

## **PLANNING AND BUILDING (JERSEY) LAW 2002**

### **Appeal under Article 108 against a decision made under Article 19 to grant a planning permission**

#### **REPORT TO THE MINISTER FOR THE ENVIRONMENT**

made under Article 115(5)  
by D A Hainsworth LL.B(Hons) FRSA Solicitor  
the inspector nominated under Article 113(2) from the list of persons appointed  
under Article 107

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#### **Appellant:**

Ewa Powierska

#### **Planning permission reference number and date:**

P/2023/0737 dated 1 November 2024

#### **Applicants for planning permission:**

Jersey Property Holdings

#### **Site address:**

Land at former Heathfields site, junction of Bagatelle Road and Bagatelle Lane, St. Saviour JE2 7TD

#### **Description of the approved development:**

Construction of a new centre to provide healthcare, therapy and support.

#### **Inspector's site visit date:**

10 February 2025

#### **Hearing date:**

12 February 2025

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#### **Introduction**

1. This is a third-party appeal against the grant by the Chief Officer of planning permission for the development described above. The permission is subject to the standard planning conditions relating to the commencement of the development and compliance with the approved details, and to additional planning conditions dealing with construction environmental management, waste management, potential contaminants, ecological mitigation and enhancement, landscaping and parking facilities.

2. The permission was granted following the completion of an Article 25 planning obligation agreement under which the applicants as owners covenanted with the Chief Officer (1) to pay a financial contribution of £20,578 towards the Eastern Cycle Route Network and (2) to undertake "Safer Walking Works" consisting of "all works necessary to upgrade and improve the footpath within Bagatelle Lane, together with the alterations to the junction between Bagatelle Road and Bagatelle Lane to create a safer route to school path on the frontage of the site with Bagatelle Lane and be integrated with the existing safer route to school path all as indicated the Safer Walking Works Plan" (Approved Plan Number 139496-IBI-X-XX-PL-A-700-0010 Rev 3).
3. The decision notice includes a list of 29 approved plans. As a consequence of the issues arising during the course of the appeal, which I have reported on below, the Infrastructure and Environment Department in consultation with the applicants have assembled a replacement list of 22 plans for potential approval. I have dealt with this matter in my recommendations.

### **The approved development**

4. The development will take place on a vacant cleared site at the junction of Bagatelle Road and Bagatelle Lane in St Saviour. The site is in a residential area and formerly contained the Heathfields Children's Home, which was demolished in 2016.
5. The development will provide a "new centre for healthcare, therapy and support". It is intended to function primarily as a Sexual Assault Referral Centre, but would establish a central base from which victims of crime generally could be better supported so as to improve the health and criminal justice outcomes for all victims.
6. The development will include the formation of a new vehicular entrance and exit on Bagatelle Lane, which is a narrow one-way street leading away from Bagatelle Road. The Lane has a formal (i.e. kerbed) footway on the side opposite the site and a 'virtual' (i.e. one depicted only by markings on the carriageway) footway next to the site. Bagatelle Road is a primary route with a 30mph speed limit; Bagatelle Lane is a Parish road with a 20mph limit.
7. Parking areas will be provided within the site and the development will be landscaped.

### **The main issues in the appeal**

#### *The "Safer Walking Works"*

8. These works would include the construction of a raised kerbed footway on the side of Bagatelle Lane next to the appeal site, which would be protected by a row of bollards along its boundary with the carriageway. They were requested by the Department's Transport section and then agreed with the Parish Roads Committee, following which they were included in the planning obligation agreement referred to in paragraph 2 above.
9. After representations were made by the appellant and others, supported by a transport consultant, about problems the works would create for vehicular access to properties, the proposals were critically examined by the Parish Roads Committee who decided to withdraw their support for them. The

applicants and the Department then agreed that the proposals should not be proceeded with as they were not considered to have road safety benefits and that the existing 'virtual' footway should be retained. The Department advised the appeal hearing that the planning obligation agreement should be changed so as to exclude the "Safer Walking Works" obligations. Post-hearing changes have also been made to the approved plans to exclude these works. I have dealt with both these changes in the recommendations in this report.

*Other highway concerns*

10. The appellant has concerns about the safety of the vehicular access to the development, which will be on Bagatelle Lane opposite to her property. She considers that sudden and unexpected manoeuvres will occur, giving rise to possible collisions and to risks to pedestrian safety.
11. The vehicular access will be a new access with an 'in' and 'out' facility separated by a traffic island. It will replace the existing vehicular access to the site, which is unsuitably located on Bagatelle Road in close proximity to the junction with the Lane. This access would be converted to pedestrian use only.
12. As the Lane is one-way, vehicles would only enter the development after turning off Bagatelle Road and would always turn left on leaving the site. The applicants have undertaken a satisfactory road safety audit and taken advice from a transport planning consultant. They point out in particular that drivers will have to slow down when leaving Bagatelle Road because of the kerb layout of the junction and because they will be entering a road with a lower speed limit of 20mph.
13. Whilst I understand the appellant's concerns, I do not consider that the arrangements would be unsafe or that they would give rise to manoeuvres that drivers and pedestrians would not anticipate encountering here as a matter of course.

*Loss of residential privacy*

14. The appellant maintains that the privacy of her property will be seriously harmed because of the view from first-floor windows in the development that would face towards her first-floor main bedroom, ground-floor living room and side garden. The Department considered when the application was approved that an appropriate standard of privacy would be maintained.
15. I have assessed these matters, based on the approved plans and the representations made by the parties and from what I saw on my inspection of the site and the appellant's property. The privacy of the garden will continue to be maintained by the height of the existing features on its boundary with the Lane. The privacy of the living room will not be significantly altered, since views into the room already have to be screened because its windows adjoin the footway in the Lane. There would however be two first-floor windows in the development through which a view of the windows of the main bedroom could be obtained.
16. The applicants have acknowledged the appellant's concern about these windows and have offered to remove one of them from the approved plans and to ensure that the other is retained as an obscure-glazed non-opening window. Post-hearing alterations have been made to the approved plans to

include these proposals. I consider that the privacy of the appellant's property will be adequately protected if these proposals are implemented. I have dealt with the required revisions to the planning permission in the recommendations in this report.

*Assessment of other planning concerns that have been raised*

Height, scale and overshadowing

17. The development will be part single storey and part two storey, which is consistent with its surroundings. It will be sufficiently far away from neighbouring property for it not to be overbearing or to result in unacceptable overshadowing.

Disturbance

18. Some disturbance is inevitable during construction work, but it will be controlled by Condition 1 of the planning permission through a Construction Environmental Management Plan. Once the development is operational the bulk of the activity will be during business hours and consulting times, but some activity could take place at any time of the day. The activity would be what is usually associated with non-residential, non-emergency, healthcare facilities - principally car trips, parking and indoor uses, but no emergency vehicles. Such facilities are normally considered to be acceptable in a residential area without restrictions on the hours of use and this development would be no different.
19. There was discussion at the hearing about the use to which the development would be put and about the possibility that changes of use might be made in the future that would affect residential amenities. The development would be within Class K (medical and welfare) of the General Development Order, which permits a variety of non-residential health uses that are normally acceptable in residential areas. However, the Order also permits a change of use from Class K to Class A, a shop, which could have a significant impact on residential amenities here as well as altering the volume and nature of the vehicular traffic using the site and the parking requirements.
20. I have considered these matters and taken into account the post-hearing representations that have been submitted. If the use of the development were to be restricted within Class K to a sexual assault referral centre only or to a victim advocacy centre only, as has been suggested, this would be an unreasonable and unnecessary constraint on the operation of the centre for the variety of medical and welfare uses that it could be put to within Class K without having a significant impact on residential amenities or traffic and parking conditions here. I have therefore not recommended that a restriction within Class K should be imposed. I have, however, recommended that a condition should be imposed to prevent a change of use from Class K to Class A, for the reasons stated above. As a result, this and any other potential future material changes of use away from Class K would require a further planning application.

### Parking spaces

21. The development will comply with parking standards and I have no reason to doubt that sufficient parking spaces will be available for all development that could take place within Class K.

### Lighting and plant

22. The area is already lit by street lighting and the applicants have stated that only low-level external lighting will be installed within the development. The Department have indicated that an additional condition could be imposed, requiring further particulars of the external lighting to be submitted for approval. I agree and have dealt with this in the recommendations. With this condition, I do not consider that residential amenities will be unreasonably affected by lighting from the development.
23. The approved plans show that all plant that could generate noise capable of being heard beyond the site's boundaries will be housed in enclosed spaces, so as to minimise the possibility of neighbouring residents being disturbed. The planning permission does not include the usual planning condition dealing with this matter and I have therefore recommended that it should be added.

### Drainage

24. I have noted the appellant's observations about problems she has experienced with smells and ponding from the drainage system in Bagatelle Road, but this is a separate issue that does not appear to be related to the proposed development. The technical advice I have received is that foul drainage from the development will be connected satisfactorily to the existing public sewer system, which has the capacity to accommodate the discharge. Surface water will be dealt with by a new on-site sustainable drainage system.

## **Conclusion**

25. The approved development is acceptable in principle but as indicated in this report there are a number of issues requiring further consideration. I have dealt with these in my recommendations.

## **Recommendations**

26. I recommend that, subject to the Chief Officer and Jersey Property Holdings within 6 months of the date of this appeal decision amending the planning obligation agreement entered into under Article 25 of the Planning and Building (Jersey) Law 2002 on 1 November 2024, so as to remove the obligations relating to Safer Walking Works, the planning permission P/2023/0737 dated 1 November 2024 for the construction of a new centre to provide healthcare, therapy and support on land at the former Heathfields site at the junction of Bagatelle Road and Bagatelle Lane, St. Saviour JE2 7TD is upheld subject to the following variations and that the appeal is in all other respects dismissed: -

(i) the addition of planning conditions 7 to 12 as follows:

"7. The east-facing window shown on the approved plans to be installed in the Advocacy/12-18P Meeting room on the first floor of the Adult Block shall

be removed from the approved development and the opening shall be filled by materials matching the external wall of the block. Reason: To safeguard the amenities of the occupants of nearby properties in accordance with Policy GD1 of the Bridging Island Plan 2022.

8. The eastern-most window shown on the approved plans to be installed in the south-facing wall of the Advocacy/12-18P Meeting room on the first floor of the Adult Block shall be fitted with obscure glazing and shall be non-opening and shall be retained as such thereafter. Reason: To safeguard the amenities of the occupants of nearby properties in accordance with Policy GD1 of the Bridging Island Plan 2022.

9. Notwithstanding the provisions of the Planning and Building (General Development) (Jersey) Order 2011 (or any other Order revoking and re-enacting that Order with or without modification), no windows shall be inserted in the east-facing and south-facing walls of the first floor of the Adult Block other than those shown on the approved plans (as revised). Reason: To safeguard the amenities of the occupants of nearby properties in accordance with Policy GD1 of the Bridging Island Plan 2022.

10. The centre shall be used for medical and welfare uses within Class K of Schedule 2 to the Planning and Building (General Development) (Jersey) Order 2011 (or in any provision equivalent to that Class in any Order revoking and re-enacting that Order with or without modification) and for no other purpose, including any change of use permitted by the Order. Reasons: To safeguard the amenities of the occupants of nearby properties, to protect the integrity and proper functioning of the highway network and to provide an appropriate level of off-street vehicle parking in accordance with Policies GD1, TT1 and TT4 of the Bridging Island Plan 2022.

11. Development shall not commence until details of all external lighting to be installed have been submitted to and approved in writing by the Chief Officer. The external lighting shall be installed and retained as approved. Reason: To safeguard the amenities of the occupants of nearby properties in accordance with Policy GD1 of the Bridging Island Plan 2022.

12. Any plant or machinery in the development shall be installed, maintained and operated to such specification that the noise generated is at least 5dBA below the background noise levels when measured in accordance with BS4142:2014 from within the curtilage of any nearby property. Reason: To safeguard the amenities of the occupants of nearby properties in accordance with Policy GD1 of the Bridging Island Plan 2022."

and

(ii) the replacement of the list of approved plans 01 to 29 set out in the decision notice by the following list:

1. 139496-IBI-01-00-PL-A-200-0001 4 - Site Location & Boundary Lines
2. 139496-IBI-01-00-PL-A-200-0002 41 - Proposed GA Plans - Ground & First
3. 139496-IBI-01-00-PL-A-200-0003 4 - Proposed GA Plans - Roof Void & Plan

4. 139496-IBI-01-00-PL-A-700-0006 19 - Proposed Site Layout & GA Plan
5. 139496-IBI-A-00-SE-A-200-0011 8 - Adult Block Sections (Sheet 1 of 3)
6. 139496-IBI-A-00-SE-A-200-0012 6 - Adult Block Sections (Sheet 2 of 3)
7. 139496-IBI-A-00-SE-A-200-0013 2 - Adult Block Sections (Sheet 3 of 3)
8. 139496-IBI-C-00-SE-A-200-0002 6 - Child Block Sections (Sheet 1 of 3)
9. 139496-IBI-C-00-SE-A-200-0003 3 - Child Block Sections (Sheet 2 of 3)
- 10.139496-IBI-C-00-SE-A-200-0004 2 - Child Block Sections (Sheet 3 of 3)
- 11.139496-IBI-WB-XX-PL-A-0700-0022 - Buffer Zone Site Plan & Reference Photos
- 12.139496-IBI-WB-ZZ-EL-A-200-0001 14 - Proposed Elevations
- 13.139496-IBI-XX-XX-PL-A-700-0000 3 - As Existing Topographical Levels Survey
- 14.139496-IBI-XX-XX-PL-L-700-010 10 - Proposed Landscape Site Plan
- 15.139496-IBI-XX-XX-PL-L-700-011 12 - Soft Landscape Strategy Plan
- 16.139496-IBI-ZZ-00-PL-A-700-011 4 - Massing Site Sections
- 17.SARC-JEN-PRE-00-DR-Z-C001 P1 - Existing Statutory Services
- 18.Carparking Strategy
- 19.Design & Access Statement: April 2023 Rev. 3
- 20.Design & Access Statement - Appendices: May 2023 Rev. 1
- 21.Design & Access Statement - ADDENDUM: February 2024 Rev. 1
- 22.Preliminary Ecological Appraisal: August 2024

Dated 4 April 2025

*D.A.Hainsworth*  
Inspector