



## Decision of the Determining Panel under Article 12(2)(b) of the Planning and Building (Jersey) Law 2002

25 September 2023

### Introduction

Following the conclusion of the [South West St Helier Waterfront public inquiry](#), the appointed independent planning inspector produced a report for the Minister's attention. The Minister had appointed a Determining Panel to consider the application on 12 June 2023 [MD-ENV-2023-311](#) consisting the Minister for the Environment, the Assistant Minister for the Environment, and the Chair of the Planning Committee. The Determining Panel then considered the [inspector's](#) report as part of their determination of the planning application for the waterfront (PP/2021/1969).

### Recommendation

Having considered the inspector's report and the recommendations contained therein, the Determining Panel decided to **refuse** the application for the following reasons:

1. The urban design implications of this proposal would amount to the Island's single biggest cluster of tall buildings in a highly prominent location, forming a dense scheme heavily constrained by an untamed six lane expressway, manifesting itself in a very solid and massive form. Further, the proposed development would create an imposing solid and almost continuous frontage facing La Route de Liberation. This would fail to achieve the SWSHPF community expectation of reconnection with the town centre and framed views of the sea and key landmarks, contrary to Policies SP3, SP4, GD6, GD7 and GD9 of the Adopted Bridging Island Plan 2022.
2. The Applicant has not satisfactorily demonstrated compliance with policy H1's requirements to achieve good quality housing and living conditions across the scheme. The majority of the proposed flats are likely to be single aspect, and a significant number would have northerly aspects or be fronting a noisy road, and some would have poor aspects facing tall buildings at close proximity. The development would therefore fail to maximise daylight, sunlight and outlook and fail to safeguard privacy for future residents, contrary to Policies GD1 and H1 of the Adopted Bridging Island Plan 2022.
3. The proposed development, whilst providing certain short term highways benefits such as a new road crossing, would fail to provide sufficient medium and longer term benefits to the highway and therefore fail to provide the transformational approach required. Therefore, the proposal fails to achieve the fundamental requirements set out in Policies TT1, TT2, SP3, GD6(4) of the Adopted Bridging Island Plan 2022 and the guidance set out in the SWSHPF and the PRMS.
4. The proposed development would involve substantial excavation including basement areas to provide parking and servicing and will generate a substantial quantity of waste which is known to contain contaminants. No satisfactory site waste management plan solution has been provided by the Applicant to lawfully and sustainably manage this waste. The development is therefore contrary to Policies SP1, SP3 and WER1 of the Adopted Bridging Island Plan 2022.



- The proposed level of affordable housing provision, given the strategic scale of the proposal, represents an unduly low level of provision on finite States owned land and would not lead to a sustainable balanced community, contrary to Policies H3, H4 and H5 of the Adopted Bridging Island Plan 2022.

**Reasoning behind decision for refusal**

The inspector is clear that the application cannot be accepted in its current form, but recommends that the panel resolves not to determine the application, so that adjustments can be made in those areas where the application has "failed", leading to a second "mini" Planning Inquiry. Whilst we acknowledge there is some merit in this proposal, we believe it is flawed.

Our view is that the grounds for refusal are too significant to be resolved by the "incrementalism" that is implied by keeping the application open. Taking together the urban design issues, the failure to tame Rue de la Libération and deficiencies in housing quality, we believe there is a need for a considerable change to the current application. There is a danger if the application is kept open that the applicant will be encouraged to "tweak" the current scheme, rather than for it to be fundamentally rethought. There is a risk that "trade offs" are sought, where for example improvements to urban design and housing quality lead to compromises in connectivity, in the belief that a "mini" Inquiry is proceeding on the basis that approval is within reaching distance.

The danger if the application is kept open is that it discourages a more wide-ranging re-examination of the application. A practical consequence of the approach suggested by the Inspector is that the applicant would not change any of the matters that have already been "approved". All the effort will be in overcoming the issues that have "failed". However, this places limitations on the solutions that can be found. For example, it might be appropriate to change some of the aspects of the scheme that have been "approved", in order to find better solutions to those that have been "refused". This might re-open aspects of the application in a positive way.

This development is on a prime waterfront location and should be an exemplar. What is on offer here falls short in too many respects. This site represents an opportunity to achieve something special that is well connected with the rest of town and the public both now and future generations will appreciate and value.

**Signed**

Deputy Jonathan Renouf, Minister for the Environment		Date 25/9/23
Deputy Hilary Jeune, Assistant Minister for the Environment		Date 25/09/2023
Constable Philip Le Sueur, of Trinity, Chair of the Planning Committee		Date 25/09/2023