

REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT

by **N McGurk** BSc (Hons) MCD MBA MRTPI,
an Inspector appointed by the Judicial Greffe

Site visit made on 10 March 2025. Hearing held on 10 March 2025.

Reference: P/2024/0728

Mailmate Ltd, Le Quai Bisson, St Brelade, JE3 8JT

- The appeal is made under Article 108 and 110 of Planning and Building (Jersey) Law 2002 (as amended) against the granting of permission to develop land.
 - Two appeals have been made. The appeals have been made by (1) Catriona Jane Fern against the decision of the States of Jersey; and by (2) St Aubin Methodist Church Leadership Team against the States of Jersey. Both appellants have an interest in land within 50 metres of the appeal site.
 - The application Ref P/2024/0728 by Adrian Chapman was approved by notice dated 5 December 2024.
 - The proposed development is *Demolish existing Light industrial unit. Construct 1 no 3 storey building comprising 3 no 2 bedroom residential units with parking, amenity areas, bin and bicycle storage. New hard and soft landscaping and ecological enhancements.*
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Recommendation

1. I recommend that both appeals be dismissed and that the Department's decision to grant planning permission subject to conditions, be upheld.

Introduction and Procedural Matters

2. As set out above, two appeals have been made by two separate appellants. The grounds of each appeal differ. The cases for each appellant are summarised later in this Report.
 3. The grant of planning permission the subject of this appeal relates to the proposed demolition of a light industrial building and its replacement with a new building containing three flats, together with a new car parking area.
 4. During the course of the appeals, issues have been raised which fall outside the scope of this Report. Such issues include matters relating to building by-laws and to private legal matters. This Report necessarily focuses on planning matters.
 5. I note that in support of their appeals, both appellants raised concerns in respect of the application site, as denoted by its red line area, excluding an area of private road. However, the Department is satisfied that the proposed development does not propose development outside of the red line area and consequently, that there are no legal or procedural concerns in this regard.
 6. This Report refers to the Planning Department as "*the Department*." It refers to appellant (1) Catriona Jane Fern as "*Fern*" and to appellant (2) St Aubin Methodist Church Leadership Team as "*the Church*."
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7. The Bridging Island Plan, adopted on the 25th March 2022, is referred to in this Report as “*the Island Plan*.”
8. The summaries of the various cases set out below are neither exhaustive nor verbatim but briefly summarise main points made by the relevant parties. In reaching the recommendation set out in this Report, I have considered all of the information before me, including evidence presented at the public hearing.

Case for Appellant (1) Catriona Jane Fern

9. In reaching its decision, the Department failed to adequately consider the impact of the proposed development on the amenity of neighbours. The proposal does not comply with Island Plan Policy GD1.
10. Two skylights would lose most of their sunlight hours during winter months. These are the only windows serving a bedroom and a bathroom. Also, it has not been demonstrated that the proposal will not lead to unreasonable impacts in respect of dust, vibration, noise, traffic and subsidence.
11. The demolition of the existing buildings has not been adequately justified and does not comply with Island Plan Policy GD5. Retention and retrofitting are not explored and there is no case in relation to the economics of repair or refurbishment. In the context of a presumption in favour of retaining existing buildings, the application lacks substance when considered against Island Plan requirements.
12. The loss of employment use has not been justified, contrary to Island Plan Policy EI5. The marketing report is several years out of date and lacks detail. The need to maintain employment sites is a “vital” consideration, hence their protection in the Island Plan.
13. There is no evidence to demonstrate why the proposal will bring more benefit than a light industrial use.
14. The proposed vehicular arrangements have not been justified and are contrary to the requirements of Island Plan Policy TT1. Access, servicing and deliveries to the site will be awkward and problematic, involving the need for reversing and manoeuvring, with inherent risks.
15. The applicant seeks to use the prospects of a further employment use as justification for its transport conclusions yet claims that there is no demand for further employment use. This is contradictory.

Case for the Appellant (2) St Aubin Methodist Church Leadership Team

16. The proposal will not protect the natural environment and could do more to improve it.
17. The access is unacceptable. The proposal will introduce night traffic into an area where there has been none. The proposed open car park introduces scope for noise where there is none.
18. Service and delivery vehicles will need to make awkward manoeuvres, including significant reversing. The lack of space for two-way traffic will result in vehicles reversing close to School Hall doorways.

19. The safety of users of the Church and the School Hall, including disabled people, will be harmed. The School Hall is used throughout the day and into the early evening.
20. The proposal will result in harm resulting from the narrow roads, the turns required in respect of access and increased traffic.
21. The proposal will change the dynamic around Listed Buildings. A smaller scheme would be acceptable.
22. Development could damage the Listed Church and School Hall.

Case for the Applicant

23. The proposal will not result in unreasonable harm to neighbours and accords with Island Plan Policy GD1.
24. Only one of the three tests set out in Island Plan Policy GD5 needs to be satisfied. The proposal results in a clear aesthetic benefit and meets the test.
25. The appeal site is located in a Tourist Destination Area. The roads are narrow, parking and manoeuvring are limited and the Island is facing a housing shortage. Light industrial uses are more likely to be problematic if they are located in areas with a high concentration of residents and tourists. The proposed development is a significantly more appropriate use than retention and retrofitting.
26. The proposed development meets the requirements of Island Plan Policy EI5. A marketing exercise demonstrated no firm interest. Given the need for housing and the site's location in the Built-up Area, residential use will bring more benefit to the community than would a light industrial use.
27. Neither the Parish of St Brelade nor I&E Transport object to the proposal. The proposal will generate less traffic than did the previous occupier, the Mailmate business and there will be no need for any employees to park in the surrounding area. There will be no need for commercial vehicle use associated with a light industrial use. On-street traffic and road safety risks will be reduced.
28. The proposal will provide for acceptable, accessible and inclusive car and cycle parking.
29. St Aubin, like many parts of Jersey, has tight vehicular accesses. Refuse collection, home deliveries and postal services rarely have a designated place to pull off the highway. By replacing a light industrial use with a residential use, the proposal is likely to result in less highway conflicts.
30. There is minimal natural environment on the site whereas the proposal introduces new pockets of natural environment and ecological enhancement measures. It is in accordance with Island Plan Policy SP5; and the submitted Heritage Impact Assessment demonstrates that the proposal would result in either positive, neutral or mitigated negative impacts in respect of heritage.

Case for the Department

- 31.No unreasonable harm to neighbours will arise as a result of the proposal. It is acknowledged that two neighbouring windows would lose sunlight as a result of the proposal. However, the receipt of daylight would remain sufficient and the overall impact on neighbouring occupiers in respect of sunlight and daylight would not be unreasonable.
- 32.The proposed demolition has been justified. There would be an aesthetic improvement and the proposal represents a more sustainable use of land, in accordance with Island Plan Policy GD5.
- 33.The applicant's marketing report was appropriate and the loss of an existing employment use, which is towards the end of its economic life, has been justified. The proposed residential use would be more in keeping with residential neighbours.
- 34.The appeal site is situated in a sustainable location in the centre of St Aubin and the proposed vehicular arrangements have been properly justified. Neither the Parish of St Brelade nor I&E Transport have any objections to the proposed vehicular arrangements.
- 35.Traffic relating to the site will be limited and of a low intensity. Commercial use, as currently permitted, could result in a greater intensity of use involving larger commercial vehicles and operational movements. There will consequently be a reduction in road safety risks and hazards resulting from the proposal.
- 36.The proposal protects the natural environment in accordance with Island Plan Policy SP5.

Main Issues

- 37.The main issues in this case are the effect of the proposed development on safe and integrated travel; its effect on the living conditions of neighbouring occupiers, with regards to sunlight/daylight; and whether the proposal would comprise sustainable development, taking account of demolition and the loss of employment land.

Reasons

Safe and integrated travel

- 38.The appeal site is located in the centre of St Aubin, along Le Quai Bisson, which is set back from and runs parallel with Le Boulevard. The appeal site is currently vacant. It was most recently in light industrial use as a printer's workshop.
- 39.The site is largely occupied by a single L-shaped building. The northern part, or front of the building, faces Le Quai Bisson and there are large access doors at ground floor level. It is two stories in height, with further commercial space created at loft level. This northern part of the building stretches to the rear of the site.
- 40.The southern part, or rear of the building, is single storey in height and has a flat roof. This part of the building adjoins the northern part and is shed-like in appearance.

41. Beyond the single storey part of the building there is an open area which provides for external storage and a gated access to a private lane. This private lane is short and narrow. It runs between a dwelling and the Wesleyan School Hall (referred to in this Report as the School Hall), which is a Grade 3 Listed Building, to connect the rear of the appeal site with Le Quai Bisson.
42. Le Quai Bisson comprises a relatively short narrow, unpaved, single carriageway one-way system, accessed from Le Boulevard in the north, from where it runs a short distance before making a 90-degree turn to the left. Le Quai Bisson then leads south between the rear of commercial units along Le Boulevard and the front of the appeal building and several dwellings. After a short distance, the road passes and then turns left at a 90-degree angle alongside, St Aubin Methodist Church, a Grade 3 Listed Building, to lead back to Le Boulevard.
43. There are tall residential buildings along Le Quai Bisson to the north and south of the appeal site. These include the Old Mill House and Ker Marguerite, both of which are Grade 4 Listed Buildings and Number 4 Albert Place, a Grade 3 Listed Building.
44. Whilst commercial units back on to Le Quai Bisson, during my site visit I observed the area's mixed-use character to be very much residential-led and that the presence of many characterful dwellings, including the Church, School Hall and numerous dwellings, affords the street a distinctive historic form.
45. Whilst narrow, the street is tarmac-surfaced to its extremities and this and the presence of parking restrictions presents a sense of spaciousness, as well as space and scope to visually appreciate the impressive heritage of surrounding buildings.
46. However, the narrowness of the road, together with the presence of two very sharp 90-degree turns and its relatively short length means that any vehicles travelling along Le Quai Bisson are naturally slowed down to slow speeds. Thus, despite the absence of pavements, this results in a sense of the road comprising a relatively safe environment for shared use between pedestrians, vehicles and other road users. I note that such a sense of shared use is not especially unusual in parts of Jersey.
47. Like other dwellings along Le Quai Bisson, the "front door" of the proposed development would face Le Quai Bisson and provide for many day-to-day servicing and delivery arrangements. The proposal also includes three car parking spaces which would be accessed from the private lane to the south of the site. The provision of a turntable would enable vehicles to enter and leave the site in a forward gear.
48. This access arrangement would result in the need for vehicles to make a 90-degree turn immediately past the School Hall and along the private lane when seeking to access the site from Le Quai Bisson. This is a tight turn and there would be a further tight turn into the site itself from the private lane.
49. In support of the proposal, the applicant has provided evidence, including visibility splays and a swept-path analysis, to demonstrate that the site can be accessed safely without the need for manoeuvring. Whilst I do not doubt that experienced drivers in vehicles that are neither large nor cumbersome could

reach the site with little difficulty, there is also little doubt in my mind that the access is not ideal and that it would present some drivers with difficulties.

50. The single carriageway width of the private lane means that vehicles would need to reverse and/or manoeuvre, should two vehicles seek to leave and enter the site at a similar time. Also, the sharpness of the turns from Le Quai Bisson means that some drivers would need to manoeuvre in order to reach the site.
51. However, as noted above, the very nature of Le Quai Bisson is such that vehicles must drive in a different manner to the way that they would along say, a long unimpeded highway. Le Quai Bisson comprises a one-way street in an area characterised by the presence of 90-degree turns and by pedestrians walking in the road.
52. Given this, the need for vehicles to drive slowly and when necessary, to manoeuvre and/or reverse, would not be so uncharacteristic as to introduce a new level of harm to highway safety. Further, given that the proposal is for just three car parking spaces serving three flats, the everyday need for such manoeuvres appears to me to be minimal.
53. In effect, the proposed access simply reflects and adds to the slow and impeded nature of Le Quai Bisson that already exists in respect of vehicular movements. In order to access the proposed development, drivers would be forced to drive slowly and carefully in order to negotiate several sharp turns. This would be the case for residents and for commercial drivers, should larger vehicles need to access the proposed car parking area.
54. A need for slow and careful driving would be in keeping with an area where pedestrians must walk in the road.
55. During my site visit, the numbers of pedestrians walking along Le Quai Bisson outweighed the numbers of vehicles and whilst I am mindful that, especially during the summer months and at busy times, vehicular use of Le Quai Bisson would be greater than during mid-March, so too would pedestrian use.
56. I am mindful that the School Hall is well-used throughout the daytime and early evening and that some users have mobility impairments and that a side-door opens out onto the private lane leading from the appeal site. However, I find that as users of the proposed car park would need to drive slowly and carefully in order to reach and leave it, in the same way that any traffic using the private lane must do, the proposal would not result in harm to highway safety.
57. Further to the above, whilst I note that neither the Parish of St Brelade nor I&E Transport objected to the access arrangements, I am also mindful that the appeal site is situated in a highly sustainable location, from which local services and facilities can easily be reached on foot. In addition, whereas the previous commercial use of the site at one point involved the employment of more than two dozen people, thus resulting in the need for staff to occupy local car parking spaces, the proposed use would result in no such requirement.
58. I also note that the proposed car parking arrangement would meet parking standards and that the proposal would provide dedicated cycle spaces.
59. Taking all of the above into account, I consider that the proposed development would provide for safe and integrated travel and that it would not be contrary to

the Island Plan and in particular to Policy TT1 which, amongst other things, seeks to promote sustainable, safe and inclusive patterns of movement.

Living conditions

60. Whilst both appellants refer to the proposal being likely to harm the amenity of neighbours, the only detailed planning case supported by substantive evidence, in addition to matters considered elsewhere in this Report, is that set out by Fern in respect of the amount of sunlight received by an adjacent dwelling.
61. Whilst I note appellant concerns in relation to the potential for noise and disturbance arising from the 24/7 use of the car park, I find that the replacement of a light industrial employment site with a development of three flats and three associated car parking spaces would not give rise to increased noise and disturbance and there is no substantive evidence before me to the contrary.
62. The Department is satisfied that the proposal would not give rise to unreasonable harm in respect of privacy and neither appellant has raised anything of substance to demonstrate the contrary.
63. However, Fern refers to evidence demonstrating that a bedroom and a bathroom in a neighbouring residential building would experience a substantial reduction in the amount of sunlight received during the winter months as a direct result of the proposed development. In effect, the proposed development would rise above the building immediately to the north and this would serve to prevent direct sunlight reaching two skylights on that building's southern roof plane during the winter. I find that this would result in some harm to neighbouring occupiers, with regards to loss of sunlight.
64. However, the same evidence demonstrates that there would be no significant loss in respect of the amount of daylight that would be received by the two rooms as a result of the proposal. Neither room comprises a main living area and both would receive sufficient daylight on a year-round basis. Both rooms would also receive direct sunlight outside of the winter months.
65. Given this, I find that the harm arising as a result of the proposal would not be unreasonable, but rather that such harm is of the kind that might reasonably be anticipated within the Built-up Area.
66. Island Plan Policy GD1 "*Managing the health and wellbeing impact of new development,*" requires development proposals to be considered in relation to their potential health, wellbeing and wider amenity impacts and only supports development where it:
- "...will not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents..."*
67. Thus, in determining whether or not to support a development impacting upon residential amenity, the appropriate test for the decision-maker is not whether such development would result in harm, but whether or not such harm would be *unreasonable*.
68. In this case, taking account of the above, I consider that the resultant harm would not be unreasonable and that the proposed development is not contrary

to the Island Plan and in particular to Policy GD1. The proposed development would not result in unreasonable harm to the living conditions of neighbouring occupiers with regards to sunlight/daylight.

Sustainable development

69. Island Plan Policy GD5, "*Demolition and replacement of buildings*," only supports the demolition and replacement of an existing building where it has been demonstrated that: it isn't appropriate and/or viable to repair or refurbish it; or that the proposed replacement represents a more sustainable use of land; or that there is a demonstrable aesthetic and practical benefit of replacement over refurbishment.
70. The existing appeal building is not particularly attractive. Internally, it appears to be old-fashioned and in a poor state of repair. Visually, it appears neither readily re-usable for modern light industrial use, nor readily convertible to residential use.
71. It is proposed to demolish the building and replace it with a granite and brick-fronted storehouse-style building. The proposed development has clearly been designed to appear in keeping with and to complement neighbouring residential buildings. I consider that its active frontage, warehouse aesthetic and sympathetic materials would result in a development that would conserve the setting of Listed Buildings and would respond positively to the historic character of Le Quai Bisson.
72. The proposal would incorporate features including green roofs, permeable paving, landscaping, biodiversity provision, and PV panels amongst other things. Given this and all of the above, I am satisfied that there would be a demonstrable aesthetic and practical benefit resulting from replacement and that in this way, the proposal complies with the requirements of Island Plan Policy GD5.
73. In addition to the above, I find that the proposal would result in the more sustainable use of land. The appeal site is currently vacant and there is evidence of a lack of demand for the existing building in its current use. The Island Plan promotes the development of new housing within the Built-up Area. I consider it to be more sustainable for the appeal site to provide for new homes than for it to remain as a vacant light industrial site for which it has been demonstrated that there is no demand.
74. This leads on to consideration of the loss of the site to employment use, should the proposed development be permitted. Island Plan Policy EI1, "*Existing and new industrial sites and premises*," seeks to protect existing employment sites. However, a change of use is supported when, further to marketing, it has been demonstrated that there is no longer a reasonable prospect of continued light industrial use and where the overall benefit to the community of a proposal outweighs any adverse effects.
75. The appeal site has been marketed for light industrial use. The outcome of the marketing exercise demonstrated an absence of interest, primarily due to the poor location of the building in respect of modern light industrial requirements, but also due to the building being towards the end of its economic natural life. I observed this latter fact during the course of my site visit.

76. I concur with the Department's view that the site has been appropriately marketed and there is no evidence before me to demonstrate that the conclusion of the marketing report is incorrect or that any change in circumstances, resulting in new demand for the site for light industrial use, has arisen since the marketing exercise was carried out.
77. Further, it is my view that in replacing a light industrial use, the proposed development would result in community benefits.
78. A vacant site would be replaced by an attractive residential building in keeping with its surroundings. The proposal would conserve the setting of Listed Buildings and complement the character of a historic area.
79. Whilst I acknowledge appellant concerns in respect of highway safety, I find it entirely reasonable to consider that the proposed development could result in *reduced* road safety risks and hazards compared to, for example, the active light industrial use of the site. Indeed, this was the conclusion of the submitted transport statement, a conclusion with which neither I&E Transport nor the Parish of St Brelade demurred.
80. Furthermore, the proposed development would result in the creation of three additional dwellings in a sustainable location within the Built-up Area without unreasonable harm to neighbours.
81. Together, I consider that these would amount to overall community benefits that would outweigh any adverse effects and consequently, the proposed development would meet the requirements of Island Plan Policy EI1.
82. Taking all of the above into account, I find that the proposed development would comprise sustainable development, taking account of demolition and the loss of employment land and would not be contrary to the policies of the Island Plan and in particular, Policies GD5 and EI1, which amongst other things, seek to prevent inappropriate demolition and the inappropriate loss of employment land.

Conditions

83. The original planning permission was granted subject to the imposition of the standard conditions, A and B, relating to commencement within three years and development to be carried out in accordance with the approved plans. Ten further detailed conditions were imposed.
84. Conditions were considered during the course of public hearing. I note that neither appellant considers that the conditions imposed can be relied upon to provide for sustainable development. I make comments in respect of construction and by-laws elsewhere in this Report.
85. I find that the conditions imposed meet the relevant tests and there is no substantive information before me to demonstrate that this is not the case.

Other Matters

86. The Church considers that there is a better solution to the site than that proposed by the applicant. Whether or not this is the case, the planning application and the subsequent appeal have been considered on the basis of the

development proposed. Whilst there might be any number of alternative ways to develop a site, only the proposed development can be considered as part of a planning application or an appeal.

87. Whilst both appellants consider that it has not been demonstrated that no harm will arise from the impacts of construction, it is not the purpose of this Report to consider building by-laws. Furthermore, I am mindful that the Department has imposed conditions that provide for controls over development and as above, I am satisfied that these conditions meet the relevant tests.
88. In addition, I note that it is not a requirement for an applicant to demonstrate all of the things that a development will not do. In this case, I have found that the proposal meets with the requirements of the Island Plan and hence the recommendation set out in the conclusion below.
89. I note the presence of several heritage assets within the vicinity of the appeal site. The Church has referred to the potential for physical harm to Listed Buildings resulting from vehicular movements.
90. There is evidence that vehicles scrape the corners of the School Hall and Church, both of which are Listed Buildings. This is an existing situation.
91. I note in this Report that the Parish of St Brelade and I&E Transport are satisfied that the replacement of a light industrial unit with three flats and three parking spaces is likely to result in fewer large vehicle movements and there is no substantive evidence before me to lead me to find that the replacement of light industrial use with three flats and three car parking spaces will increase the potential for physical harm to Listed Buildings.
92. I refer earlier in this Report to the Department's comment that a Heritage Impact Assessment demonstrates that the proposal would result in either positive, neutral or mitigated negative impacts.

Conclusion

93. For the reasons set out above, I recommend to the Minister that the appeals be dismissed and that the Department's decision to grant planning permission subject to conditions, be upheld.

Nigel McGurk BSC(HONS) MCD MBA MRTPI

PLANNING INSPECTOR

28th March, 2025