

## PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)

Appeal under Article 108 (2) (b) against a refusal to grant planning permission

### Report to the Minister

By Sue Bell MSc., BSc, FCIEEM, CEng, CWEM,  
An Inspector appointed under Article 107

**Appellant:** GSAB Ltd

**Planning application reference number:** P/2023/1460

**Date of decision notice:** 5 November 2024

**Location:** Private Car Park, Green Street, St. Helier, JE2 4UQ

**Description of development:** Construct 18 no. one bed and 8 no. two bed residential units. Demolish Cherry Tree Cottage. Provide new car parking for development (to include 15 No. Parking Spaces for La Residence de la Plage) and provide bicycle parking. Alter vehicular access. Undertake Public Realm improvements to Green Street to include new bus shelter. 3D Model Available.

**Appeal procedures and dates:** accompanied site inspection, 14 January 2025; hearing, 16 January 2025.

**Date of Report:** 20 February 2025

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### Introduction and relevant planning history

1. This appeal concerns refusal of permission for the construction of new residential units on a site currently used as a car park within the Havre des Pas area of St Helier. The proposal would also involve the demolition of an existing residential property (Cherry Tree Cottage).
2. The proposal was considered by the Planning Committee on 5 September 2024. It was refused for a single reason:

“1. The proposed development, by virtue of its scale, design and proximity to the site’s boundaries, would be overbearing and harmful to the amenities of surrounding neighbours, as well as failing to provide a sufficiently high quality of accommodation for future residents of the development itself. Accordingly, the application fails to satisfy the requirements of Policies GD1, GD6, and H1 of the adopted Bridging Island Plan 2022-2025.”
3. The site’s planning history is summarised in the Assessment Report prepared by the Infrastructure and Environment Department (‘the Department’). This describes the historic planning relationship between the current car park and the nearby building known as Residence de la Plage, which was formerly the Hotel de la Plage.

## **The appeal site and proposed development**

4. The appeal site lies to the east of Green Street, approximately 45 metres north of its junction with Havre des Pas. It sits approximately half a storey below Green Street, from which vehicle access is taken. The site is surrounded by existing development. Cherry Tree Cottage occupies the south-west of the site. The southern boundary is bordered by the external amenity spaces associated with properties along Havre des Pas. Some of these properties are listed buildings.
5. A two-storey residential property (Edandrew) sits close to the south-east corner of the appeal site. This has a balcony overlooking the site. Immediately to the east is a detached 2-storey dwelling (Montreux). Further to the east are houses on the west side of Havre des Pas Gardens.
6. To the north of the site lie two terraces of 3-storey buildings, which lie parallel to the appeal site. These comprise part of the Clos des Pas estate. The western-most block is separated from the site by a narrow road. This road and the ground floor of the properties sit at a higher level than the car park. The buildings are occupied at ground floor level by shops. There is residential accommodation above, with balconies over-looking the site. The eastern-most block is residential accommodation, with garden areas (but no balconies) facing the site.
7. To the west sits Green Street, and beyond this the extensive complex of residential development known as La Collette Flats, which are 5-storeys in height.
8. The proposals would involve the demolition of Cherry Tree Cottage. The vehicle access would be moved to the north-west of the site, which would link directly with parking roughly at existing ground level (which is approximately half a storey below the height of Green Street).
9. The development would create 26 residential units; 18 one-bedroom units and 8 two-bedroom units. These would be located within two main 'blocks,' which would be linked above ground level. The western of the blocks would sit roughly parallel to Green Street and extend along much of the western boundary. It would comprise four storeys, with balconies to the east and west elevations. The eastern block would be roughly perpendicular to this, sitting parallel to the northern boundary. It would comprise three-storeys located over a basement parking area. There would be balconies on the southern elevation. This block would also have a roof garden, set back from the edge. A children's play area would be provided to the south.
10. Access to the residential units would be at ground level from Green Street. Units in the eastern block would be accessed via external walkways and stairways. To address concerns about overlooking, the northern face of the eastern block would have vertical louvres, on the outer edge of the walkways. In addition, planted green screens would be included on walkways of the western block to prevent overlooking into gardens to the south. Windows on the eastern face of the eastern block would be located to only allow views north and south, avoiding direct overlooking or properties to the east. These have been termed 'bay windows' in the Department report.

## **Case for the appellant**

11. The appellant's grounds of appeal can be summarised:

- The proposed development has been designed to accord with policy considerations of the Bridging Island Plan 2022 and supplementary planning guidance. It accords with the Government of Jersey's requirements for new residential development in St Helier and has been designed in accordance with comparable assessment approaches undertaken for other recently approved larger residential schemes.
- Policy GD1 has been carefully considered to inform the design. The applicant is entitled to a consistent approach to Bridging Island Plan policy considerations by the decision maker in applying policy GD1.
- The appellant does not agree that future residents would suffer from a low standard of residential accommodation. The proposals have been designed with references to all relevant standards and other recent decisions for new residential development in St Helier.
- The appellant does not agree that the proposals would result in unreasonable harm through overbearing impacts to neighbours. It has been designed with reference to Building Research Establishment's "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice" (2011) (the 'BRE Guidelines'.)
- The appellant does not agree that the proposals would result in other unreasonably harmful impacts upon neighbours.

### Case for the Department

12. In addition to the reasons for refusal, the Department noted:

- The design issue raised in the reason for refusal does not relate to the general principle of the design and scale of development *per se* but is related to the design of the proposed bay window and balcony measures, which have been adopted to overcome the privacy issues caused by the scale of development in close proximity to neighbouring properties.
- The proposed development is in close proximity to neighbouring properties and their amenity/garden areas. In addition, due to the building's scale, there would be overbearing enclosure caused due to the relative height of the development in the immediate existing context.
- The Department has been consistent in its application of Policy GD1.
- The proposed design of the balconies and bay windows and louvres would have an adverse impact on the living conditions of future residents. This is due to a number of factors:
  - The design and proximity of the proposed balconies to the south elevation, with the balconies being elongated and exposed set off the main elevation and in close proximity to each other
  - The restricted views and outlook from the windows to the north elevation, which would result in limited aspects to the side rather than directly out of those windows, which are to habitable rooms, including bedrooms.
  - The proposed vertical louvred screens to the north elevation of walkways would add to the restricted outlook.
  - The amount of natural light into the bay windows owing to their restricted outlook.
- There would be overbearing impact from the rear block of 3 stories with a car parking level underneath, which increases the overall height of the development. The height taken together with design features such as the louvred screen would serve to create a dominating sense of enclosure.

## Consultations

13. **Jersey Fire & Rescue** (5 February 2024) did not object to the proposals but noted that they may provide challenges with regards access and facilities for firefighting. It requested the applicant to forward a copy of the 'building fire strategy.'
14. The **Parish of St Helier Roads Committee** commented (14 February 2024) that the proposals proposed provision for cycles would meet Supplementary Planning Guidance. It welcomed the provision of electric charging for cars and bicycles and requested provision of motorcycle electric charging facilities. Refuse store and collection arrangements would need to be agreed with the Parish Refuse Manager.
15. The response from the **Natural Environment Team** (5 March 2024) sought further information. It noted that the Initial Ecological Assessment was based on survey data more than 18 months old, which was no longer considered valid. Consequently, it requested an updated initial ecological assessment and mitigation measures. Disappointment was also expressed that no provisions had been made for the incorporation of nesting and roosting features for bats and birds to provide enhancements for biodiversity.
16. The response from the **Department for Infrastructure, Operational Services - Drainage** (28 March 2024) noted that a Drainage Impact Assessment had been completed. This had concluded that connecting foul flows from the proposed development into the existing foul sewer network in Green Street would not cause any significant detriment during a 1 in 30-year return period event (with a 40% allowance for climate change). The response also included advice concerning the need to protect the existing sewer connection, the consents that would be needed and in relation to the design of SUDs and soakaways. It was also noted that a Flood Risk Assessment would be required.
17. **Infrastructure and Environment - Transport** commented (18 April 2024) that following its original comments of 20<sup>th</sup> February, and following engagement with the appellant, the matters identified had been overcome. The appellant would be required to enter into a Planning Obligation Agreement to deliver the highway improvements and removal and replacement of features to safeguard the needs of all road users. A Planning Obligation Agreement for a contribution to the Eastern Cycle Network would also be required. In addition, the Department requested a planning condition to secure an agreed Demolition, Construction, and Environmental Management Plan. A further condition to prevent sub-letting of car / motorcycling/ cycle parking was also identified.
18. The response from **Strategic Housing and Regeneration** (22 April 2024) noted that the Minister for Housing - both in his capacity as Minister and as Deputy for St Helier South - does not support the application, as a matter of principle. This is in the context of the number of new homes recently created in the area. An objective view against Island Plan policy has been made. The proposal meets the definition for 'superdensity.' The local context and extent of new housing in the area should be considered as part of the management plan to ensure longer-term sustainability. The proposed homes would meet minimum space standards, but there were concerns surrounding opportunities for daylight and sunlight arising from the bay window arrangement and the louvered screen with offset lightwells. The demolition of Cherry Tree Cottage is considered offset by the development of 26 new homes. A proposal focussed on development of 1 and 2 bed homes is considered to appropriately reflect identified housing needs in the near to medium term, but there

may have been an opportunity to provide a limited number of larger units to provide for a more balanced and sustainable community, particularly in the context of the higher concentration of 1 and 2 bed homes recently developed in the area.

## Representations

19. Fifty-six representations are shown on the Planning Register, although the Department's assessment report refers to 49 representations, as in some instances more than one letter from an individual was received and some responses were received after the end of the statutory consultation period. All but three of the responses objects to the proposals, raising concerns about:

- Traffic - the proposals would lead to an increase in traffic on already congested roads.
- Parking - the proposals would result in loss of parking both during construction and for the community and tourists after completion. Inadequate parking spaces are allocated for La Plage.
- No loading bay or quick stop spaces.
- It would overshadow neighbouring properties, reducing day light and sunlight.
- It would be overbearing to neighbouring properties.
- Loss of privacy.
- It is not wanted and fails to meet the overarching principles of the Island Plan.
- There has been a huge increase in population and infrastructure recently which has unfair effects on longer term residents and reduces quality of life.
- It would be detrimental to the interests of the community as it increases the density of buildings and traffic in the area.
- Proposals do not demonstrate how it would create a socially successful community in the long term or enhance the liveability of the new homes or existing neighbourhood.
- Green Street and surrounding area are already over-developed.
- Number of and scale of recent developments has increased density and population.
- Strain on infrastructure.
- Rather than being a place of choice, residents are beginning to choose not to live here.
- Shows no consideration for the context of the area and its form will not have a positive impact on the local community.
- It would have an adverse effect on the character of the area.
- Brick cladding does not fit in with the surrounding area.
- The design does not respect Jersey's vernacular or seascape character.
- Development not in keeping with the historic seafront setting.
- Disruption during construction.
- Piling for the car park could damage the terraced listed buildings bordering the site.
- Excavation and drilling may disturb water sources leading to water ingress.
- Site has been prone to flooding in the past.
- Lack of detail about relationships between boundary walls.
- Design would provide spaces that would attract unsocial activities.
- The application is yet to demonstrate that the Fire Service have full access to the site.
- Does not comply with assisting the social housing crises in Jersey.

- Havre des Pas and Green Street have a population of pipistrelle and grey long eared bats. There has been a decline in sightings since the La Collette development.
  - Objectives of 2018 Havre des Pas plan have not been followed.
  - May lead to increase in pollution from traffic, litter and pressure on sewerage.
  - Hazard from fully grown trees and plants falling from the roof garden.
  - Noise from those using roof garden.
  - Destruction of tourism through over development.
  - No need for development as there are many empty flats in the area.
20. A response also refers to the lack of green space in the area and another suggests that the land should be purchased by the States and turned into an attractive green space with some resident parking.
21. Reference is also made in some representations to the number of times the road has been dug up and an embargo on further work.
22. Supportive comments reference the need for affordable housing which is in an accessible area. They comment favourably on reduction of parking to reduce reliance on the car, the potential to revitalise Havre des Pas and the quality of the design.

### **Inspector's assessment**

23. Article 19 of the Planning and Building (Jersey) Law 2002 as amended states "*In general planning permission shall be granted if the development proposed in the application is in accordance with the Island Plan*". Planning permission may also be granted for proposals that are inconsistent with the Island Plan if there is sufficient justification for doing so. In reaching a decision, all material considerations should be taken into account.
24. The current Island Plan is the Bridging Island Plan, March 2022 ('the Island Plan'). Having regard to the policies within that plan, the reason for refusal and the grounds for appeal, and points raised in representations, I conclude that the determining issues in this appeal are:
- The effect of the proposals on neighbouring amenity.
  - The quality of the proposed accommodation.
  - The effect of the proposals on listed buildings.

### **The effect of the proposals on neighbouring amenity**

25. Effects of proposals on neighbouring amenity are addressed through policy GD1 - Managing the health and wellbeing impact of new development. The policy states that development will only be supported where it will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents. Aspects to be considered, which are relevant for this appeal are that developments should not: create a sense of overbearing or oppressive enclosure; unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy; and/or unreasonably affect the level of sunlight and daylight to buildings and land that owners and occupiers might expect to enjoy.
26. 'Overbearing or oppressive enclosure' is not defined within the Island Plan. I interpret it as referring to situations where the height, scale, bulk and/or orientation and position of a development could lead to an impression of being overwhelmed

and/or hemmed in and/or create a sense of claustrophobia. While effects on light may result from and influence a sense of oppressive enclosure, that is identified as a separate factor for consideration within policy GD1. Thus, I conclude that a sense of overbearing or oppressive enclosure cannot be defined solely in terms of effects on light levels.

27. I saw that there is a great degree of heterogeneity in the development around the appeal site, occasioned by separate phases of development. This means there is no single defined building line or plot size or height. Arrangements between properties are complex and intimate. Nevertheless, those properties that border the appeal site currently benefit from a more open aspect and outlook over the site. The effects are enhanced by the absence of built structures and the fact that the parking area is set below the surrounding ground levels.
28. The height of the proposed buildings sits within the range of heights of existing buildings in the area. The height would also be consistent with the St Helier Design Guidance, which suggests that development of 4.5 - 5 storeys may be permissible within the Havre des Pas - Grève d'Azette Character Area 3. Nevertheless, the structures would be taller than the buildings facing it on Clos des Pas and would occupy much of the volume which is currently open.
29. The design of the proposals has been modified to reduce concerns about the risks of overlooking and loss of privacy. Vertical louvres have been included along the northern side of the walkway on the eastern block to reduce risks of overlooking into Clos des Pas. The orientation of windows at the eastern end of the eastern block and the northern face of the western block have also been altered through use of what is being described as 'bay windows.' These comprise extensions of the wall, with windows fitted to allow viewing sideways, rather than directly out of the building.
30. Based on Drawing No. 3975-(00)005 Revision P2 (Proposed Site Plan), there would be around 10.6 metres between the edge of the balconies on Clos des Pas and the louvres on the northern face of the development and a similar distance between the south-facing windows of the eastern properties of Clos des Pas and the louvres. The northern wall of the 'bay' windows would be closer still to the edge of the balconies. I conclude that the blank protruding faces of the bay windows and the proposed louvres, which would visually resemble bars, combined with their proximity to the windows and external balconies of Clos des Pas and the height, mass and position of the proposed development would act to create a sense of oppressive enclosure for residents of Clos des Pas.
31. The proposals include for cantilevered balconies on the southern elevation. These are of an unusual arrangement, projecting further from the building than their width. Their southern ends would be screened to reduce overlooking into the rear gardens of the houses to the south (some of which are listed buildings). I accept that these balconies would introduce potential for some over-looking into these garden areas, from a greater height and closer proximity. However, I saw that these gardens already receive a high degree of over-looking from nearby properties. This includes mutual overlooking of garden areas from the upper windows of the terrace of houses along Havre des Pas and from the balcony of the house close to the south-west corner of the appeal site (Edandrew). Judged against this baseline, I do not consider that the extent of overlooking from the proposed balconies would result in unreasonable effects on the level of privacy.

32. The appellant's grounds of appeal conflate the issue of overbearing with effects on light. As noted above, I find that effects on light levels may contribute to a sense of overbearing, but that is not always the case. I also note that the effects on sun and day light levels to neighbouring properties, including Clos des Pas, is not cited as a reason for refusal on the Decision Notice.
33. Policy GD6 - Design quality, seeks a high quality of design. Development will be supported where it can be demonstrated that the design successfully addresses several key principles. These include the relationship to existing buildings, settlement form and distinctive characteristics of a place, and its impact on neighbouring uses. For the reasons set out above, I find that the design would not successfully address these principles.

#### The quality of the proposed accommodation

34. The vertical louvres along the external walkways on the northern elevation of the eastern block have been included to reduce overlooking impacts to the north. However, they would also act to foreshorten the outlook from these windows, restricting this to the walkway. The louvres would also act to further reduce the light to these north-facing rooms. I find this would reduce the quality of the living experience.
35. The north-facing windows of the second bedroom of the units at the eastern end of the eastern block (units 108, 208 and 308) would comprise frosted glass. These rooms would have a second window. However, this would be located within the 'bay window' on the eastern elevation and would only allow an outlook directly southwards, towards and into the main bedroom of the same property. Taken together, I find that these elements would act to compromise the liveability of these units.
36. A similar effect is also evident for the north-facing windows of the northern-most units in the western block next to Green Street (units 103, 203, 303). In this case, the windows serve the only bedroom and the combined kitchen, living, dining room. Whilst this latter room would have an unobstructed view westward, this would be of Green Street and the facing flats.
37. Policy H1 - Housing quality and design seeks that new homes should provide good quality accommodation and sets out factors for when development will be supported. These include that development should maximise opportunities for daylight, sunlight, and natural ventilation to internal spaces, avoiding single aspect forms.
38. The appellant has provided several documents to illustrate both the effects of the proposals on light to neighbouring properties and predicted light levels for the proposed development. The appellant's statement of case and the latter documents dated December 2024 refer to a daylight and sunlight report by Waldrams Ltd dated 4th April 2022, but I believe this to be a typographic error as there is no record of this on the Planning Register website. My assessment is based on the documents listed on the Planning Register, as discussed at the hearing. These are: a Climate - Sun Study included within the Design Statement (October 2023); a Daylight and Sunlight Report (Waldrams, 2 February 2023), an addendum letter to that report (Waldrams, 29 August 2023), and a further review prepared by Point 2 (4 June 2024). At the hearing, the appellant submitted a further letter from Point 2 dated 23



December 2024. Owing to the late submission of this information, the Department was allowed time after the hearing to comment on this document.

39. The reports are based on methods contained in the Building Research Establishment's "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice" (2002) (the 'BRE Guidelines'). I note that this is guidance. As such, the thresholds for acceptable sun/day light levels (or reductions in these) are not mandatory. I also note that this guidance has no particular status in Jersey, although it is commonly applied.
40. The appellant has stated that in terms of daylight, 45 of the 63 rooms assessed (71%) would meet their average target illuminance value. Those not meeting the target value comprise seven combined living/kitchen/dining rooms and eleven bedrooms. Reasons for this are either due to the windows being overhung by a balcony or constraints caused by privacy.
41. The response from Strategic Housing and Regeneration identified concerns about predicted light levels in units 103, 203, 303, 108, 208 & 308. The appellant has provided further information on this matter in its daylight and sunlight review response (June 2024). The living/kitchen/dining rooms in units 103, 203 and 303 do not meet the target illuminance level, owing to the presence of overhanging balconies. Light levels in bedroom 1 of units 103, 108 and 308, and bedroom 2 of units 108, 208, 303 and 308 would also fall short of the target illuminance levels. This appears to be due to the use of the 'bay windows' (although I note that some rooms using this arrangement do meet target illuminance values e.g. bedroom 1 of unit 203). The predictions suggest that neither the living/kitchen/dining room nor the only bedroom of unit 103 would meet the target value for median daylight illuminance. This unit is in the north-west corner at ground floor level, over-shadowed by a balcony.
42. In terms of sunlight, 23 of the 26 units would meet targets for sunlight exposure. The three which do not would be north facing and lack a south facing window.
43. The Daylight and Sunlight analysis concluded that the scheme would be adequately daylit and sunlit overall. The units are also dual aspect. However, as noted above, not all rooms of all units would meet target illuminance levels, with none of the main habitable rooms of unit 103 meeting target levels and none of the bedrooms in units 108 and 308 meeting target levels. Nevertheless, having considered that the BRE Guidance is advisory and has no formal status in Jersey, that some units would not meet the target illuminance levels, that the proposal is within an urban area and the dual aspect and external amenity spaces associated with each unit, I conclude that, on balance, when considered alone, predicted daylight levels within the proposed development would be borderline acceptable.
44. Whilst daylight levels may be acceptable, I need to consider the effect of these in combination with the effects on outlook, discussed above. Daylight levels to bedroom 2 of units 108, 208 and 308 fall below target values for illuminance. The north-facing windows of these units would be frosted glass, and the side windows would only allow oblique views southwards into bedroom 1. The already restricted outlook to the north from units 108 and 208 would be further obscured by the vertical louvres on the walkway. I find that this could lead to a feeling of claustrophobia and decrease the quality of the living experience. As neither of the bedrooms of units 108 or 308 would meet target illuminance values for daylight, this could act to reduce the liveability of these units.

45. The supplemental statement provided by the appellant at the hearing (Point 2, 23 December 2024), refers to other consented schemes in St Helier, where, according to the appellant, the BRE Guidelines have been applied in a flexible manner. It is suggested that the current proposals compare favourably with these and therefore should be approved. However, each scheme must be considered on its own merits. For the reasons set out above, I conclude that the combination of low light levels combined with a restricted outlook to some of the proposed units would result in poor quality accommodation, counter to the aims of policy H1.

#### The effect of the proposals on listed buildings.

46. Policy HE1 sets out that “*proposals that could affect a listed building, or place, or its setting, must protect its special interest.*” And that “*all proposals should seek to improve the significance of listed buildings and places.*” The policy also includes criteria for assessing proposals that do not protect a listed building or place, or its setting.
47. The submitted Heritage Impact Statement (HIS) identifies the site as being nominally within the setting of five Listed buildings. These are identified from Drawing 3975-002-P1 as Seaforth Hotel (Grade 4), Ceylon House (Grade 3), Blair Atholl (Grade 3), Rosedale (Grade 4) and Royston (Grade 3). The HIS concludes that the proposals would not harm the setting of these listed buildings or their significance. The Department considers that the impacts of the proposal on the setting of the listed buildings has not been examined to any great detail. I concur with this, as there is no description of the special interest of each listed building.
48. Policy HE1 recognises that the setting of a listed building or place is not fixed and provides for sensitive change to occur, providing that the special interest of the listed building or its setting is maintained. There has been significant change within the setting of the listed buildings over time. The existing car park does not appear to contribute to the setting of the listed buildings. The proposed development would effect a further change within that setting, but I am not persuaded that it would prevent an understanding or appreciation of the listed buildings. The Department concluded that on balance, the heritage impacts of the development would not cause sufficient harm to the extent that the development should be rejected on these grounds. Impacts on heritage assets are not listed as a reason for refusal and I note that the Historic Environment Team has not provided a response of any kind to the proposals. I am therefore content that the proposals would accord with policy HE1.

#### Other policy matters

49. The Natural Environment Team identified that the supporting Initial Ecological Assessment Report was too old to be considered valid and lacked enhancement measures. Concern about effects on bat populations was also raised in representation.
50. The appellant provided an updated Preliminary Ecological Appraisal prior to the determination of the application (30<sup>th</sup> April 2024). Whilst there is no updated response from the Natural Environment Team, the report confirms the findings of the previous report. Confirmation of the mitigation measures could be secured by condition to any approval that is given. Likewise, although the updated report does not appear to include biodiversity enhancement measures, these could be included as part of a condition requiring prior approval of landscaping plans.

51. The site is located within the built-up area of Town, where the Island Plan directs development (policy SP2 - spatial strategy and policy PL1 - Development in Town). I acknowledge that there have been several large-scale developments within the immediate area within the last few years, with a resultant increase in the population. Nevertheless, the Island Plan recognises an unmet demand for new homes and directs development to those locations which are considered sustainable. Policy SP1 - Responding to climate change notes that the Island Plan will direct growth to areas of previously developed land, or locations which minimise the need to travel by private vehicle. The proposal site would re-use a car park, which is promoted through policy TT4. It is also well-positioned to enable easy access to facilities without reliance on a car. It would also provide a contribution to meeting needs for one- and two-bedroom homes identified in the Housing Needs Survey 2025-2026. Hence, it would be consistent with the provisions of policy H4 - Meeting housing needs.
52. Parking provision for the proposed development meets the published standards and would be consistent with the requirements of policy TT4 - provision of off-street parking, in providing an appropriate level of accessible, secure, and convenient off-street parking, which is well-integrated with the development and meets parking standards. Whilst I understand that some of the parking spaces are currently leased to members of the local community, there is no obligation on the owner to do so. The proposals include an allocation of spaces dedicated for use by residents of La Plage. Whilst there is a suggestion in representations that this provision would be inadequate, I have not been presented with any reasons as to why the appellant should be required to provide additional spaces for a separate residential unit.
53. Concerns about traffic are noted. A Transport Statement has been submitted. IE Transport do not object. Works to road infrastructure would be required, including relocation of a pedestrian island and introduction of a bus shelter. These matters could be secured through a Planning Obligation Agreement.
54. The proposal would require the demolition of Cherry Tree Cottage. Policy GD5 - Demolition and replacement of buildings, sets out the circumstances where this will be supported. In this case, I accept that the proposal would represent a more sustainable use of land and so would gain some support from this policy.
55. Policy GD10 - Percentage for Art sets targets for the provision of public art for residential development of five or more homes. Some provision is included within the proposals, but the Department has questioned whether this meets the required levels. I am content that this is a detail that could be agreed through a condition to any permission that were granted.

#### Other matters

56. The appellant has questioned whether this application has been assessed in a manner consistent with other, large development schemes in the nearby area, particularly in relation to assessing the acceptability of light levels and effects on light to neighbouring properties. Each application must be considered on its own merits as no two proposals are identical in terms of design, location, and context. Comparisons of daylight levels between schemes are of limited value, given that the BRE Guidance is not intended to be prescriptive.

57. I have considered the material relating to these other schemes, which the appellant has presented to me. Whilst those schemes are not before me, I am satisfied that there are differences between them and the current proposals. I have assessed the current proposal against the policy provisions of the Bridging Island Plan 2022.
58. I note concerns about noise from the roof garden. The site is currently used as a car park, and it is close to busy roads and the beach. As such I would anticipate that current ambient noise levels are high. The proposed use as a garden does not differ to the many other external amenity spaces around the site. I therefore do not consider this a reason to refuse the proposal.

#### Planning Obligation Agreements and Conditions

59. I invited parties to submit a list of any Planning Obligation Agreements and conditions that should be appended, should permission be granted.
60. The Department identified that Planning Obligation Agreements would be necessary for the works in relation to the pedestrian island, bus shelter and eastern cycle route. It also proposed eleven conditions.
61. The Department's first proposed condition would require submission and approval of a detailed landscaping scheme. This would be more detailed than that submitted as part of the application and would include details of species to be planted and would provide an opportunity to include further enhancements for biodiversity. I accept that such a condition is necessary and appropriate. The timing of submission and approval of a scheme was discussed at the hearing, with the appellant stressing that they would not wish it to delay implementation of the works. I propose that if permission is granted, approval of landscaping plans should be submitted and approved prior to any above ground construction.
62. Proposed condition 2 relates to approval of vehicle manoeuvring and provision of car parking. The condition, as proposed by the Department, would prevent sub-letting of parking spaces, but also fails to recognise that the appellant seeks to retain some of the spaces for use by residents of La Plage. If consent is granted, the condition would need to be modified to recognise this.
63. Proposed condition 3 would require the implementation of the cycle parking. I accept that this is necessary and appropriate.
64. Proposed condition 4 would require installation of the electric car charging facilities prior to first occupation of the development. The appellant explained that whilst it would be appropriate to install the 'below ground' infrastructure, installation of charging units at all parking spaces could result in abortive work, as the design and function of these units is changing rapidly. I accept that provision of electrical charging points is consistent with requirements in the Island Plan. However, I consider it acceptable to require the below-ground works prior to occupation, with above ground charging units rapidly installed following a demand for these on an individual basis.
65. Proposed conditions 5 and 6 would be standard conditions which require completion of the approved drainage works and minimisation and re-use of construction and demolition materials. These would be necessary and appropriate conditions.

66. Proposed condition 7 would require approval and implementation of the children's play equipment prior to first occupation. Condition 8 would require prior approval of materials and finishes. Condition 9 would require approval of the details of the Percentage for Art. Condition 10 would require the implementation of the approved flood risk mitigation measures. I find these would be appropriate and necessary conditions.
67. Proposed condition 11 would require the implementation of privacy screens for the balconies and terraces. Given that the design drawings include and specify solid screens in these locations, I find that this condition would not be necessary.

## **Conclusions**

68. The current application gains policy support through seeking to make the best use of a vacant site, well-located for access to the town centre by walking, cycling and public transport. It would re-develop an existing car park and provide residential development for which there is a recognised need. Efforts have been made to minimise and mitigate effects on neighbouring amenity, particularly through overlooking. However, for the reasons set out above, I find that these efforts have been only partially successful and have, in turn, created new challenges in terms of creating a sense of enclosure for existing residents of Clos des Pas and poor-quality accommodation in some of the proposed units.
69. Land for residential development is a limited resource on Jersey. It is therefore important that those areas which do become available are developed in an efficient manner. This leads to creative design solutions. However, these should not be at the expense of achieving high quality development that people want to live in. Accommodation that is unattractive to potential occupiers would be at risk of remaining vacant leading to effective sterilisation of the land.
70. Optimal use of scarce land resources also needs to recognise the effects of new development on existing residents. The Island Plan accepts and allows for a degree of change in the living conditions of residents arising from development but seeks to provide checks and balances on this to ensure that changes to neighbouring amenity are not unreasonable.
71. It is not necessary for a proposal to meet every policy of the Island Plan. Nevertheless, I find that the efforts to reduce effects on privacy have generated a design that would have unreasonable effects on neighbouring amenity through creating an overwhelming sense of enclosure. These measures would also reduce the quality of some of the proposed units. In my assessment, the advantages of the proposals do not outweigh the disadvantages. Thus, I conclude that the proposals would not be consistent with the Bridging Island Plan overall.

## **Recommendations**

72. I recommend that the appeal should be dismissed, and that planning permission should be refused. Should the Minister disagree with my recommendation, then the scheme would require Planning Obligation Agreements and Conditions as set out in paragraphs 59 - 67 above.

Sue Bell  
Inspector 20 February 2025