

REPORT TO MINISTER FOR THE ENVIRONMENT

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

Site visit made on 16 June 2025. Hearing held on 16 June 2025.

Reference: P/2024/1260

St Albans, La Rue Voisin, St Brelade, JE3 8AT

- 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.
 - The appeal has been made by Portelet Bay Café Limited against the decision of the States of Jersey. The appellant has an interest in land within 50 metres of the appeal site.
 - The application Ref P/2024/1260 by Peter Lewis was approved by notice dated 14 February 2025.
 - The proposed development is *demolish 1no. 3 bed and 1no. 1bed guest unit. Construct 1no. 3 bed and 1no. 1bed guest unit with associated terraces and parking. Install 2no. gates to vehicular accesses onto La Rue Voisin. Various landscaping works to include creation of a pond.*
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Recommendation

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

Introduction and Procedural Matters

2. The appeal property benefits from an existing planning permission¹. This extant planning permission has been lawfully commenced. The applicant has provided evidence to demonstrate that the extant planning permission is capable of implementation².
3. It is the appellant's contention that the extant planning permission is not relevant because, in the appellant's view, it cannot be completed. I disagree with this contention. In planning terms, the extant planning permission has lawfully commenced and it is capable of implementation. As such, it comprises a material planning consideration.
4. The extant planning permission provides for the conversion and extension of the existing building to form a 5-bedroom dwelling and a swimming pool. The proposal the subject of this appeal is different to the proposal allowed by the extant planning permission. These differences include: the demolition, rather than the conversion and extension of the existing building; the creation of a 4-bedroom dwelling rather than a 5-bedroom dwelling; the re-orienting of the mass of the building; and the non-inclusion of solar panels.
5. Both the applicant and the Department refer to the extant planning permission as providing for a larger scheme than that the subject of this appeal. Whilst this

¹ Reference: P/2020/0293.

² Reference: Letter from Beaumont Structural Consultants, 15th April 2025 following a site visit on 11th April, 2025.

is mathematically true, I consider the difference in the overall floorspace of the two proposals to be so marginal as to be negligible.

6. However, I am mindful that the proposed development is not larger than the development already permitted and which has lawfully commenced. This is a relevant consideration as Island Plan Policy H9 seeks to limit the redevelopment of existing dwellings outside of the built-up area to replacement dwellings which, amongst other things, are no larger than the dwelling being replaced.
7. The planning notice relating to the application the subject of this appeal was displayed within a private development, leading the appellant to express concerns in respect of the public notification process. This is a matter between the appellant and the States of Jersey Government.
8. The appellant considers that the Department should have assessed the planning application the subject of this appeal in a different manner to the way that it did. This is a matter between the appellant and the Department.
9. The Bridging Island Plan, adopted on the 25th March 2022, is referred to in this Report as "*the Island Plan*."
10. The summaries of the various cases set out below are neither exhaustive nor verbatim but briefly summarise 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 the Appellant

11. The appeal site falls within both the Protected Coastal Area and the Coastal National Park, affording the site the highest level of landscape and ecological protection.
12. The proposal would result in the erosion of coastal openness. It would introduce a prominent, urbanising feature that would breach the skyline and appear visually intrusive, in part due to the extensive use of glazing. The proposed flat roof introduces an alien feature out of character with Portelet Bay.
13. The thinning of trees has already begun to expose the site, which is clearly visible from the shoreline and coastal path. Existing development does not justify the proposal – the fact that another development is visually dominant in view should not lower the bar for landscape protection.
14. The two large gates proposed would detract from local character and fail to provide design-led access and landscaping integration.
15. The proposed swimming pool and extensive hard surfacing introduces impermeable surfaces and would not contribute positively to the natural environment. There is a risk of greywater discharge and the disturbance of habitats in the Coastal National Park, as well as hydrological and pollution concerns. No biodiversity net gain is shown and the scheme disconnects ecological corridors.
16. Reliance on a soakaway system raises critical questions about long-term infiltration capacity, the potential for groundwater migration and implications for land stability in an area of known geomorphological sensitivity.

17. Unlike the extant planning permission, which respects the Coastal National Park boundary, the proposal extends built form over this boundary and positions the swimming pool beyond the designated limit, without any public benefit in justification.
18. The proposal would be larger than the dwelling it replaces and is not supported by a public benefit or any functional justification.
19. The application lacks up-front evidence of compliance with the 20% energy outperformance required and deferring this matter to conditions undermines the relevant policy intent. Also, the proposal necessitates a comprehensive waste and soil management strategy, which has not been provided.
20. The proposal causes landscape harm and there is no public benefit to outweigh this harm. The proposal does not provide mitigating landscape repair.
21. The proposal offers no strategic, housing, community or infrastructure value to the Island but introduces exclusive private luxury at the cost of protected views, habitats and character.

Case for the Applicant

22. Statutory consultees have been consulted and none have objected to the proposal.
23. The proposal replaces a largely dilapidated dwelling. Compared to the extant planning permission, it purposely re-orientates the mass of the building to improve the view over the site from the north-east and reduces the mass and extent of the building on its most sensitive coastal side. The proposal sets the building into the site and the built form would appear less bulky than would the extant planning permission.
24. The proposal is for a smaller development than the extant planning permission. This and sustainability benefits arising from the proposal results in it meeting Island Plan requirements.
25. The proposal would result in a visual improvement that is more in keeping with the site's context than the scheme allowed by the extant planning permission. Consequently, it protects the character and distinctiveness of the countryside and coast, albeit the site is set against the backdrop of a large, modern residential development untypical of the character area.
26. The Ecological Impact Assessment provides for appropriate mitigation and compensation. Positive ecological impacts will arise through the creation and management of a variety of different habitats as part of the development's landscaping scheme. An updated Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment has been carried out and the Ecological Impact Assessment therefore remains valid.
27. Land stability, public safety and energy efficiency are detailed matters managed, appropriately, through conditions. A comprehensive Site Waste Management Plan demonstrates a reduction in waste going to landfill, along with the re-use and recycling of waste materials. The proposal does not result in any harm to highway safety and makes suitable provision for cars and bicycles.

Case for the Department

28. The extant planning permission could be completed and is a material planning consideration of significant weight.
29. The proposed development would have a lesser visual impact than the extant permission. Taking this into account, the proposal would protect landscape character in accordance with the Island Plan. The proposed gates would appear in keeping with the site and its surrounding context, which includes a large scale contemporary residential development.
30. The proposed design is of a high quality that will protect the skyline. Noting this, there is no need for the proposal to demonstrate that its overall benefits outweigh any adverse impacts in accordance with Island Plan Policy GD9.
31. Demolition is fully justified. In policy terms, a proposal for demolition only needs to meet one of the three criteria set out in Island Plan Policy GD5. The proposal meets all three criteria.
32. The proposal incorporates appropriate ecological mitigation and compensation measures, as well as landscape enhancement measures. A site waste management plan was submitted and considered by the Department to be acceptable; and energy efficiency will be secured by condition.

Main Issue

33. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

34. The appeal site is located along and accessed from La Rue Voisin, which is a private road running through a gated residential area in Portelet, above and to the north of Portelet Bay. Like the adjoining residential area, the appeal site sits considerably higher than Portelet Beach and is separated from it by cliffs and rising land.
35. The appeal site is located within the Protected Coastal Area and the southern edge of the site is located within the Coastal National Park. As such, the Island Plan affords the site the highest level of protection against new development, whilst providing for appropriate forms of redevelopment.
36. There is an existing two storey residential building on the site which appears run-down. In its poor state, the existing building and its unkempt gardens appear as an eyesore. Part of the building has been demolished.
37. In distant views, the site is partly obscured by trees and whilst the appeal site can be seen from the beach to the south, it appears visually dominated by the presence of the modern residential development served by La Rue Voisin. This modern development comprises substantial, white rendered and heavily glazed residential buildings, the design, prominent siting and scale of which draw the eye from a wide variety of locations, as the development appears as an incongruous feature which appears in stark contrast to the greenery and natural surroundings of Portelet Bay.

38. Fairwood Lodge comprises a modernised dwelling immediately to the north of the appeal site and the modern residential development is located across the La Rue Voisin from the appeal dwelling. Due to topography and the presence of a roadside wall, only the upper parts of the building are visible from La Rue Voisin. The appeal site's situation on a plateau above Portelet Bay affords sweeping views to the south.
39. The proposal would result in the demolition of the existing dwelling and its replacement with a 4-bedroom dwelling, incorporating a 1-bedroom guest unit. I find that the proposed development would comprise an attractive contemporary dwelling carefully designed to complement the sensitive location within which the appeal site is located. Its relatively low, flat-roofed, linear design would combine with the proposed landscaping to result in the replacement dwelling appearing to 'nestle' into its surroundings.
40. In addition to the low form of the building and the landscaping of the site, the use of green roofs, timber boarding and granite would form part of a palette of materials sensitive to and in keeping with, the distinctive character and quality of the landscape.
41. The taller 'pop-up' first floor element of the proposal would sit back into the site and neither this, the proposed swimming pool nor the development as a whole, would appear intrusive. Rather, as a result of the comprehensive design approach to the dwelling and the landscaping around it, I consider that the proposal would sit comfortably within its sensitive surroundings.
42. The proposed entrance gates would not appear as dominant features but would integrate with the proposed boundary treatment of the site in a manner in keeping with the proposal as whole and as such, they would not harm the character or appearance of the area.
43. Further to the above, I am mindful that there is an extant planning permission which has lawfully commenced and which is capable of implementation. In effect the proposed development, were it to go ahead, would effectively replace this extant planning permission.
44. The extant planning permission allows for the creation of a 5-bedroom dwelling. As noted above, this dwelling would be of a similar overall size to the proposal the subject of this appeal. However, I find that the design of the proposal allowed by the extant permission would be less sensitive to the site and its surroundings such that if completed, the development which has commenced would appear visually intrusive in its surroundings, due to its different design, massing and use of different materials compared to the proposed development the subject of this appeal.
45. I note above that the proposal the subject of this appeal would not be intrusive and it would be considerably more visually appealing than would the extant planning permission. This is a significant factor which weighs heavily in favour of the proposal.

46. Consequently, the proposed development would protect and to some degree, enhance its surroundings. It would not harm the character and appearance of the area and it would not be contrary to Island Plan Policies SP3, SP5, PL5, GD5, GD6, NE3, H1 and H9, which together amongst other things, seek to protect local character.

Other Matters

47. The appellant has expressed concerns in relation to ecology, biodiversity, energy efficiency, drainage and land stability.

48. These are all matters that have been considered as part of the application process. Relevant supporting material was submitted alongside the planning application and was considered by statutory consultees, as well as by the Department in reaching its decision.

49. None of the statutory consultees consulted upon the planning application the subject of this appeal raised objections to the proposal.

50. Further, in approving the application, the Department sought to impose a number of planning conditions. These provide for the control and management of the development and are considered below.

Conditions

51. In addition to the standard conditions relating to timing and ensuring that the development is carried out in accordance with approved plans, the Department imposed four conditions.

52. Amongst other things, the first of these requires the submission and approval of: a Construction Environmental Management plan; an ecological working document, providing full detail on the mitigation and compensation measures set out in the submitted Ecological Impact Assessment³; further details of the landscaping enhancement measures referred to in the landscape design statement; and a detailed 5 year Coastal Management Plan, based on the Ecological Impact Assessment.

53. The requirements of this condition address a number of the matters raised as concerns by the appellant.

54. The three other conditions address matters relating to noise and disturbance, the implementation and retention of the landscape scheme and energy efficiency. As such, they also address matters raised by the appellant.

55. Each of the conditions imposed meet the relevant tests and there is no substantive evidence before me to demonstrate that this is not the case.

³ Note: whilst the submitted Ecological Impact Assessment expired in May 2025, an updated Preliminary Ecological Assessment (PEA) and a Preliminary Roost Assessment were undertaken on the 1st April 2025 and a letter from Nurture Ecology Ltd confirms that the mitigation and compensation measures outlined within the Ecological Impact Assessment for St Albans (2023) remain appropriate. This letter confirms that, as per proposed Condition 1, an Ecological Working Document needs to be produced and that this should schedule all mitigation and compensation measures, alongside a chronological timeline.

Conclusion

56. For the reasons set out above, I recommend to the Minister that the appeal 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

10 July, 2025