

PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)

Appeal under Article 108 against a decision made to refuse to grant planning permission

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

By Mr Philip Staddon BSc, Dip, MBA, MRTPI

Appellant: LMN Jersey Investments Ltd

Site address: 31 – 41 Broad Street and, 19 – 29 Commercial Street, Commercial Street, St. Helier, JE2 3RU

Application reference number: P/2022/0388

Proposal: ‘Demolish existing buildings at 31-41 Broad Street and 19-29 Commercial Street. Construct 137 no. 1 bed, 96 no. 2 bed and 5 no. 3 bed residential units. Construct 103 room Aparthotel with ground floor restaurant, cafes and shops with associated car parking, landscaped public courtyard and pedestrian access link. Restore facades to 35-37 Broad Street. 3D Model available.’

Decision notice date: 8 December 2022

Procedure: Hearing held on 5 April 2023

Inspector’s site visits: 2/3 April and 17 May 2023

Inspector’s report date: 7 July 2023

Introduction

1. This report contains my assessment of the planning appeal made by LMN Jersey Investments Ltd against the decision to refuse to grant planning permission for a major mixed use redevelopment scheme, named by the appellant as *Les Sablons*, on a site at Broad Street and Commercial Street in St Helier town centre.

Procedural matters

Statement of Common Ground

2. At my invitation, the appellant and the planning authority have produced a Statement of Common Ground (SCG), which is dated 28 March 2023. This is helpful in narrowing the focus on areas of disagreement and I will refer to its content throughout this report.

Late material

3. At the further comments stage, the appellant introduced a substantial document, produced by the lead architects for the scheme. It includes sections on design and detailed responses to the 2 refusal reasons. Whilst

noting the appellant's submission that it provides a 'summary of key information from the Design and Access Statement' (DAS), it is a significant document, extending to some 57 pages, and reads akin to a second Statement of Case.

4. The introduction of such documentation, at the stage when parties are meant to be confining submissions to making comments on each other's respective case, is less than ideal. It means that the appellant is introducing substantial new material that other parties are unable to comment on, unless they attend the Hearing itself. In the appeals system in England, there are strict rules concerning the further comments stage and substantive new evidence submissions that should have been included in the Statement of Case are not permitted.
5. The planning appeal system in Jersey has so far avoided a detailed and stringent set of procedural rules, but the guide¹ published by the Judicial Greffe does make clear that full arguments should be set out at the Statement of Case stage.
6. Whilst I have, on balance, accepted and considered the architects' document in this case, I would point out that this is not the first occasion where agents have pushed the boundaries of the procedural appeal stages. Should this become a recurring issue, the Minister and Judicial Greffe may wish to consider the introduction of more stringent procedures, including the rejection of documents where appropriate.

Application and committee stages

7. I have noted the appellant's submissions setting out its concerns and frustrations about the handling of the application and the planning committee proceedings. I have made my assessment on the planning merits of the scheme before me.

Transparency issue

8. On my return flight to England, after conducting this appeal Hearing, one of the appellant's team was allocated an adjacent seat to me. We did not discuss the appeal case.

The appeal site

9. The site covers some 7,300 square metres of St Helier town centre. It is roughly rectangular in shape and sits more or less within the middle of a town centre block of mainly commercial property bounded by Broad Street (to the north-east), Conway Street (to the south-east), Commercial Street (to the south-west) and Castle Street (to the north-west).
10. The site has frontages to Broad Street and Commercial Street, both of which are relatively narrow streets with one-way traffic systems in place. The Broad Street frontage comprised Nos 31 – 41, with Nos 33 (rear), 35 and 37 being Listed. The frontage buildings were of 3/3.5 storey height and

¹ <https://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/A%20Brief%20Guide%20Fees%202023.pdf>

in use as shops, with residential and commercial uses above. The Commercial Street frontage comprised Nos 19 – 29. The site includes all of the land in between the two street frontages, some of which I understand has been in use as commuter car parking in recent years.

11. When I visited the site in April and May this year, it had been largely cleared of buildings, other than the retained facades fronting Broad Street and a remnant Listed harbour wall structure, which runs alongside the site's north-western boundary.

Relevant Planning history

12. There is planning history on this site that has some relevance to the current appeal.
13. In December 2011, the then Minister for the Environment and Planning granted planning permission² for a development described as '*Demolish existing buildings. Construct six storey building plus roof plant, comprising retail units and offices with basement parking. Remove 33 Broad Street. Restore facades of 35 – 37 Broad Street and harbour wall structure.*' The application site was nearly identical³ to the current appeal site.
14. The approved scheme comprised some 27,871 square metres of office space, plus a small amount of ground floor retail use. The approved building would effectively fill the site and would be 3 (office/commercial) storeys in height on Broad Street, rising to 6 storeys on Commercial Street. It included public realm within a colonnade, linking Commercial Street to Broad Street, the retention of the Listed façades to Broad Street, and basement parking for 111 vehicles and 100 cycles.
15. The 2011 permission was subsequently renewed through a 2016 application⁴, which had the effect of extending the time period for the commencement of development for a further 5 years from 10 November 2016. Another application⁵ was approved in October 2020 which re-phased several of the pre-commencement conditions on the original approval. A further application⁶ was approved in January 2021, the main revision being the removal of the approved basement, along with consequential alterations and the re-provision of the displaced car parking, cycle, storage and plant space at the ground and first floor levels.
16. It is accepted by the planning authority that all pre-commencement conditions relating to the 2011 permission (as amended) have been discharged. It is further accepted that the permission has been part implemented through the demolition of various buildings and structures,

² Ministerial Decision MD-PE-2011-0129 in respect of planning application P/2011/0817.

³ There are some minor inconsistencies in the red lined boundaries between the site plans submitted under P/2011/0817 and P/2022/0388.

⁴ RC/2016/1027

⁵ RC/2020/0705

⁶ RP/2020/1117

and that the permission is extant. It is therefore a material consideration in this appeal.

17. For simplicity, I will refer to this collection of extant planning approvals as 'the offices permission'.

The appeal proposal and the refusal decision

18. The application sought full permission for a development described as: *'Demolish existing buildings at 31-41 Broad Street and 19-29 Commercial Street. Construct 137 no. 1 bed, 96 no. 2 bed and 5 no. 3 bed residential units. Construct 103 room Aparthotel with ground floor restaurant, cafes and shops with associated car parking, landscaped public courtyard and pedestrian access link. Restore facades to 35-37 Broad Street. 3D Model available.'*
19. The development would comprise 4 linked blocks, in a roughly rectangular format, enclosing a central courtyard. The 238 apartments would be housed within 3 residential blocks, with block A at the north-eastern Broad Street end of the site, and blocks B and C extending south-westwards from it on each side of the site, through to Commercial Street. Block H would comprise the aparthotel and this would front Commercial Street, filling the gap between blocks B and C. The height of the development would step up from Broad Street, where its frontage would be 4 storeys, with a 5th storey setback, across the site to Commercial Street, where the frontage comprising the aparthotel and the ends of blocks B and C would be 8 storeys.
20. All of the apartments would be at first floor and above in blocks A, B and C, the ground floorspace being for cafes (2), a large restaurant unit, commercial/retail units (3), receptions, cycle stores and waste rooms. The aparthotel would include a ground floor reception, gym, kitchen and stores, with the 103 rooms on floors 1 – 8. There would be a covered car park (48 spaces) in the south-eastern part of the site, accessed off Commercial Street. The flat roof over the car park would provide some private garden space for apartments at first floor level (in block C).
21. An opening would be created through block A, enabling pedestrian access from Broad Street into the central landscaped courtyard, which would widen out and turn towards the remnant of harbour wall, and turn again to provide a through access emerging onto Commercial Street, in the western corner of the site.
22. The application was supported by a full set of detailed plans and a range of supporting documents, which included an Environmental Impact Statement (EIS), DAS, Planning Statement, Townscape and Visual Impact Assessment (TVIA) and a Daylight and Sunlight Assessment.
23. The application was determined by the Planning Committee at its 8 December 2022 meeting. The officer report to the committee recommended refusal of the application for 2 reasons. The committee endorsed the officer recommendation and refused the application for the 2 reasons which are set out in full below:

1. *The proposed built form, by way of its excessive height, would result in visually incongruous development out of keeping with the prevailing scale of built form in this locality. As a result, the development would be harmful to the character and appearance of this locality. The benefits of the proposals do not outweigh this harm. Therefore, the proposal would be contrary to policies SP3, GD6 and GD7 of the Bridging Island Plan 2022.*

2. *The proposed development by way of its design and layout, including orientation, would result in unacceptable living conditions for future occupiers by way of inadequate daylight and sunlight. As a result, the proposal would be contrary to policy GD1 of the of the Bridging Island Plan 2022 and the guidance within SPG 6 - 'A Minimum Specification for New Housing Developments' (PPN6) Jan 2009.*

Summary of cases of the parties

The Appellant

24. The appellant's 3 grounds of appeal, as set out in the appeal form, are:

GROUND 1 – The first reason for refusal is not justifiable. The built form is not considered to be visually incongruous nor out of keeping with the prevailing scale in this locality. It is not considered that the proposals are harmful to the character and appearance of this locality. It is considered that the benefits of the proposals do outweigh any perceived harm. The proposal is not contrary to Policies SP3, GD6 or GD7 of the adopted Bridging Island Plan 2022.

GROUND 2 – The second reason for refusal is not justifiable. The design, layout and orientation will not result in unacceptable living conditions for future occupiers by reference to inadequate daylight and sunlight. The proposal is not contrary to Policy GD1 of the Bridging Island Plan nor the guidance with SPG 6.

GROUND 3 – The assessment and determination contained numerous and significant omissions. It is considered that the application accords with the Bridging Island Plan 2022 and, taking account of all material considerations, should be granted planning permission, as required by Article 19 of the Planning and Building (Jersey) Law 2002.

25. These grounds are expanded in a detailed (241 paragraph) Statement of Case (January 2023) and a large bundle of appendices numbered alphabetically A to Y. The appellant has also submitted a further comments document (February 2023), rebutting the case of the planning authority (I&E), along with the detailed document prepared by the scheme architects.

The Planning Authority – The Department for Infrastructure and the Environment (I&E)

26. The I&E case is set out in the officer report, a response document and a second response.
27. With regard to the first reason for refusal concerning building heights, I&E refers to the St Helier Urban Character Appraisal (March 2021) (the SHUCA). It notes that the SHUCA classes this area as 'moderately sensitive and visible' and refers to its building heights recommendation of 4.5 storey in this location, and that the proposal involves a 9 storey development to the Commercial Street frontage. I&E states that the proposals, both to the Broad Street and Commercial Street frontages, would be unduly visually intrusive and discordant components of built form that would relate poorly to existing buildings, and as a result would be harmful to the character and appearance of Town. As a result, the proposal conflicts with BIP policies SP3, GD6 and GD7 of the Bridging Island Plan 2022 (adopted March 2022) (the BIP).
28. Concerning the second reason, I&E submits that the appellant's own evidence confirms the poor living conditions that would be provided in some of the proposed apartments. For example, for the dwellings on the first floor only 26.1% would be compliant with relevant standards for daylight and sunlight. I&E considers that the living conditions for future occupiers on the lower levels would be so unsatisfactory as to warrant refusal of planning permission on this basis. It further assesses that this level of harm would not be outweighed by the benefits of the proposal and that, if the buildings, particularly the rearward portions, were of a lower height, then much of the adverse impact could potentially be removed. It considers the effect on future living conditions to be in conflict with policy GD1 and the guidance within SPG 6 – 'A Minimum Specification for New Housing Developments' (PPN6) Jan 2009.

Société Jersiaise / National Trust Jersey

29. The Société Jersiaise/National Trust Jersey (SJ/NT) indicated that, whilst they did not wish to submit a Statement of Case, they would like to attend and contribute to the Hearing, to address their representations made at the application stage. Those submissions⁷ set out objections to the proposal on grounds concerning harm to heritage and archaeology, and alleged breaches of policies HE1 and HE5; excessive height and breach of the tall buildings policy GD7; impact on skyline contrary to policy GD9; inadequate architectural quality contrary to policy GD6; and a proposed housing mix focused on smaller units, when over 50% of the assessed housing need is for larger units.
30. Just before the Hearing, I was advised that SJ/NT would not be represented. However, I have considered their written submissions in my assessment.

⁷ National Trust for Jersey/Société Jersiaise letter dated 17 June 2022.

Connétable de St Helier

31. The Connétable de St Helier had intended to attend the Hearing to speak in support of the proposal. However, he was unavailable on the Hearing day and I have accepted a written statement from him. This explains his view that the *Les Sablons* proposal provides a valuable opportunity to boost the local economy and meet the Government's strategic priorities, as the proposals align with the aims of the BIP and will deliver multiple and wide-reaching benefits for the residents of St Helier and for Islanders. He also states that he believes that the objections that have been raised to the massing of the proposed new building count for very little when contrasted with the enormous range of significant benefits which it offers.

Others

32. At the application stage, 6 letters of representation from interested parties were submitted. These included expressions of support for the proposal in terms of its economic value to Jersey and its regeneration of the site to provide much needed new homes and an aparthotel. There were also objections, including those related to height and impact on the character of the area, overbearing and overlooking effects (on No 35 Commercial Street Road), and harm to heritage. There were also submissions from a local business operator concerned about demolition and construction impacts. I have considered all of these submissions in my assessment.

Main issues

33. Having reviewed the submitted application and associated documents, including the officer report, interested parties' submissions and consultation responses, I am satisfied that the 2 reasons for refusal identify the main issues in this case. The first main issue concerns the height of the built form of the proposal and its effect on the character and appearance of the area. The second concerns whether living conditions for future occupiers would be acceptable, with particular regard to daylight and sunlight.

Main issue 1 – height and effect on character and appearance

Relevant BIP policies

34. Reason 1 alleges that the 'excessive height' of the development would render it contrary to 3 policies: SP3, GD6 and GD7.
35. Strategic policy SP3 addresses 'placemaking'. It says that all development must reflect and enhance the unique character and function of the place where it is located, and that it must contribute to the creation of aesthetically pleasing, safe and durable places that positively influence community health and well-being outcomes. It continues by stating that proposals will be supported where they meet stated criteria. These include, amongst other matters, being responsive to their context and sense of place; being environmentally responsible and sustainable; providing green infrastructure; achieving a high standard of accessible and inclusive design; and making provision for all modes of travel and supporting active travel choices.

36. Policy GD6 addresses 'design quality'. It states that 'a high quality of design that conserves, protects and contributes positively to the distinctiveness of the built environment, landscape and wider setting will be sought in all developments, in accord with the principles of good design'. It then sets out a list of key principles, which include the relationship to the existing character and form of the area; the use of materials; impacts on neighbouring uses; integration with the existing area; designing out crime; protection and enhancement of green infrastructure; operational usability; and the sustainable use of resources.
37. Policy GD7 sets out the approach to 'tall buildings', which are defined as those being 2 or more storeys above the prevailing contextual height or over 18m (or 4 – 6 storeys) high. It says that such building proposals will only be supported subject to meeting a set of criteria. These include: being well located and relating well to its context, which should be considered relative to the SHUCA building height guidance; not unacceptably harming longer views and context at street level; incorporating the highest standards of architecture and materials; including ground floor activities that provide a positive relationship to the surrounding streets, and public realm; not adversely affecting the locality in terms of microclimate, wind turbulence, overshadowing, noise, reflected glare, privacy and amenity of surrounding buildings; contributing to improving the permeability of the site and wider area; and that its height can be fully justified in a design statement.
38. Although not cited in the refusal reason other policies relevant to this main issue are SP4 and GD9. Strategic policy SP4 gives a 'high priority' to 'protecting and promoting Island identity' by ensuring that, amongst other matters, all development should protect or improve the historic environment; respect the landscape, seascape or townscape character of the area in which it is proposed to be located and make a positive contribution to the local character and distinctiveness of a place; and, where appropriate, include the provision of public art. Policy GD9 covers 'skyline, views, and vistas' and states that these must be protected and enhanced. It further states that any development that will lead to adverse impacts will not be supported, except where the overall benefit to the community of the proposal demonstrably outweighs the adverse effects of any harm.
39. This suite of policies (SP3, SP4, GD6, GD7 and GD9), along with the guidance contained in the SHUCA, combine to provide the BIP's approach to new development in terms of urban design considerations. There is a degree of overlap and synergy between the policies and, individually and collectively, they seek to strike the balance between 'fitting in' and, at the same time, maximising denser, more compact and taller developments in appropriate locations. Weighing that balance is a complicated and sensitive exercise, which the SHUCA defines as the 'development dilemma' in its chapter 6, which sets out a useful review and discussion.

Assessment

40. Policy GD7 is the most logical starting point in terms of assessing height. The proposed development would constitute a tall building as defined by policy GD7 because it would range from 4 – 8 storeys and much of it

(blocks B, C and H) would be above 18 metres in height. It therefore falls to be assessed under the GD7 criteria.

41. Criterion 1 requires a tall building to be well located and relating well to its context, which should be 'considered relative to' the SHUCA building height guidance. It is important to note that GD7 does not itself prescribe maximum heights, but simply directs the decision maker to consider the SHUCA guidance, which is summarised in BIP Table GD1. This is a sophisticated policy construction, because it avoids zone-based prescription, and allows individual site circumstances and context to be assessed.
42. In this case, the appeal site falls within character area CA8 Town Centre Core, where the height guidance is '*up to 4.5 storeys (unless specified in a separate design brief)*'. Blocks B, C and H, having accommodation over 8 floors plus some plant above, would all be substantially above the SHUCA storey heights guidance. The Broad Street facing element of block A, being 4 storeys, would fall within the SHUCA storey height guidance, but rise above it where it steps up to 5 storeys.
43. A degree of confusion arises from the use of 'storeys' as the main height guidance metric in the SHUCA⁸ and BIP⁹, the latter containing a narrative explaining that storey heights can vary, but are commonly 3 to 4.5 metres. Applying the higher height in the range to an 8 storey building would result in a 12 metre taller building (36 metres) than applying the lower end (24 metres), and the difference could be very significant in urban design and townscape terms. Clearly, the actual height above ordnance datum (AOD), rather than the number of storeys, is the most precise and relevant in any planning assessment, particularly in terms of townscape and views.
44. Further confusion arises from changes to earlier heights guidance contained in the St Helier Design Guidance which was adopted as SPG in 2013 (and remains adopted). This was based on the original SHUCA conducted in 2005, and included guide height of 4 storey in the Broad Street part of the site and 6 storey in the Commercial Street part of the site. However, given the changes that have taken place in the town in the intervening period, and the adoption of the BIP, I consider that the SHUCA review carried out in 2021 attracts significantly greater weight.
45. In this case, most of the residential storeys appear to be below the lower level in the BIP storey height range (3 – 4.5 metres), the AOD storey heights shown on the drawings indicating a floor height of circa 2.89 metres. In terms of actual building heights above street level, the 4 storey Broad Street elevation would be about 12.9 metres high at the front, rising to 16.15 metres for the setback fifth floor. The 8 storey aparthotel block would rise to 26.845 metres above Commercial Street, and a setback plant room would rise another 2.5 metres above that¹⁰, with the residential blocks

⁸ St Helier Urban Character Appraisal Review 2021 – Figure 6.13.

⁹ Bridging Island Plan 2022 Table GD1 on page 97.

¹⁰ Calculated from the building height and street level values on Dwg No 6750 SRA XX ZZ DR A 02204 Rev P03.

B and C sitting marginally lower, and the latter dropping down to just under 20 metres in the south-east corner of the site.

46. The upper end of the SHUCA guidance would be 4.5 storeys multiplied by the BIP highest indicative storey height of 4.5 metres, which would be 20.25 metres. When compared to this maximum SHUCA guidance benchmark height, the Broad Street block A would fall comfortably within the guidance maximum, whereas most of the blocks B, C and H would exceed it by some margin. There is also no 'separate design brief' in place covering this site which the BIP table GD1 indicates could allow greater heights.
47. However, in this particular case, there are other material considerations, not least an extant permission of a similarly high, bulkier and more massive office development. Whilst the appellant has indicated that it is not its current intention to fully implement that scheme, I must apply some weight to a part implemented permission, as economic circumstances and applicant intentions can change, and the permission remains capable of implementation in its approved form. Moreover, a planning decision has been made which has determined that this site is appropriate for large and tall buildings. I think that there can be little doubt that the appeal proposal is notably superior to it in urban design terms and overall, less impactful, as it does not fill the site. Figures quoted through the Hearing process indicated that the current scheme would involve 30% less building mass and 15% less overall floorspace. It is also material that there are other tall buildings in the vicinity and the proposed scale of the appeal scheme would not be out of kilter with those.
48. In terms of criterion 1's broader test of fit in terms of location and context, this does have quite a close association with criterion 2, which requires that a tall building does not unacceptably harm longer views and context at street level. The planning authority appears to accept that, notwithstanding its height objection, long distance views would not be unacceptably harmed. This is confirmed in the SCG¹¹ where the main parties state that *'it is agreed that there [are] no adverse impacts on skyline, views and vistas as required by policy GD9'*.
49. Having reviewed the TVIA, explored the digital model, and viewed the site from various locations, including elevated vantage points such as Fort Regent, I agree with this common ground finding. It is quite an interesting finding because, on the face of it, with blocks B, C and H being well above the SHUCA 4.5 storey heights guidance, there is an intuitive expectation that it might appear strident and imposing in longer distance views, but that is not the case. This is in part a consequence of the site being low-lying, well contained by the existing townscape, and the backcloth of other large and tall buildings, notably to the south and east. It is also a product of a design which includes changes in height, articulation and materials, to create a series of smaller linked blocks, rather than a single bulky building.

¹¹ Statement of Common Ground (28 March 2023) – paragraph 19.

50. The planning authority's concern therefore is confined to context at street level and there are 2 streets to consider, Broad Street and Commercial Street.
51. When viewed from Broad Street, the 4 storey element would fill the width of the site. Whilst it maintains a similar eaves level across this span (there is some slight variation), the street elevation is presented in 5 distinct vertical building components, including the restored facades of Nos 35 – 37 Broad Street, each being of traditional building widths and proportions, and each individually detailed, creating a pleasant and well-mannered composition. The block would be taller than the 3.5 storey neighbouring building to the south-east (29 Broad Street) and the 2.5 storey building to the north-west (2 Charing Cross), but not jarringly so, and similar changes in building heights are not uncommon around the town centre. I have no concerns about the setback 5th floor which will not be visible in most views from street level. In my view, the approach is acceptable and works well from this street. It will 'fit in'.
52. The impact on the (street level) context of Commercial Street would be more dramatic. I spent some time, on different occasions, studying this street. It is something of an oddity. Although there are elements of traditional building structures, these are quite limited and much of the street frontage on the south side is made up of back walls and service entrances of large modern buildings on Esplanade. On the north side, there is the large 5 – 6 storey Standard Chartered building on the Castle Street corner, large gaps (including the cleared appeal site), and a mix of buildings towards the Conway Street end. It is a narrow street with narrow footways, multiple vehicular accesses and, altogether, the character is disjointed, lacking any distinguishing features and not particularly welcoming to pedestrians. Based on my observations, given its town centre location, it is unusually devoid of pedestrians and activity. Other than a few Esplanade office workers taking a smoking break, you do not tend to see many people along the street.
53. The appeal proposal would introduce a large tall building complex, comprising an aparthotel and the ends of 2 residential blocks (B and C) to the north side of Commercial Street. Whilst this will be quite a dramatic change, it would not in my view be harmful at street level. Unlike much of the street, it would introduce a strong front elevation and fill a wide gap with activity generating land uses, introducing animation and vitality.
54. I therefore do not consider that the context at street level would be harmed. I further note that the EIS considered the effect on Commercial Street to be 'direct and long-term beneficial' as a result of the perceptible change to the view, 'which reinforces the street character and provides positive variation to the elevational treatment within a new distinctive tall building'¹². It must also be recognised that the removal of floors to bring the scheme in strict

¹² Environmental Impact Statement, Volume 1: Main Report – paragraph 9.12.10.

line with the SHUCA heights guidance, and address the planning authority's objection, would have no discernible effect to the street level context.

55. Criterion 3 requires tall buildings to incorporate the highest standards of architecture and materials. Other than the dispute over height, the main parties agree that the design is otherwise acceptable, and this is confirmed in the SCG. The high quality is well evidenced in the DAS and Design Development documents.
56. Criterion 4 requires tall buildings to include ground floor activities that provide a positive relationship to the surrounding streets and public realm. The proposal achieves this in good measure, with a range of ground floor uses, a landscaped courtyard space, and a route through connecting Broad Street to Commercial Street.
57. Criterion 5 states that tall buildings must not adversely affect the locality in terms of microclimate, wind turbulence, overshadowing, noise, reflected glare, privacy and amenity of surrounding buildings. There is no evidence before me to suggest that any such adverse effects would arise.
58. Criterion 6 requires tall buildings to contribute to improving the permeability of the site and wider area. The scheme achieves this and a central design feature is the creation of a public thoroughfare linking Broad Street and Commercial Street, which is likely to be popular and attractive to pedestrians moving between the town centre and the Waterfront.
59. Criterion 7 requires that the building's height can be fully justified in a design statement. Whilst recognising that the planning authority retain some concerns on height, the applicant has provided detailed design statements. I have also noted Mr Nicholson's submission that this criterion is a bit of a 'catch all' and that the scheme's performance against the first 6 criteria demonstrates that it is justified in design terms. He also draws attention to the final part of the policy GD7 wording, which does allow for tall building development over 8 storeys in appropriate circumstances, where the overall benefit to the community outweighs any adverse impacts.

Main issue 1 findings

60. Rounding all of this up, I find some tension with GD7 criterion 1, as the appeal scheme would exceed the SHUCA heights guidance by some margin, although it is guidance rather than policy. I assess that the proposal would meet GD7 criteria 2, 3, 4, 5, 6, and 7. Insofar as there is any tension with criterion 1, I assess that any adverse effects arising from that additional height are limited and largely inconsequential, as there is no harm to views and vistas; the Broad Street streetscene would be acceptable; and, whilst a tall building would change Commercial Street, it would not look out of place and would enhance the street and locality. As a result, any limited adverse effects are readily outweighed by the acknowledged considerable community benefits of this regeneration scheme, which will deliver new homes and town centre uses in a highly sustainable location.
61. My analysis and conclusions under policy GD7 leads me to the view that the proposal would also be in conformity with policy GD6 in terms of design

quality; GD9 covering 'skyline, views, and vistas; SP3 in terms of placemaking; and SP4 in terms of Island identity.

62. On this main issue, I conclude that the height of the development would not be excessive in this particular case, and that the development would be acceptable in terms of the character and appearance of the area and townscape.

Main issue 2 – living conditions for future occupiers

63. Reason 2 alleges that the scheme's design and layout, including its orientation, would result in unacceptable living conditions for future occupiers by way of inadequate daylight and sunlight conflict, which would conflict with policy GD1 and the guidance contained within SPG 6.
64. The reason does not specify which apartments the concern relates to, although the officer report, and the planning authority's Statement of Case, draws attention to the first floor level and states that the applicant's own evidence indicates that only 26.1% of flats would meet the relevant standards for daylight and sunlight, and that this would be particularly the case for north-east facing dwellings.

Relevant BIP policies and Guidance

65. The planning authority's reason for refusal relates to a single policy (GD1) and SPG 6. However, the reason omits to include policy H1, which is one of the most relevant policies concerning future residents' living conditions. Furthermore, since the Planning Committee's decision on the application, a Residential Space Standards Draft SPG (March 2023) (RSSD) has been issued for consultation and is expected to be adopted soon, perhaps before a decision is made on this appeal; it will replace SPG 6.
66. It is important that I make my assessment on the basis of identified relevant policies and guidance today, and that the Minister does likewise at the point of his decision. I will therefore summarise the relevant policies and guidance.
67. Policy GD1 states that all development proposals must be considered in relation to their potential health, well-being and wider amenity impacts. It continues by stating that new development will only be supported where it will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents. It then lists a number of factors to be considered, which are: overbearing or oppressive enclosure; privacy; levels of sunlight and daylight; and adverse effects of emissions of light, noise, vibration, dust, odour, fumes, electro-magnetic fields, effluent or other emissions. GD1 carries forward from the last Island Plan the similar benchmark that a new development must not have 'unreasonable' impacts on existing amenities that owners and occupiers 'might expect to enjoy'. It is important to recognise that the required policy assessments are context specific and are mediated by reasonable expectations in that context.
68. Policy H1 addresses 'Housing quality and design'. The BIP narrative that accompanies policy H1 explains that the design of new homes has a

significant impact on mental and physical health, which has been highlighted by the experience of the Covid pandemic. It further sets out that most of the new homes will be in the built-up area, where higher densities of development will be encouraged to make best use of land, but that this needs to be balanced by creating places where people can live healthy lives. The policy says that a proposal for new homes should provide good quality accommodation and that it will only be supported where:

1. it provides easy to use and adaptable internal space; as well as private amenity space which meets or exceeds adopted standards;
 2. it safeguards privacy and minimises exposure to noise;
 3. it maximises opportunities for daylight, sunlight and natural ventilation to internal spaces, avoiding single aspect plan forms; and
 4. where relevant, it provides shared internal and external spaces that contribute to the creation of sustainable communities, where people can meet their neighbours.
69. The adopted, but now rather outdated, SPG6 was first produced in 1994 and updated in 2009. It does include some references¹³ to light, but they are quite fleeting, and do not provide any meaningful yardstick for decision making. Its date and lack of useful content on daylight/sunlight matters limits its weight in this appeal assessment.
70. The recently published RSSD includes detailed standards for minimum gross internal areas (GIA) for different sizes/occupancy of dwellings and other standards for living spaces, bedrooms, bathrooms and storage to be achieved within the minimum GIA. It also includes external space standards. There is a similar standard in England which is widely applied, and such standards ensure that new homes are not unduly cramped and that they contain the space to be liveable.

Assessment

71. The appeal proposal is for a substantial number of new homes in a highly sustainable town centre location. There is no dispute between the main parties that, in many ways, the proposal scores highly in terms of its fit with the BIP strategic thrust of concentrating development in the built-up area, as set out in policies SP1 concerning responding to climate change and the spatial strategy set out in policy SP2.
72. Policies GD1 and H1, along with the RSSD, seek to strike the balance between achieving higher densities and ensuring that new homes provide good quality 'liveable' accommodation, that facilitates physical and mental health.

¹³ SPG 6 – paragraph 6.6 discusses density and 'light and air' and 'amenity' as considerations; paragraphs 9.16 and 9.17 discuss windows but the focus is on privacy and window cleaning; the checklist on last page mentions 'lighting.'

73. Mr Nicholson has drawn my attention to caselaw¹⁴ which establishes that the GD1 assessment of amenity effects, and what constitutes 'unreasonable', is context specific. He is correct to do so, because the amenities to be expected in a town centre apartment will be very different to a home in a suburban or rural location. The many advantages of living in a central location, often avoiding commuting, and having an array of nearby quality food and drink establishments, shops and services, comes with typically living at a higher density, in closer proximity to neighbours, with less external private space, more limited day and sunlight, and so on.
74. However, since the Royal Court cases referred to by Mr Nicholson, BIP policy H1 has evolved the consideration of amenity for new dwellings and set out a list of more detailed considerations, aimed at ensuring new dwellings are liveable and of a good standard. In dense urban contexts, I consider it sensible to take a holistic assessment of amenity, rather than jumping straight to the planning authority's specific concern. The RSSD and policy H1's four criteria provide a good framework for that wider view.
75. H1(1) relates to the adequacy of internal and external spaces and although the RSSD is yet to be adopted, it sets the most up to date 'standards'. In terms of internal spaces, all of the apartments would either exceed or be thereabouts the floorspace standards set out in the RSSD's table (which was not published at the time of the application). On a typical floor, most apartments would exceed the floorspaces and whilst a few would fall below, it would be *de minimus* (for example, a 1 bed flat measuring 51.7 square metres against a standard of 52 square metres).
76. The vast majority of apartments would have inset balconies providing private amenity space sufficient for sitting and having a meal around a small table, as set out in the RSSD. Some apartments on the first floor would have larger garden space (above the car park), and all residents would have access to the landscaped courtyard, which will include seating and planting. I have also noted that the SCG records that an agreed financial contribution would be made via a Planning Obligations Agreement (POA) for off-site children's play facilities (at Parade Gardens), and that this would accord with policy CI8.
77. This compliance with H1(1) and the RSSD is a useful initial sense check that a good standard of accommodation is proposed in terms of internal space, private amenity space, and shared open space.
78. Policy H1(2) requires safeguards in respect of privacy and noise. The scheme has been well designed to minimise direct overlooking and maximise privacy within a quite dense development. There are only some localised areas, notably in the internal corners where blocks B and C meet block H, where the relationships are tighter and some oblique overlooking may occur to and from certain hotel rooms and apartment windows. The EIS assessed noise and establishes that, with the provision of appropriate acoustic specification of building facade elements, noise impacts on the

¹⁴ Boyle and Kehoe -v- Minister for Planning [2012] JRC036; Winchester -v- Minister for Planning and Environment [2014] JRC118.

proposed development would not be significant. The planning authority raises no concerns on these matters, and there is no evidence to suggest I should depart from that view. H1(2) is satisfied.

79. Policy H3(3) requires housing schemes to maximise opportunities for daylight, sunlight and natural ventilation to internal spaces, avoiding single aspect plan forms. The narrative accompanying the policy includes some helpful interpretation; it says that single aspect homes should be minimised, especially those that are north-facing, or those exposed to noise levels which may prejudice health. It adds that if single aspect dwellings are unavoidable, the design will need to demonstrate that all habitable rooms and the kitchen are provided with adequate ventilation, privacy and daylight, and that the orientation enhances amenity, including views. H3(3) is therefore central to the consideration of this main issue and, it goes without saying that if a proposal can satisfy H3(3), it will also satisfy GD1 insofar as that policy relates to future occupants' living conditions.
80. In terms of single aspect, unlike more open sites, this is a town centre site that has to fit within an historic grain. As a result, it would be extremely difficult to avoid single aspect development, at least not without seriously reducing unit numbers. At the Hearing, there was some dispute over the proportion of single aspect numbers, but it was subsequently clarified that, of the 238 units, 196 (82.35%) would be single aspect, with 42 units (17.65%) having dual aspects. None would face directly due north, although block A units facing Broad Street would have a north-easterly aspect and the blocks B and C would contain units with north-westerly aspects.
81. Unlike space standards, there is no Jersey SPG which provides specific guidance on how daylight/sunlight should be measured and assessed, nor does the BIP reference any particular methodology or measure. In practice, most studies are based on the Building Research Establishment (BRE) publication '*Site layout planning for daylight and sunlight: A guide to good practice*¹⁵ (the BRE Guide), along with British Standards, although the latter has been the subject of some recent change, which adds a degree of complexity.
82. The application was supported by an Internal Daylight and Sunlight Assessment (March 2022) which followed the BRE Guide. It modelled a sample of 136 rooms across the scheme in a good representative spread of locations. For daylight, it used an Average Daylight Factor (ADF) which is a measure of the amount of daylight received within an internal environment (a room) and ADF 'targets', which vary depending on the room use; a bedroom having a lower (1%) target than a living room (1.5%), or kitchen (2%), where light is more important.
83. It complements this with a No Sky Line (NSL) measure, which is a contour line within the room beyond which sky cannot be seen; the NSL target is 0.8 which means that across 80% of the room floor area the sky would be visible. Sunlight reaching apartments is modelled using Annual Probable

¹⁵ '*Site layout planning for daylight and sunlight: A guide to good practice*' has been subject to a number of editions, the current third edition was issued in 2022.

Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH) measures; the respective targets being 25% and 5%.

84. The modelled results when extrapolated across the scheme indicate:
- ADF 79.4% compliance
 - NSL 52% compliance
 - APSH 78.5% compliance
 - WPSH 46.7% compliance
85. The report concludes that *'overall, the ADF and sunlight hours are expected to perform well whilst the no skyline achieves approximately 50% compliance which is common in an urban context such as this'*.
86. Further evidence¹⁶ was submitted through the Hearing, which updated the results using the latest version of the BRE Guide and a different methodology, its headline findings being 81.1 % compliance of rooms against the daylight target and 69.8% of apartments meeting the sunlight target.
87. Most of the less well performing rooms are, understandably, at the lower floor levels where either surrounding buildings and structures, including the retained harbour wall, or for courtyard facing flats, the surrounding blocks, limit the amount of daylight and sunlight access. It is the daylight/sunlight levels at these apartments that form the focus of the planning authority's concern under this main issue. However, whilst I can understand the focus on the less well performing minority of units, there are a number of important points to consider.
88. First, the BRE Guide, as well as having no formal planning status in Jersey, is not intended to be applied as a mandatory pass/fail tool. The Guide's introduction states it is *'should not be seen as an instrument of planning policy'* and that its numerical guidelines should be *'interpreted flexibly, since natural lighting is only one of many factors in site layout design'*. It also states that a developer or planning authority may wish to use different target values, such as in an historic city centre, or in an area with modern high-rise buildings.
89. Second, in town centre environments, particularly those with narrow streets and an historic grain such as St Helier, there will always be a degree of compromise in terms of daylight and sunlight. This is simply due to the level of obstruction created by the surrounding built context and the most appropriate design solution on redevelopment sites, which are unlikely to be suited to lower density and more open development forms, which might allow more daylight and sunshine to enter a site.
90. Third, and related to the first and second points, Ms Ruth Kelly Waskett is a recognised expert in the field of daylight/sunlight and her evidence at the Hearing on behalf of the applicant confirmed that 100% compliance is

¹⁶ Appendix W to the appellant's Statement of Case.

'unheard of' and, on daylight, schemes achieving 70% compliance are routinely deemed acceptable and approved in the UK.

91. Fourth, H3(3) is premised on 'maximising opportunities' (for daylight/sunlight), rather than prescribing 100% compliance with any particular target. In that regard, the applicant has demonstrated that the design process has embraced the consideration of daylight/sunlight and refinements have been made to improve performance. This is set out succinctly in a Design Note which appears within Appendix J to the appellant's Statement of Case.
92. Fifth, and perhaps most importantly, I do not consider that those apartments with lower than target daylight and sunlight levels, would necessarily have unreasonable overall levels of amenity, when considered holistically. Many are oversized in terms of the space standards, they have private balconies for sitting out, and being on the lower levels have pleasant outlooks and easy access to the external courtyard garden area. Although residents in some of the units would experience somewhat compromised daylight and sunlight levels, this would not, in my assessment, render the apartments unacceptable in terms of living condition or preclude healthy living within them.
93. Sixth, removing the top floors from the scheme, as has been suggested, would not materially improve the daylight/sunlight performance of units on the lower levels.
94. With regard to H1(4), I am satisfied that internal and external spaces within the scheme contribute to social meeting and facilitating a sustainable community.

Main issue 2 findings

95. Drawing all of the above together leads me to the view that the design and layout of the scheme would achieve good quality accommodation and that it would deliver appropriate living conditions for future occupiers. Policy H1 would therefore be satisfied and it follows that policy GD1 would also be complied with, as the development will not result in any unreasonable amenity conditions for future residents.

Other matters

Viability

96. The issue of viability was discussed at the application stage, seemingly to explore the planning authority's question of whether a lesser scheme could be put forward and remain deliverable on economic terms.
97. At the Hearing the planning authority's external advisor Mr Desmond explained his work and Mr McCarthy explained the appellant's position. In a nutshell, scheme viability is disputed, the planning authority considering a lesser scheme may be viable and deliverable, the appellant disagreeing. Given that the appellant's case is not fundamentally premised on viability,

and my findings of the 2 main issues, I do not consider it necessary to explore the matter further.

Housing delivery

98. The appellant has drawn attention to the significant need for new housing and the view that there is little realistic prospect of the housing delivery numbers stated in policy H3 (4,300 units by the end of 2025). Whether or not that is the case, there is no dispute that the appeal proposal would make a useful contribution, which could be within the BIP period, and that this would accord with policy H3.

Density

99. Policy H2 addresses housing density and seeks to ensure optimum efficiency in the use of land. A Draft Density SPG was issued for consultation in October 2022 which seeks to establish minimum densities in different areas, which are set out in 'Interim Policy 2A'. For St Helier the minimum density is 50 dwellings per hectare (dph). The draft policy presumes against very high-density development of over 350 dwellings per hectare. It further requires all schemes over 150dph to demonstrate how they would be sustainably managed into the future.
100. The appeal proposal would entail 238 dwellings, along with an aparthotel, on a site of 0.73 hectares. The crude residential density calculation indicates a figure of 326 dph over the gross site area. That is well above the minimum, but not over the maximum density stated in Interim Policy 2A. It is a high-density scheme, but the site is in a town centre location where high density is achievable and appropriate. However, as the density exceeds 150 dph, the draft policy says it should demonstrate how the scheme would be sustainably managed into the future. Whilst the Draft Density SPG has limited weight prior to its adoption, details of a sustainable management scheme could be reasonably secured by a planning condition.

Affordable housing

101. Policy H6 requires development proposals involving 50 or more dwellings to include at least 15% of properties available for sale or occupation by Islanders eligible for assisted purchase housing. The policy states that it will be in effect from January 2023 following the development and publication of appropriate assisted purchase products and eligibility criteria, as relevant to the application of this policy.
102. Whilst the scheme would exceed the 50 threshold and it is now after January 2023, I understand that there is yet to be a publication of products and criteria. The SCG records that the main parties consider that as a result of the delayed publication, 'this policy is not yet in effect'. Should this position change prior to the Minister's decision, this matter would need to be revisited.

Historic environment

103. I have noted the consultation response from the Historic Environment Team and views of interested parties, setting out objections to the loss of Listed buildings. However, this has now happened, through the implementation of an extant planning permission. The current scheme's renovation of the Broad Street facades and the incorporation of the old harbour wall into the scheme are positive elements. I find no conflict with policy HE1.

Waste arisings

104. I am aware that there are current issues in Jersey concerning the availability of disposal facilities for demolition/construction waste arisings, including contaminated waste. However, the site in this case has already been cleared. Waste arisings from construction itself are likely to have a high recyclable content, rather than requiring disposal, and a suitable planning condition can require appropriate management.

Planning conditions and Planning Obligations Agreement

105. The planning authority and appellant worked together to produce a draft list of POA heads of terms and planning conditions to assist the Hearing.

106. With regard to the POA, the principle of contributions towards public realm/walking/cycle improvements and open space/children's play provision, is agreed. However, there is dispute over whether the contributions should be based on 2017 figures (when the Planning Obligations SPG was adopted) or uplifted with appropriate indexation. I have not been made aware of any policy position on indexation, but basing contributions on 6-year-old prices would clearly mean a dilution of the contribution values. It must also be recognised that in that period there has been a substantial increase in residential sales values. I agree with the planning authority that indexation should be applied.

107. I have produced a draft schedule of conditions based on the document prepared by the main parties. I have made some edits, deletions and adjustments, and added an additional condition concerning sustainable management measures for the residential elements. Should the Minister be minded to allow this appeal and grant planning permission, I endorse the draft list of conditions that appears at Annex A as being reasonable, necessary and relevant.

Conclusions

108. This is a case where there is a substantial amount of common ground between the appellant and the planning authority, and the difference of view is focused on 2 issues only, the first relating to height of the proposed built form, the second relating to future living conditions for occupants of the apartments.

109. There is no dispute that the scheme scores highly in terms of its accord with the BIP spatial strategy of seeking to concentrate new development in the built-up area. It scores highly in terms of delivering needed new homes in a

highly sustainable location, promoting sustainable travel, design quality, energy reduction, promoting the visitor economy and providing a range of appropriate town centre uses. It also scores well in terms of providing new public realm and connections through the site.

110. In terms of the first main issue, height is a significant planning consideration and one where policy and guidance is now mature. The 'development dilemma', as the SHUCA terms it, is an inescapable by-product of a BIP strategy that responds to growth pressures by seeking to concentrate them in urban areas, rather than build over the countryside. My assessment found some tension with GD7 criterion 1, as the appeal scheme would exceed the SHUCA heights guidance by some margin, although there is an extant planning permission for a development of similar height and bulkier built form. I have concluded that the height of the development would not be excessive or inappropriate in this particular case, and that the development would be acceptable in terms of the character and appearance of the area and the townscape.
111. On the second main issue, the Hearing proved to be a very useful forum to explore what is quite a complex and important area concerning the quality of housing in dense urban environments, with particular regard to daylight/sunlight 'standards', although that term is a misnomer, as there is only guidance, none of which has any adopted status in Jersey. It is inevitable that building high-density residential development within a town centre will mean some limitation in terms of daylight/sunlight access for certain units of accommodation, especially at lower levels. The planning and designers' appropriate response is to minimise those instances and maximise opportunities for daylight/sunlight and it is also important to consider living conditions holistically. Having undertaken that assessment, I am satisfied that the design and layout of the scheme would achieve good quality accommodation and that it would deliver appropriate living conditions for future occupiers. I therefore conclude that the appeal should succeed.

Formal recommendation

112. For the reasons stated above, I recommend that the Minister allows this appeal and grants planning permission for the development proposal submitted under application reference P/2022/0388, subject to a Planning Obligation Agreement covering the matters set out in Schedule A, and to the imposition of the planning conditions set out in Schedule B.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI

Appearances at the Hearing (in person and virtual)

Appellant: Mr Brian McCarthy (appellant), Mr John Nicholson (planning consultant), Mr Anthony Gibb (heritage consultant), Mr Dan Burr (architects), Mr Matt Heaman (sustainability consultant), Ms Ruth Kelly Waskett (daylight/sunlight consultant)

I&E: Mr Jonathan Gladwin (appeals officer), Mr John Durbin (case officer), Ms Tracey Ingle (historic environment officer), Mr John Desmond (viability consultant).

SCHEDULE A

Draft Heads of Terms for a Planning Obligations Agreement

Public realm/walking/cycle improvements, which is calculated by:

Residential: 238 units x £1724 = £410,312

Non-residential floor area: 3576 sqm x £23/sqm = £82,248

Total requirement= **£492,560**

Parish requirement for open space/children's play provision = **£50,000**

SCHEDULE B

Draft planning conditions

- A. The development shall commence within three years of the decision date.

Reason: The development to which this permission relates will need to be reconsidered in light of any material change in circumstance.

- B. The development hereby approved shall be carried out entirely in accordance with the plans, drawings, written details and documents which form part of this permission.

Reason: To ensure that the development is carried out and completed in accordance with the details approved.

1. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Development Control section of the Infrastructure and Environment Department (I&E Department), a Phasing Plan, which shall include details of the order in which the principal elements of the development are proposed to be carried out. These shall include ground preparation works, construction of each building, vehicular access, car parking, the public realm and landscape works. The development shall thereafter be implemented in accordance with the approved Phasing Plan.

Reason: In order to ensure that the work being carried out in connection with the development is appropriately managed having regard to transportation, residential amenity and the protection of heritage assets, and to comply with policies TT1, TT2, SP3, SP4, HE1 and GD1 of the Bridging Island Plan 2022.

2. No part of the development hereby approved shall be occupied until the full separation of foul and surface water to the relevant sewers is completed to the satisfaction of the Development Control section of the I&E Department and thereafter shall be retained and maintained as such.

Reason: In order to ensure that suitable foul and surface water drainage interests are put in place in accordance with policies WER2 and WER6 of the Bridging Island Plan 2022.

3. Notwithstanding the information submitted with the planning application, the development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Development Control section of the I&E Department, a scheme setting out the allocation and future management of the car parking spaces and cycle storage spaces for individual dwellings and commercial units.

Reason: In order to ensure that there is sufficient provision for car parking and cycle provision, to comply with policy TT1 of the Bridging Island Plan 2022.

4. Notwithstanding the information submitted with the planning application, the development hereby permitted shall not be occupied until a Green Travel Plan to cover not less than 10 years from the date of first occupation has been submitted to and approved in writing by the Development Control section of the I&E Department. No accommodation shall be occupied until a Green Travel Plan Co-ordinator has been appointed and their details forwarded to the Development Control section of the I&E Department. The details of any subsequent appointees shall also be forwarded without undue delay. The approved Green Travel Plan shall be implemented in full over the period covered.

Reason: In order to ensure that there is sufficient provision for and encouragement of the use of alternatives to the private motor vehicle, to comply with policies TT1 and TT2 of the Bridging Island Plan 2022.

5. The development hereby permitted shall not be commenced until a scheme of service infrastructure has been submitted to and approved in writing by the Development Control section of the I&E Department. The scheme shall include details of: (a) communal waste facilities, including provision for the separation of wastes for recycling, to include, but not be limited to, glass and cardboard; (b) arrangements for the collection of waste; (c) communications infrastructure, including but not limited to, any communal satellite television reception system; (d) the location and number of electric car and bicycle charging points; (e) a system of sustainable urban drainage and rainwater harvesting for the irrigation and watering of landscaped areas; (f) external lighting; (g) smart meters for water and electricity consumption visible within every residential unit; and (h) phasing of the implementation of the foregoing by reference to the matters addressed in the approved Phasing Plan. The detailed matters shall be implemented as approved and retained for the lifetime of the development.

Reason: In the interests of providing adequate service infrastructure in accordance with policy GD6 of the Bridging Island Plan 2022.

6. Prior to commencement of the development of any phase, a detailed Landscape Scheme shall be submitted to and approved in writing by the Development Control section of the I&E Department. The scheme shall provide details of the following:
 - i) all existing landscaping features to be retained;
 - ii) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them, and details of their role within the scheme of landscaping where they are specifically designed to negate the impact of development on the residential amenity of neighbouring residential properties;
 - iii) other landscape treatments to be carried out to include any excavation works, surfacing treatments or means of enclosure; and

- iv) the presence of any invasive plant species on site, and if present, a detailed method statement for the removal and long-term management/eradication of the species.

Prior to the first occupation of any part of the development, the approved Landscape Scheme shall be implemented in full and in accordance with the Phasing Plan submitted in connection with condition 1 and shall thereafter be retained and maintained as such in perpetuity.

Reason: In the interests of visual and residential amenity, and to comply with policies GD1 and GD6 of the Bridging Island Plan 2022.

- 7. Prior to commencement of the development hereby permitted, the approved Written Scheme of Investigation (WSI) for an archaeological assessment (including excavation of the cleared site), with full archaeological mitigation in the event of finds of archaeological significance, shall be adhered to and implemented, including post evaluation/excavation recording and reporting as set out in the approved WSI.

Reason: To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the buildings and site under the provisions of policies SP4 and HE5 of the Bridging Island Plan 2022.

- 8. Prior to commencement of the development hereby permitted, full details of the proposed restoration of the retained 'sea wall' structure shall be submitted to and approved in writing by the Development Control section of the I&E Department, to be implemented prior to first occupation and maintained in perpetuity thereafter. The details shall include the engineering methodology for the retention of the structure and the architectural details of the proposed finish.

Reason: To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the buildings and site under the provisions of policies SP4 and HE5 of the Bridging Island Plan 2022.

- 9. Prior to commencement of the development hereby permitted, a full engineering specification and method statement for the retention of the facades to Nos. 35 and 37 Broad Street shall be submitted to and approved by the Development Control section of the I&E Department to be thereafter implemented prior to first occupation and maintained in perpetuity. The details shall include works necessary to meet any phased construction programme.

Reason: To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the buildings and site under the provisions of policies SP4 and HE5 of the Bridging Island Plan 2022.

10. A Percentage for Art contribution must be delivered in accordance with a detailed Public Art Statement which shall be submitted to and approved in writing by the Development Control section of the I&E Department. The approved work/s of art must be installed prior to the first occupation of any part of the development hereby approved.

Reason: To accord with the provisions of policy GD10 of the Bridging Island Plan 2022.

11. Prior to their first use on site, samples of all external materials to be used (including any hard landscaping materials) shall be submitted to and approved in writing by the Development Control section of the I&E Department. The approved materials shall be implemented in full and thereafter retained and maintained as such.

Reason: In the interests of visual amenity, and to comply with policies GD6 and HE1 of the Bridging Island Plan 2022.

12. The measures outlined in the approved Species Protection and Enhancement Plan (ref. NE/ES/LS.02, 16 March 2022, Nurture Ecology) shall be implemented prior to commencement of the development, continued throughout (where applicable) and thereafter retained and maintained as such. Any variations that may be required as a result of findings on site are to be agreed in writing by the Land Resource Management Team prior to works being undertaken.

Reason: In order to safeguard and enhance biodiversity, and to comply with policy NE1 of the Bridging Island Plan 2022.

13. A scheme showing details of noise mitigation measures to protect internal ambient noise levels within the proposed dwellings from external environmental noise sources including from the central plaza should be submitted to and approved in writing by the Development Control section of the I&E Department. The submitted scheme shall include measures to control external noise ingress so that appropriate internal ambient noise levels are achieved. The assessment shall include reference to BS8233:2014. The approved details shall be implemented prior to the first occupation of the development, and thereafter permanently retained as approved.

Reason: In order to safeguard the living conditions of proposed and existing residential dwellings, and to comply with policy GD1 of the Bridging Island Plan 2022.

14. The Demolition/Construction Environmental Management Plan submitted with the application documents (Appendix A3 of the application documents – Stantec) shall be implemented in full from the commencement of works until the completion of the development. Any variations shall be agreed in writing by the Development Control section of the I&E Department, prior to such revised working commencing.

Reason: To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with policies GD1 and GD6 of the Bridging Island Plan 2022.

15. Prior to the commencement of the development, details shall be submitted to and approved in writing by the Development Control section of the I&E Department, to demonstrate that the proposed development would reduce energy consumption by 20% as measured against the target energy rate pursuant to the Jersey Building Bye-laws, to be demonstrated using the existing Jersey Standard Assessment Procedure (JSAP) calculator, or Simplified Building Energy Model (SBEM) tool. The development shall be carried out in accordance with such details as may be approved, and thereafter permanently retained as such.

Reason: In the interests of the delivery of energy efficient development, and to comply with policy ME1 of the Bridging Island Plan 2022.

16. Prior to the commencement of each phase of the development, details of the methods to reduce, recycle and re-use construction and demolition waste, shall be submitted to and approved in writing by the Development Control section of the I&E Department. The details shall be set out in a detailed Site Waste Management Plan which shall assess, quantify and propose a method for each material identified. It will also include any proposed temporary stockpiling, the location of disposal sites, details of waste transfer vehicle sites, frequency and timing of trips and routes to and from disposal sites. Thereafter, the Site Waste Management Plan shall be maintained as a living document and waste management shall be implemented in full accordance with it. Any variations shall be agreed to in writing by the Development Control section of the I&E Department, prior to the commencement of such work.

Reason: To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with policies GD1 and GD6 of the Bridging Island Plan 2022.

17. Prior to the commencement of the development, including any demolition work or removal of waste from the site, a scheme for the sampling of materials on the site shall be submitted to and approved in writing by the Development Control section of the I&E Department. Any demolition, excavation, or removal of waste materials from the site shall take place only in accordance with the details of the scheme that may be agreed.

Reason: In order to ensure that waste arising from the scheme is minimised and, where unavoidable, is disposed of in an environmentally considerate manner, and to comply with policy WER2 of the Bridging Island Plan 2022.

18. Where contaminated materials are discovered pursuant to condition 17, a Remediation Scheme shall be submitted to and approved in writing by the Development Control section of the I&E Department, prior to the carrying out of any further development in connection with this planning permission. Any further work in connection with the development hereby approved

following the approval of a Remediation Scheme pursuant to this condition, shall be carried out solely in accordance with that Scheme.

Reason: In order to ensure that contaminated waste arising is disposed of in an environmentally considerate manner, and to comply with policy WER2 of the Bridging Island Plan 2022.

19. Prior to the first occupation of any part of the development, the mitigation measures specified at sections 6.2, 6.3, and 6.4 of the submitted Flood Risk Assessment shall be implemented in full and maintained thereafter.

Reason: To mitigate flood risk in accordance with policy WER2.

20. Prior to the commencement of development, a detailed management plan, demonstrating how the residential accommodation, communal areas and external spaces, will be sustainably managed into the future shall be submitted to and approved in writing by the Development Control section of the I&E Department. No part of the residential blocks A, B and C shall be occupied until the approved measures are put in place and those measures shall be maintained thereafter.

Reason: To ensure long term sustainable management of the housing scheme in accordance with Density Draft Supplementary Guidance (October 2022).