit vehicles constantly use the road as a race track. It is already a dangerous road not only for pedestrians and cyclists therefore additional traffic exiting from Field J525 will surely exacerbate the problem and it is only matter of time before there will be a serious accident.....I am sure there are other fields more suited to accommodate the need for social housing. [SUB3]

10.0 CONSULTATION RESPONSES

10.1 I have summarised below the responses¹⁷ of consultees in respect of the application. These are available as documents

Environmental Health – dated 25.09.2019

No objection

GHE – Transport and operations – dated 04.10.2019

This is a lengthy consultation response which reviews the local roads and associated responsibilities, footway provisions, bus services and stops, and the records of accidents in the locality.

With regard to the scheme itself, it recognises that the scheme provides generous parking – 16 houses each with 2 external parking spaces and a garage, plus a total of 3 visitor spaces. This is considered to strike some balance between the 1988 SPG on Parking Guidelines and the Island Plan policy SP 6, which seeks to reduce dependence on the car. It also recognises the benefits of the proposed east west pedestrian route.

However, it sets out an objection that there is:

- 1) a lack of provision for non-car travel to the east of the village, especially the supermarket and
- 2) lack of crossing provision to the village centre across the main road.

These issues are considered to result in more dependence on the car (policy SP 6 and GD 1) and pose unacceptable risks to pedestrians and cyclists (policy TT 5).

Environmental Land Controls – dated 02.12.2019

Field J525 measures approximately 4.3 vergées and has no agricultural restrictions imposed by the Agricultural Land (Control of Sales and Leases)(Jersey) Law 1974.

The Land Controls and Agricultural Developments Section must object to the permanent loss of good agricultural land.

¹⁷ Inquiry documents CON1 – CON8

Operational Services – Drainage – dated 29.10.2019

Confirms that the public foul sewer and pumping station have capacity to serve the proposed development. Surface water run-off must be drained within the site.

Natural Environment – dated 14.10.2019

Notes the submission of initial ecological assessment, but says that a method statement should be provided to ensure that the development implementation will protect any species encountered during works. States that further details concerning landscaping and ecological enhancements are required.

Strategic Policy, Performance and Population – dated 09.10.2019

The proposal for a new school playing field may be acceptable from a Planning policy standpoint, subject to an assessment of its potential impact on the landscape character of the area. The proposed residential development clearly runs contrary to the strict application of policies SP 1, SP 3, NE 7, H 5 and ERE 1 of the Island Plan. The level of conflict with the Island Plan is considered to be substantial and significant.

Historic Environment Team – dated 06.03.2020

Assesses that the development will change the immediate setting of the Listed Melbourne House, with no enhancement to that setting, particularly from the eastern boundary, nor in consideration of views from within the site or back to the site from the Listed Assets. The Team does not agree with the Applicant's heritage consultant that the effect of the development would be 'neutral', and assesses that it will be detrimental.

Municipal Services – dated 09.03.2020

This response raised some issues with the original landscape proposals, but subsequent amendments have addressed these.

11.0 INSPECTOR'S ASSESSMENT

11.1 At the beginning of this report, I outlined that assessing the appropriateness of the proposal with regard to the Island Plan is a complex and wide ranging exercise. 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. I begin by exploring the proposal's fit with the spatial strategy and, for reasons that will become clear, initially leave my conclusion open, as it necessitates an exploration of compliance and tensions with other policies, before a balanced conclusion can be drawn.

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.

11.4 Exceptions 1 and 2 are not relevant in this case. However, exception 3 is highly relevant and, indeed, pivotal to the assessment of this proposal. The Applicant considers that the proposal is fundamentally premised upon meeting identified needs in terms of providing a school playing field and affordable homes and that this justifiably supports the parish community of St John's.

11.5 Clearly a judgement here depends very much on the interpretation of the policy wording, including what is meant by 'exceptional circumstances',

'justifiably supports parish communities', 'identified need' and the seeming catch all phrase of 'where it is appropriate to do so'.

- 11.6 I cannot answer those questions without first undertaking a broader assessment of the proposal against other policies. However, it is worthwhile making some initial observations about policy SP 1 at this stage. First, it is part of the Island Plan's strategy that some development on greenfield land is permissible. Second, such development (on greenfield land) will be exceptional, as most development is guided to the Built-up Area. Third, given the construction of the Plan, such 'greenfield land' is most likely to be covered by Green Zone designation (given the more stringent controls in the Coastal National Park) and its development is likely to raise tensions with Green Zone policy (NE 7) and other policies which underpin the strategy's focus of directing development to the Built-up Area. Fourth, any such exceptional development has to be justified and appropriate. Fifth, supporting parish communities and meeting identified needs are specifically stated justifications.
- 11.7 I simply conclude at this stage that the development could accord with the Island Plan's Spatial Strategy policy SP 1 if it satisfied exception 3. I now explore a range of broader policy compliance issues before returning to policy SP 1 compliance. The order in which I assess these issues does not imply any particular ranking of importance.

The Green Zone – policy NE 7

- 11.8 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.
- 11.9 It is agreed common ground that the playing field element of the proposal is acceptable in terms of policy NE 7. Much of the proposed field is covered by a specific allocation (see SCO 1 below) for education facilities. The area that strays beyond that allocation is limited and, in any event, this part of the proposal would fall under NE 7 exception 13, which allows for 'managed open space'.
- 11.10 The proposed housing development does not fall under any of the NE 7 exceptions and directly conflicts with the policy's general presumption against all forms of development and, specifically, the development of new dwellings. Given the scale of the development, being for 16 dwellings and associated roads, parking and garaging, this would represent a substantial conflict with policy NE 7.

11.11 On Green Zone policy, I conclude that the playing field element accords with policy NE 7, whereas the proposed housing development does not and represents a substantial conflict with policy NE 7.

The school playing field – policy SCO 1

11.12 St John’s Primary School is owned and administered by the States of Jersey. It provides nursery and primary education for pupils up to the age of 11. It has a 211 pupil space capacity and currently has 205 children on its roll.

11.13 The school does not have a school playing field. The evidence of the Minister for Education¹⁸ explains that the school is one of seven States’ primary schools that do not have access to dedicated green space. It is the only rural parish without a playing field. The Minister further explains that the school site is significantly undersized and that there is a substantial deficit (5,335 square metres) when compared against recognised guidance.

11.14 The evidence of the Head Teacher¹⁹ explains that St John’s Primary School has been waiting many years for outdoor play space. It explains some of the practical difficulties and limitations that arise from the constrained site and absence of green play space. These include impact on physical education, as the only available facility is the recreation ground which is a 15 minute walk away along some busy roads and not practical for regular or all year use. It also limits fulfilment of other parts of the curriculum, including science, nature and art. There are also logistical issues, as children have a staggered lunchtime break and are unable to play with siblings and pupils from other year groups, due to the shortage of space. The Head Teacher (and others) also recorded that minor accidents were commonplace as a result of all play being confined to hard surfaced areas.

11.15 The evidence provided by the school pupil representatives²⁰ was clear and very well presented. They explained the limitations of the existing facilities and the main reasons why they support a new playing field. These include: space to enjoy fresh air, natural light, exercise; it would let children in school who don’t have a garden at home the chance to regularly run around on the grass; it would make football training easier; playing football would be safer as at the moment children from the younger classes sometimes walk through the game because they don’t

¹⁸ Inquiry document APP3

¹⁹ Inquiry document APP4

²⁰ Inquiry document SOC5 and evidence in person

understand we are playing; it would help us practise our netball skills; it would give us a bigger space to run and play in; we could plant flowers for local wildlife like bees and butterflies to improve their habitats; it could help teach us about looking after different types of plants and habitats; and we could be responsible for more of our local environment.

- 11.16 These above sentiments were further confirmed by the many supporters who have made written representations and those who attended the Inquiry and explained their views in person.
- 11.17 In Planning policy terms, the deficiency in playing field space at this school has been long recognised. Policy SCO 1 addresses 'educational facilities' and the second part of the policy identifies and safeguards seven sites for education use "*to address deficiencies in the provision of education facilities*". Site 7 is described as '*western part (up to 2,500 sqm) of Field 525, St John*'.
- 11.18 The playing field element of the application proposal would address the SCO 1 identified deficiency and brings forward Site 7 for educational use. Whilst compliance with policy SCO 1 is not disputed and weighs in favour of the proposal, there are some broader issues to explore concerning the policy.
- 11.19 First, the policy is limited to safeguarding the land and setting out that education facility use 'will be permitted', should a Planning application be made. It provides no mechanism to guide how the recognised educational facility deficiency (in this case a playing field) is to be delivered.
- 11.20 Second, it would be reasonable to assume that the States, being ultimately responsible for education facilities, would take the lead on converting the safeguarded site into a delivered playing field scheme. It is also reasonable to assume that delivery would be achieved within the Island Plan period.
- 11.21 Third, the evidence of the Connétable of St John indicates that efforts by the States to acquire the site have been limited and unsuccessful. At the Inquiry, he explained that the respective departments (for education and property services) have had responsibility for this matter "*for 22 years*" and have not achieved anything. The Minister for Education's Proof²¹ also cites a long period of time (17 years) during which the school has been seeking to increase outdoor play space. There is no evidence before me to indicate that concerted efforts were made to secure the site including,

²¹ Inquiry document APP3 section 2.0

if necessary, the use of compulsory purchase powers. This is an observation of fact, as I observe matters, and is not intended as a criticism of any individual or department.

- 11.22 Fourth, the evidence of the Minister for Education confirmed a political commitment to fund the works to create the playing field "*should the land be made available*"²². However, the Minister was less able to commit to a compulsory purchase route if this proposal failed, as it would require wider political approval, and was an inevitably long and difficult process.
- 11.23 Drawing these threads together, I conclude that there is clearly no conflict between the proposal and policy SCO 1 and, indeed, the proposal would deliver the recognised educational facility deficiency that SCO 1 seeks to facilitate. It is also clear to me that the educational facility deficiency is a significant one, and it has remained in place throughout the Island Plan period, with no evidence of States' department led success in resolving this important matter. I consider that the policy compliance with SCO 1, and the related material considerations I identify above, should attract great weight in favour of the application.

Affordable housing and housing mix – policies H 5 and H 4

- 11.24 Policy H 5 opens by stating that "*the Minister will support the provision of affordable housing to support the viability and vitality of Jersey's rural settlements.*" The policy then zones two sites for affordable housing, the first being a glasshouse site in St Ouen and the second being a field in St Martin, the latter being subject to the preparation and adoption of a Village Plan. The final part of the policy states that:

Other housing development proposals to support the viability and vitality of Jersey's rural settlements will be permitted, provided that the development:

- 1. is appropriate relative to the existing character of the village; and*
- 2. is well-related to the existing Built-up Area and local facilities, services and infrastructure and where provision for education, leisure, recreation, local shopping, and other community facilities is adequate or can be provided, where required, to meet the needs arising from the proposals.*

- 11.25 Based on the submissions and evidence heard at the Inquiry, I sensed that this was a little used policy and there is some confusion about its

²² Inquiry document APP3 – section 3 last paragraph

correct application, particularly in terms of whether a Village Plan is a pre-requisite of such a scheme.

- 11.26 The proposal would deliver 16 affordable homes. They would be discount market houses intended for families within the Parish of St John. The evidence of Mr Le Boutillier²³ and the Connétable of St John²⁴ provide details on these matters.
- 11.27 Mr Le Boutillier explains that the mechanism for delivering affordable first-time buyers' housing in Jersey is now well established and that the applicant company has experience of delivering affordable housing schemes for different housing providers. He explains how such homes are sold at a discount of open market value by a Government approved non-profit making housing organisation such as Andium Homes, a Parish or a Housing Trust. Whilst purchasers own 100% of their property, there is a registered legal charge (held by the housing provider) such that, on resale, the discount is maintained.
- 11.28 His evidence further explains that all purchasers have to qualify through Band 5 of Jersey's 'Affordable Housing Gateway'. This Band refers to those who wish to purchase an affordable home and need some form of assistance to get on the property ladder. Applicants have to meet a range of criteria set by the Minister for Housing, which include being first time buyers, have at least 1 dependent and have a maximum gross household income of £80,000. In essence, this would mean that the dwellings in this application proposal could not exceed a (discounted) sale price of around £400,000.
- 11.29 The Connétable's evidence explains his understanding of local housing issues and assessments of needs and demands. He sets out the findings of the St John 2017 housing survey and explains that there is nowhere affordable for younger families to live. He says that this is because housing supply is out of kilter, as no new first time buyer homes have been built in the village since 1992 and the price of market homes is unaffordable, with recent quoted prices of £795,000 and £850,000 for 3 bedroom homes being typical. He further explains how he has examined the Island's published Objective Housing Needs Assessment 2019 (OHNA), prepared to inform the Island Plan Review, and used this to estimate and extrapolate the affordable housing need for 3-bedroom units in St John, as about 21 units.

²³ Inquiry document APP2

²⁴ Inquiry document APP1

- 11.30 Both witnesses explain how the housing is intended for local parishioners and refer to an established model in St Martin and submit that the POA template used there could be readily adapted for the application proposal. If there was not sufficient take up from St John's Parish, the homes would be made available more widely, although the Connétable was confident that his assessments were robust, and the homes would be taken up by families with parish connections.
- 11.31 For the Department, Ms Duffell's submissions question whether 'need' has been demonstrated and points to the route, through policy H 5 to bring forward affordable housing sites in rural centres through a village plan mechanism. Mr Coates and Mr Le Gresley also set out that 'need' and 'demand' are different, and they seem to be used interchangeably by the Applicant. Moreover, 'need' is an Island wide issue.
- 11.32 Mr Coates also provided some very helpful updates on the Island Plan review. He advised that St John's Village and other large villages are likely to be the focus of some planned growth. He said that Field J525 was a 'definite maybe' for development and that a draft 'Bridging Plan' would be released in early 2021. He also confirmed that, notwithstanding his views that 'need' for new homes in St John had not been demonstrated, if built, the homes would be taken up and would meet some element of the Island's affordable housing need.
- 11.33 There are some complex issues to wrestle with here but, having considered the evidence and differing views, I have reached the following findings.
- 11.34 First, the houses will be 'affordable homes' and there are established mechanisms to manage the market discount, assess qualifying applicants to purchase the homes and to maintain that discount in perpetuity. That said, the Band 5 focus of the homes, means that they will not be affordable to those most in housing need. In essence, they will meet the 'needs' of those with reasonable incomes who cannot access owner occupation at full market prices. Nonetheless, they would be affordable homes and would meet some element of the need spectrum. I noted that Mr Coates had no hesitation in confirming that the homes would meet an element of 'need', when I questioned him on this particular point.
- 11.35 Second, the evidence of local 'need' is limited. However, the Applicant's evidence on these matters is not without merit. It has engaged with the community through surveys and consultations events. The Connétable's local knowledge is also impressive and carries some weight. The use of the recent OHNA data is also appropriate, even though I accept that

there are inherent dangers in adopting a pro rata application of Island wide data to a rural centre. However, it must be appreciated that undertaking a full housing needs assessment at a parish level is an unrealistic expectation for a parish body or an Applicant, as it is a major exercise and requires a significant amount of data, some of which, such as individual's income, is sensitive.

- 11.36 Third, the wording of policy H 5 does not require a Village Plan to support affordable housing proposals in rural centres. The supporting text simply says "*Other proposals for new affordable housing in or around rural centres may form part of a Village Plan*"²⁵ but it does go on to say that "*any proposals to provide affordable housing outside the defined settlement boundary of a rural settlement that are submitted as a planning application would represent a departure from the Plan and be treated accordingly.*" Although I do appreciate that a Village Plan may well be the best vehicle to support an affordable housing proposal, I am advised that the Village Plan system, aimed along similar lines to the Neighbourhood Plan system in England, has not gained traction in the current Plan period.
- 11.37 Fourth, when judged against the H 5 criteria, the proposal would score well. It is well related to the existing village and its facilities and it can be supported by infrastructure, including available school capacity. I also consider that it would support the viability and vitality of St John's Village.
- 11.38 Fifth, whilst a Village Plan preparation route might offer the opportunity to test this site against other site options, no evidence of superior sites has been presented to me. Whilst beyond the remit of policy H 5, it is also the only site that can yield up a school playing field solution as a direct consequence of the affordable housing development proposed.
- 11.39 Overall, I assess that the proposal accords with policy H 5 and this weighs in its favour.
- 11.40 With regard to policy H 4, the Department has questioned whether a wider mix of house sizes should be included, as they are all proposed to be 3 bedroom designs. However, the scheme is seeking to address a specific type of identified need, i.e. family homes (located close to the school) and is relatively small in scale. I consider there is no tension with the policy in this regard.

²⁵ Revised 2011 Island Plan (2014) paragraph 6.120

Loss of agricultural land – policy ERE 1

- 11.41 Policy ERE 1 addresses 'safeguarding agricultural land' and presumes against the permanent loss of good agricultural land for development or other purposes. Where exceptions are proposed, the policy states that the Minister will take into account: the impact on the viability of an agricultural holding; the nature of the proposed use; the visual impact; and the recommendations contained in the Countryside Character Appraisal.
- 11.42 The proposal would result in the loss of a modest sized agricultural field which is productive land. Mr Surcouf (Land Controls) explained that the land south of the village did suffer from being heavier and associated waterlogging, that this field was below the average size and that farmers had a preference for larger fields. However, he made clear that, even if reduced in size by the SCO 1 playing field allocation, it could still be of agricultural interest, but does agree that it would be less attractive. In terms of the exception considerations, there is no evidence to suggest that the field's loss would impact on the viability of an agricultural holding and the proposed use would be of community benefit. I deal with visual and landscape matters later.
- 11.43 In conclusion, the proposal will result in the loss of an agricultural field and there is some tension with policy ERE 1.

Historic Environment – policies SP 4 and HE 1

- 11.44 Policy SP 4 establishes a 'high priority' to the protection of the Island's natural and historic environment including "*...its archaeology, historic buildings, structures and places...*". Policy HE 1 sets a presumption in favour of preserving heritage assets and their settings. The policy states that proposals "*...which do not preserve or enhance the special or particular interest of a Listed building or place and their settings will not be approved*".
- 11.45 There are no heritage assets within the application area. However, there are a number in the vicinity and, even though they would not be physically impacted by the proposal, it is important to consider any impacts on their settings. Directly to the east of the site is Melbourne House which is a Grade 4 Listed building, and is a very fine example of a mid – late nineteenth century 'cod house'; the house is well screened by a roadside wall and high hedge. The coach house (to the north of Melbourne House) is also Grade 4 Listed, although it is sited somewhat removed from the influence of application site. There is also a Grade 4

Listed milestone some distance to the south of the site (along La Rue de la Mare Ballam).

- 11.46 I have considered the submissions and evidence of Mr Strawbridge²⁶ for the Applicant and Ms Ingle²⁷ for the Department on these matters. My assessment is that it does not appear that heritage matters were fully considered at the design stage, and the Applicant's Heritage Impact Statement was produced at the post-design stage. This is less than ideal, given the importance of heritage considerations as established at a strategic level in the Island Plan (policy SP 4).
- 11.47 I am satisfied that the Listed milestone and the Coach House are sufficiently distant and separate from the proposed development such that their settings will be preserved. However, I do not share Mr Strawbridge's assessment that the effect on the setting of Melbourne House will be 'neutral' and it is important to apply the policy in accordance with case law²⁸. Given that the development could not conceivably 'preserve' the setting of the Listed building, as it will entail change, policy HE 1 requires the development to 'enhance' (the setting). Whilst the Applicant has included some improvements to the frontage landscaping and details facing Melbourne House, I share Ms Ingle's assessment that the design does not fully address the roadside character and respond positively to the close presence of the Listed buildings. These failings would result in some harm. I further agree with Ms Ingle and Ms Duffell that this is not such a fundamental issue that would prevent the scheme *per se*, as it could be readily resolved by some finessing of the layout design, buildings and detailing, particularly around the road frontage.
- 11.48 I conclude that the proposal, as currently presented, does not satisfy policy HE 1, but this policy tension is capable of resolution by some design refinements. This improvement exercise is quite achievable and, should the Minister be minded to grant permission, it could be a prerequisite of a formal decision.

Design and Layout

- 11.49 Strategic policy SP 7 establishes a requirement that all development achieves a high design quality. This is reinforced by policy GD 7, which sets out a list of detailed design considerations. It is further reinforced by policy GD 1(6).

²⁶ Inquiry document APP7

²⁷ Inquiry document CON8

²⁸ *Herold v Minister for Planning and Environment and Sea View Investments* [2014] JRC 012; *Herold v Minister for Planning and Environment and Sea View Investments* [2015] JRC 111

- 11.50 The application is supported by a Design and Sustainability Statement²⁹ which explains that the houses are a traditional design to complement the rural landscape, with painted rendered walls and a mix of slate and pantile roofs. Each house has 3 bedrooms, a bathroom, living room, dining / kitchen room and ground floor WC. It further explains that all of the homes would have a private rear garden, 2 parking spaces, plus visitor parking, and that the density is the same as Clos de L'École to the north. The design approach is further explained by the evidence of Mr Bull³⁰ for the Applicant. Ms Duffell's evidence³¹ includes some commentary and limited criticism of the design approach on behalf of the Department.
- 11.51 In my view, other than the Listed building issues identified above, the scheme is of a pleasant design. Although it might be deemed a little suburban, this is reflective of its context and the measured density employed, which allows for good sized gardens on all plots, appropriate levels of parking and maintaining comfortable spacing with the properties to the north. There is nothing cramped or squeezed in and the result will be an attractive and spacious high quality residential environment. Whilst the houses are all 3 bedroom units, there is a wide variety of house types, a mix of scales and sizes, and the use of different roofing materials to add variety. I would suggest that some additional variation to the external house wall materials (all are painted render) would be desirable, but not critical, in terms of policy compliance.
- 11.52 Subject to some reworking and refinement in the eastern part of the site to address the setting of Melbourne House, I am satisfied that the design could meet the high design quality expected by policies S 7, GD 7 and GD 1.

Landscape and visual impact – policies SP 4, GD 1, GD 5, GD 7 and ERE 1

- 11.53 Whilst landscape and visual impact are part of the broader design consideration, it is helpful to consider these matters discretely.
- 11.54 Clearly, the proposal to build 16 houses on an agricultural field represents a considerable change which in itself could be considered adverse and undesirable. However, this will be the case with the development of any greenfield land.

²⁹ Core document SD1

³⁰ Inquiry document APP5

³¹ Inquiry document GHE1 paragraphs 6.63 – 6.69

11.55 The site falls within *Character Area E6: Central Plateau – Valley Heads*, as defined within the Countryside Character Appraisal (1999). This identifies that long views across the interior are essential to the countryside character, often encompassing the church spires of the main settlement. In terms of future development the 1999 Appraisal states:

"There is limited capacity to accept any new development and it is recommended that this area should have high levels of protection. Any development can have a very high impact in the long views that can be obtained within this area. New development should be limited to the existing village areas at Trinity, St. John, St. Mary and St. Ouen."

11.56 The Applicant has undertaken a Landscape Impact Appraisal³² which concludes that the impact on landscape character would be "moderate" and that the surrounding area has the capacity to accept the development proposed without significant harm. I share the Applicant's conclusions that the proposal will not have any undue impact on long views, including those of the church spire.

11.57 However, a key element in mitigating the impact of the development from the south is the significant stand of trees that runs alongside (but outside) the site's southern boundary. These trees are a very attractive feature and form part of the setting of the village, and serve to contain and screen the application site, and would similarly screen the proposed development. The line of trees does also approximate with the adjacent southernmost extent of the village settlement, formed by the garden wall of Melbourne House. At the Inquiry there was some discussion about whether these trees should be the subject of a Tree Preservation Order and that is a matter that the Minister may wish to consider further, particularly if he was minded to grant permission for this proposal. The Connétable of St John advised that he considered that the landowners (on which the trees are situated) would be highly unlikely to fell the trees and would be supportive of their retention.

11.58 I am satisfied that the landscape and visual impact arising from the proposal would be quite limited and would not cause significant or undue harm to the countryside character in this part of Jersey. I find no conflict with the respective policies in this regard, notably SP 4, GD 1, GD 5, GD 7 and ERE 1.

³² Core document SD2 – chapter 9

Transport – policies SP 6, GD 1(5), TT 1, TT 2, TT 3, TT 4, TT 5, TT 7 and TT 8.

- 11.59 The Island Plan contains a suite of relevant transport related policies. Strategic policy SP 6 seeks to reduce dependence on the car and this is reinforced in policy GD 1(5). Policy TT 1 protects the existing pedestrian and cycle network; TT 2 seeks footpath provision and enhancement; TT 3 and TT 4 promote cycle routes and cycle parking; TT 5 addresses road safety; and TT 7 and TT 8 cover and promote public transport.
- 11.60 The Applicant’s evidence is set out in its Transport Statement³³ and the evidence of Mrs Steedman. The key findings and conclusions of the Transport Statement are that the site would be well served by existing public highways; that trip generation would be low and not cause any significant impact on highway capacity; the site is close to the village centre and will be accessible by foot and by cycle; the proposed pedestrian route across the site will improve accessibility and pedestrian safety; the development will include secure cycle parking for residents and visitors; the Applicant is prepared to fund the relocation of the 30 mph speed limit further south; and a new footway will be provided across the site frontage of La Rue de la Mare Ballam.
- 11.61 The Department’s evidence is contained within Mr Prendergast’s consultation response³⁴ and the evidence in person of Mr Haywood. The officers appear to recognise the sustainable location of the site close to the village, the good levels of parking within the scheme, the benefits of the pedestrian link proposed through the site, and the footway provision on the road frontage. However, they object to the scheme on two grounds. The first is the lack of provision for non-car travel to the east of the village and the second is the lack of crossing provision to the village centre across the main road. They point out that both of these matters are identified in the 2019 Village Planning Statement and should be required through this development. Additionally, they would like the pedestrian route through the site to be wider (2 metres as opposed to 1.5 metres) and would like consideration given to a potential bus shelter on the site frontage.
- 11.62 At the Inquiry, the Connétable explained that funding for Parish transport improvements had been earmarked by the States but later withdrawn. However, he explained that he now had secured funds to pursue connectivity projects within the village and these would be pursued separately, as they are wider village issues that need to be addressed,

³³ Core document SD5

³⁴ Inquiry document CON2

and are beyond the scope of one development project. Mrs Steedman also submitted that she had contacted Liberty Bus and they had no interest in changing services and would therefore not require a bus stop / shelter.

11.63 My assessment of the evidence reaches a number of findings on transport matters. First, this site is sustainably located with a wide range of services, including the village school, in close proximity and these will be accessible by walking and cycling. Second, St John's Village does have a reasonably regular bus service which residents of the scheme could use, adding to service patronage. Third, the benefits of the pedestrian link proposed through the site are significant and will contribute to road safety. Fourth, there are some existing pedestrian /cycle connectivity issues near to the site, and more widely in St John's Village, in terms of lack of footways and crossing points, notably when seeking to access facilities to the east of the village such as the M & S store / petrol filling station. Fifth, it is unrealistic to expect this relatively modest development to solve the village's wider pedestrian connectivity issues, which largely arise from its historic evolution over time, although some contribution towards funding solutions would be reasonable and could be included in a POA. Sixth, the Connétable appears confident that pedestrian route improvements can be designed, funded and delivered independently of this application. Seventh, the scheme is technically acceptable in terms of its proposed access, footway provision, parking, garaging and cycle parking. Eighth, a bus shelter at the front of the site seems unnecessary (and would be undesirable directly opposite the Listed Melbourne House). Ninth, I am not convinced that there is a need to increase the footpath route width through the site, as it could look a little over-engineered and out of character.

11.64 Drawing these findings together, I conclude that, subject to suitable contributions being included within a POA, the proposal would be acceptable in terms of the Island Plan's transport policies SP 6, GD 1(5), TT 1, TT 2, TT 3, TT 4, TT 5, TT 7 and TT 8.

Natural Environment

11.65 The Applicant's ecological assessment³⁵ found no key habitats, low suitability for breeding birds and other protected species (amphibians, small mammals and reptiles), and negligible impacts on roosting bats and low impact on commuting / foraging bats. The subsequently produced and submitted Species Protection and Ecological Enhancement Plan has been produced in consultation with the States Natural

³⁵ Core document SD6

Environment team officers. It lists a wide range of enhancements including bat tubes and house sparrow terraces, house marten cups, owl box, squirrel box, wildlife friendly fencing, native species planting and the creation of the school's wildlife garden and pond.

- 11.66 The evidence, and proposed measures, demonstrates that the proposal would enhance biodiversity and species protection in accordance with policies NE 1 and NE 2 respectively.

Amenities of neighbouring uses – policy GD 1 (3)

- 11.67 I have carefully assessed the relationship between the proposal and properties at Clos de L'École to the north, some of which have very limited rear garden depths. Considerable care has been taken in the layout and house designs to maintain a spacious relationship and avoid any overbearing or loss of privacy issues.
- 11.68 I have also assessed the potential impact of playing field activities on existing properties to the north (Clos de L'École) and west (La Rue des Buttes) and the proposed nearest dwellings (plots H10 – H14). I consider that the spatial separation and likely nature and hours of use of the playing field will not result in an unreasonable loss of amenity.
- 11.69 I am satisfied that there will be no unreasonable harm to the amenities of neighbouring uses. Policy GD 1 (3) is satisfied.

Planning conditions and Planning Obligation Agreement matters

Draft List of Planning Conditions

- 11.70 In the event that the Minister were minded to grant Planning permission, it would be appropriate to include a suitable set of Planning conditions.
- 11.71 At the Inquiry, I asked Ms Duffell to produce a 'without prejudice' draft list and to liaise with the Applicant. I am grateful for the parties' efforts and liaison on this matter, as it has led to a largely agreed set of draft conditions (received after the close of the Inquiry). I have set out, in shorthand form, the suggested conditions which I consider necessary. I have omitted suggested conditions relating to matters which are more properly controlled under the POA.
- 11.72 The suggested conditions are:
- Condition 1 – surface water details to be provided
- Condition 2 – visibility splays to be laid out, retained thereafter and kept free of visual obstruction

Condition 3 – car parking spaces to be laid out and retained for the use of occupants

Condition 4 – details of foul sewer arrangements

Condition 5 – landscape management plan

Condition 6 – hard and soft landscape works carried out

Condition 7 – tree protection measures

Condition 8 – waste management plan

Condition 9 – implementation of mitigation measures outlined in the Species Protection Plan

Condition 10 – materials to be submitted, including fences and boundary treatments

Condition 11 – electric charging points for cars and bikes

Condition 12 – details of roadside wall to be submitted

Condition 13 – percentage for art

Condition 14 – renewable energy

Condition 15 – construction and environmental management plan

Condition 16 – none of the homes to be occupied until the playing field has been completed and made available for use by the school

Planning Obligations Agreement – Draft Heads of Terms

11.73 Should the Minister be minded to grant Planning permission, it would be necessary to require a POA to secure matters that are beyond the scope of Planning conditions. In essence, these relate to legal obligations concerning the affordable housing, the delivery and ceding of the school playing field, the public footpath / cycle route through the site, and contributions towards sustainable transport improvements and measures.

11.74 Whilst most of these matters are agreed between the Applicant and the Department, there is some difference of views on transport matters. It does appear that some figures and requests have emerged since the Inquiry closed. There are 4 separate items to consider. The first is the relocation of the 30 mph zone and associated signs and lines; this is agreed. The second is a formula based contribution towards cycle and walking route connections of £21,600 (16 x £1,350), which is also agreed. The third is a bus shelter contribution of £10,000 for the

provision of a shelter on the La Rue de la Mare Ballam; this is not agreed, as it would impact on plot 2 (the amount is not disputed). The fourth is a pedestrian crossing of La Route des Issues; this is not agreed as the Applicant says it has not been mentioned previously and would add over £4,000 per plot to this affordable housing scheme.

- 11.75 In terms of the disputed items, I consider that providing a bus shelter on La Rue de la Mare Ballam is unrealistic and undesirable. This is because there is no supporting evidence from the bus operator and because it would be directly opposite the Listed building and will impact on its setting. However, I do think that the financial contribution to support public transport measures, or other sustainable transport measures, is justified and I propose that, should the Minister be minded to grant permission, it should be combined with cycle and walking connections contributions.
- 11.76 I do not consider that fully funding a crossing of La Route des Issues would be reasonable or proportionate, based on the relatively small scale of this development. Moreover, this improvement relates to a broader and bigger set of village measures that the Connétable is confident can be separately funded. However, there is no reason to prevent the POA connections contribution being used, in part, to assist such a project, if that were considered appropriate.
- 11.77 I therefore consider that the following heads of terms are reasonable to include within a POA:
- Affordable housing – its provision, qualification and allocations process, legal charge and in perpetuity affordability provisions.
 - Playing field – delivery and ceding of land to the parish and related arrangements.
 - Public route – provision of footway / cycleway between La Rue de La Mare Ballam and La Rue des Buttes and its status / management.
 - A (combined) contribution of £31,600 towards cycling and walking connections and other sustainable transport measures to improve the accessibility of the site and its links to key destination points within the village.
 - Relocation of the 30 mph sign / zone to the south of the site and associated signage and road markings.

12.0 CONCLUSIONS AND RECOMMENDATIONS

- 12.1 This application proposes the development of greenfield land on the edge of St John's Village to deliver a playing field for the village school and 16 affordable homes. The application is presented as a package, with the housing development facilitating the delivery of the school playing field.
- 12.2 The proposal raises some complicated Planning issues concerning the application of the Island Plan policies and the interplay between them. It is also relevant that the application is being considered towards the end of the current Island Plan's tenure and at a time when a new revised Plan is being prepared, initially in the form of a 'Bridging Plan'. This is an important factor because it represents a transition period in policy terms, and a time of reflection on the Plan's successes and achievements, identification of unmet objectives and aspirations, and the careful consideration of new issues and challenges. None of these are matters for this particular Inquiry, but they are contextually relevant, and a material consideration, for the decision to be made in this case.
- 12.3 The starting point for my conclusion relates to strategic policy or 'principle'. Specifically, it concerns the exception allowed by the Island Plan's spatial strategy policy SP 1(3). This policy does allow for development on greenfield land where it justifiably supports parish communities and which meets an identified need and where it is appropriate to do so.
- 12.4 SP 1(3) is an understandably rarely used exception and I have not been made aware of any directly comparable other examples of development projects in the current Island Plan period. It is a rarity in the sense that the Island Plan is heavily premised on a concentrated development strategy, directing development to the Built-up Area and presuming against most new development in the countryside, which falls under the Green Zone and CNP designations. As a consequence of these factors, a proposal that entails the development of greenfield land will run against the broad thrust of the Plan and, as a result, any exception under SP 1 (3) would need a very clear justification and, as the policy wording states, it must meet an identified need.
- 12.5 The proposal seeks to support the parish community through meeting two elements of 'identified need' in the form of a school playing field and 16 affordable homes.
- 12.6 With regard to the playing field element, the village school operates on an undersized site which has no green play space. This limits the school's ability to provide for children's play, physical education, team sports

(such as football and netball), science, nature and art. It also creates logistical issues such as staggered breaks, movement of children to the relatively remote public recreation ground on the eastern side of the village, and regular incidences of minor accidents and injuries due to all outdoor play being on hard surfaces.

- 12.7 This deficiency in education facilities is significant and has been recognised for many years. In Planning policy terms, it is recognised in the safeguarding of the playing field site through policy SCO 1, although that policy contains no mechanism, or suggestion, to guide how the facilities would be delivered. There is no evidence of a States led process to acquire and deliver the playing field during the Plan period, and no evidence before me to suggest there will be in coming years, although there is a political commitment to fund the works if the land becomes available. As a consequence of these factors, the proposal's ability to deliver the clearly identified need of the school playing field, which will unquestionably support the parish community, is a significant and weighty consideration.
- 12.8 The delivery of the affordable homes would also serve an identified need and support the parish community. However, unlike the playing field, the identification of 'need' for the affordable homes is less clear cut and straightforward, for reasons explained earlier in this report. Nonetheless, I assess that the homes would be 'affordable housing' and that a well-established mechanism can be employed to manage their provision, allocation to qualifying households and to maintain the market discount in perpetuity. I also find that the affordable homes would satisfy an element of housing need, much of which is likely to be drawn from within the Parish of St John's. This would contribute to the viability and vitality of St John's Village and the parish community. I assess that the proposal accords with policy H 5 which supports the provision of affordable housing in rural settlements.
- 12.9 When considered as a package, the proposal's delivery of the needed school playing field and 16 affordable homes provides a compelling 'in principle' case under SP1 (3). Both elements address identified needs and would justifiably support the parish community of St John's.
- 12.10 However, at this stage in my concluding analysis, the proposal is simply broadly acceptable – it aligns with an acceptable strategic route that would allow for exceptional development. However, policy SP1 (3) is caveated by the words 'where it is appropriate to do so'. This necessitates a much wider assessment against other policies and, as I noted earlier in this report (paragraph 11.6), an exception under SP 1

(3) is almost inevitably going to create some tensions with other policies that reinforce the concentrated development strategy and protect green field land.

- 12.11 At the strategic level, as the SP1 (3) exception is successfully engaged, I consider that there would not be any inherent tensions with policy SP 2 (efficient use of resources) and SP 3 (sequential approach to development). This is a neutral finding.
- 12.12 However, whilst the playing field is acceptable in terms of Green Zone policy NE 7, the housing element is not. The housing proposal does not fall under any of the NE 7 exceptions and would directly conflict with the policy. This weighs against the proposal, although I am mindful that this is always likely to be the case with SP 1(3) exception development.
- 12.13 The proposal would result in loss of some agricultural land and this would conflict with policy ERE 1. However, Field J525's attractiveness to farming is compromised in any event by its reduction through the SCO 1 allocation, and there is no suggestion that its loss would impact on the viability of a farm holding. The harm would therefore be limited and would be offset by community benefits.
- 12.14 I find support for the proposal under policy H 5, which supports the provision of affordable housing in rural settlements. This weighs in favour of the proposal. I find no tension with policy H 4.
- 12.15 The proposal would result in some harm to the setting of nearby Listed buildings and hence conflicts with policies SP 4 and HE 1 and the submitted proposal is unacceptable in this regard. However, this conflict could easily be resolved by some limited design refinements.
- 12.16 Other than revisions needed to address heritage impacts, the design of the scheme is of a good standard and has the ability to satisfy policies SP 7, GD 7 and GD 1(6). I am satisfied that the landscape and visual impact arising from the proposal would be quite limited and would not cause significant or undue harm to the countryside character, including in longer views, in this part of Jersey and I find no conflict with the respective policies in this regard.
- 12.17 In terms of transport matters, subject to POA contributions towards sustainable travel connections and improvements, the proposal would be acceptable in terms of the Island Plan's transport policies SP 6, GD 1(5), TT 1, TT 2, TT 3, TT 4, TT 5, TT 7 and TT 8.

- 12.18 The proposal would enhance biodiversity and species protection in accordance with policies NE 1 and NE 2 respectively. The proposal would not result in any unreasonable harm to the living conditions enjoyed by occupants of neighbouring properties and would satisfy policy GD 1(3).
- 12.19 My overall assessment finds that the proposal would entail some conflict with the Island Plan but that, when considered as a whole, the development would largely accord with the Plan. I use the word 'largely' because there are still some matters requiring attention and final agreement that prevent me from making an unqualified recommendation to grant Planning permission. Specifically this relates to design refinements to enhance the setting of the Listed Melbourne House to the east and confirmation of the terms of the POA.
- 12.20 Without these refinements and commitments, important policy matters concerning heritage impacts and sustainable travel would not be addressed. Given that these matters are capable of being addressed in a short space of time, my recommendation to the Minister is contingent upon their satisfaction. I do appreciate that this is not the cleanest outcome, but Planning applications should not normally be refused on the basis of matters that can be resolved by amendment and negotiation. Moreover, this is a matter that, had the application followed a more conventional route, could, and I am sure would, have been addressed through the normal development management process. Indeed, it was quite apparent from the evidence of Ms Ingle that satisfactorily addressing the heritage impact was readily achievable through some negotiation and limited scheme refinement.
- 12.21 I am also conscious of the significant delays incurred as a result of the Inquiry and Covid-19 pandemic and, requiring a fresh application to address these discrete matters, could trigger the need for a further public inquiry which would result in more delay, should the Minister agree with my recommendation.
- 12.22 In closing this report, there are two interrelated matters raised through the Inquiry that require some comment. The first concerns 'precedent', including the view expressed by some that allowing this application would 'open the floodgates' for development on greenfield land; this is clearly not the case and my analysis demonstrates that the proposal is truly exceptional and, indeed, the circumstances that prevail are unique and unusual. The second concerns 'prematurity', with views expressed that this site ought be considered through the Island Plan review process; I do not share this view, as I have found the proposal to be largely acceptable under the existing Island Plan's policies and it is also a

consideration that delivery of the playing field, far from being premature, is many years overdue.

12.23 I therefore RECOMMEND that the Minister be MINDED TO GRANT PLANNING PERMISSION subject to:

- A. The Applicant submitting amended plans that satisfactorily refine the layout and building form to address policy HE 1 in respect of the setting of the Listed Melbourne House, immediately to the east of the site.
- B. Any re-consultation and publicity deemed necessary and appropriate as a result of the amended plans submitted in respect of (A) above.
- C. A set of Planning conditions based on the draft list contained within this report, updated as necessary in the light of the further amendments submitted under (A) above.
- D. The Applicant entering a Planning Obligations Agreement to secure the following heads of terms:
 - Affordable housing – its provision, qualification and allocations process, legal charge and in perpetuity affordability provisions.
 - Playing field – delivery and ceding of land to the parish and related arrangements.
 - Public route – provision of footway / cycleway between La Rue de La Mare Ballam and La Rue des Buttes and its status / management.
 - A (combined) contribution of £31,600 towards cycling and walking connections and other sustainable transport measures to improve the accessibility of the site and its links to key destination points within the village.
 - Relocation of the 30 mph sign / zone to the south of the site and associated signage and road markings.

12.24 I further recommend that the Minister gives consideration to making a Tree Preservation Order under Article 58, in respect of the mature line of trees to the south of Field J525. I make this further recommendation irrespective of the Minister's decision on the application proposal, as the treeline makes a significant contribution to the amenity of the area and the setting of St John's Village.

P. Staddon

Philip Staddon BSc, Dip, MBA, MRTPI

25 November 2020