

Public Ministerial Meeting

Date: 19 February 2010

Venue: The Arthur Mourant Room, Societe
Jersiaise, Pier Road, St Helier

Start Time: 09.30

Special Notes:

Members of the public are entitled to attend the meeting to observe.

No	Application Number, Recommendation & Case Officer	Application Address	Description of Work
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Planning Applications – 09.30

1.	P/2009/1462 DW	Zephyrus (Site to the North of the Radisson Hotel), La Rue de L'Etai, St. Helier.	59 Residential apartments in five buildings with ground floor commercial space and associated basement parking and storage.
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Meeting Ends – 11.00 (approx)

Planning and Environment Department
Planning and Building Services

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Planning and Environment Department
Report

Application Number	P/2009/1462
Site Address	Zephyrus (Site to the North of the Radisson Hotel), La Rue de L'Étau, St. Helier.
Applicant	Mr S Izatt Waterfront Enterprise Board Limited
Description	59 Residential apartments in five buildings with ground floor commercial space and associated basement parking and storage.
Type	Planning
Date Validated	03/08/2009
Zones	Waterfront Development Area Built-Up Area Town Map Area
Policies	G2 – General Development Considerations G3 – Quality of Design G1 – Sustainable Development G4 – Design Statements G5 – Environmental Impact Assessments G9 – Designing Out Crime G6 – Transport Impact Assessments G17 – Contaminated Land Esplanade Quarter Masterplan 2008 The Jersey Waterfront: Supplementary Planning Guidance 2006 Percentage for Art: Supplementary Planning Guidance 2008
Reason for Referral	Scale of development
Introduction	An Environmental Impact Statement (EIS) has been submitted with the planning application. This document was prepared by Aecom Ltd. They are a global provider of information and expertise around and involving planning, design, engineering and environmental markets. Faber Mansell the company who were responsible for the EIS produced for Esplanade Quarter have since been amalgamated into Aecom. Thus Aecom were able to bring to their work substantial international expertise but also local knowledge of the context. The key chapters of the EIS cover the following matters.

- community and social economics.
- traffic and transport
- air quality
- noise and vibration
- wind micro climate
- daylight and sunlight
- water resources
- ground conditions
- waste
- telecommunications

Whilst no formal scoping opinion was sought by the applicant (they are not required to do so) the consultation process did not reveal any omissions in the informal scoping completed by the applicants. The documents which make up the EIS have been considered in conjunction with the drawings and the Design Statement and an amalgam of all this information has been used to carry out consultations with both statutory and non statutory consultees. A very full and extensive set of responses have been received from those parties. These responses have generated further supplementary work at the request of the Minister by the authors of the EIS to address the issues raised and this report will cover these matters on a topic by topic basis. Also included as an appendix to this report is the Environmental Statement Review Checklist. This is a summary of the principles and key issues within the EIS and the extent to which they have been addressed. In some instances further work is required and when this is the case the nature and the timing of that work is covered by the use of planning conditions. The regime of control which will be exercised in relation to the scheme will be applied through three principle mechanisms.

They are:

1. The terms and conditions of the Planning Approval
2. The details shown on the submitted and approved plans
3. Other statutory legal controls exercised by the Minister.
 - i.e. Water Pollution (Jersey) Law 2000
 - Waste Management (Jersey) Law 2005.

Consultations

The following organisations and individuals received a copy of the EIS.

- Health & Social Services
- Health & Safety Executive
- Liquid Waste Management (TTS)
- Municipal Services (TTS)
- Solid Waste Management (TTS)
- Transport Policy (TTS)
- Jersey Water
- National Trust for Jersey
- Société Jersiaise
- Fire & Rescue Services
- Jersey Harbours
- Jersey Heritage Trust

- Fisheries & Marine Resources (P&E)
- Environmental Protection (P&E)
- States of Jersey Police
- Save Our Shoreline
- Mr K Shaw
- The Parish of St Helier

Each of the consultees listed above brought their own perspective to the scheme. The concerns raised at the outset of consultation have during the analysis of the application been raised with the agents. The outcome of this dialogue is reflected in the review of the EIS. The conditions have also been constructed to respond to concerns and for the avoidance of any doubt.

In considering this application references have been made by some of the non-statutory consultees to two other developments on reclaimed land. That is the new Energy for Waste Plant (EfW) at La Collette and the development at Castle Quays I. (CQ1). In relation to the EfW plant the Scrutiny Panel have recently released their findings and the Minister for Planning and Environment will shortly publish his response to their findings. A Report and Proposition by Deputy Wimberley was defeated in the states (3 February) asking amongst other things that the Minister defer taking a decision in relation to Zephyrus until he had presented to the States his formal response to the key findings of the Scrutiny Panel's Report. The States also declined to support three other elements of the Deputy's Report and Proposition that –

- a. The Minister present to the States an appraisal of the EIS on Zephyrus in light of the Panel's report.
- b. The Minister present to the States a report in relation to alleged breaches of the Water Pollution Law.
- c. The Minister report to the States on the experiences gained in relation to EfW and CQ1 and the measures he will put in place as a result.

It is not appropriate to comment on either the EfW nor CQ1 within this report but there are some key differences to both schemes which have had a bearing on the discussions with some of the consultees. They are –

- As a precautionary approach the entire site at Zephyrus will have its boundary secant piled at an early stage to mitigate against sea water ingress. Neither CQ1 or the EfW scheme adopted this approach.
- The depth of excavation is significantly less than either of the other two sites with only one level of basement car parking provided.

Collectively the overall impact of these two aspects of the development will be to reduce (if not entirely eradicate) water ingress into the site. Whilst many of the issues raised in relation to

EfW and CQ1 go into the detail of the scheme much is made in relation to the unrestrained water ingress to the sites and the implications of that. Should water ingress take place at Zephyrus then the Construction Environmental Management Plan (CEMP) will determine the methodology to be used to address and dewater the site.

Consultees - Responses

Statutory and Non Statutory

The responses and the issues raised have been précised. This section will take those issues and explain how they will be addressed within the scheme. The checklist (Appendix 1) also addresses some of these elements in a more factual manner. In some instances however, a fuller explanation is warranted where the issue is deemed to be particularly important or where particular concern has been expressed.

Health and Social Services

The Department make detailed points in relation to

- Noise exposure
- Contaminated land
- Air quality
- Nitrogen Dioxide (NO₂)
- Particulates
- Food hygiene
- Non-residential users

All matters pertaining to these issues will form a series of Planning Conditions to be brought through the Planning Process as a binding duty on the applicant and any subsequent developer. The Construction Environmental Management Plan (CEMP) will also become part of the conditions requiring clearance before works commence. Otherwise the EIS is described as “a well prepared document that emphasises the benefit of early engagement with the applicant.”

Health and Safety Executive

The Department makes detailed points in relation to

- Ground conditions
- Waste

The principle concerns relate to the response and mitigation works on site. These concerns are recognised and will be covered by conditions.

Solid Waste Management (TTS)

They view the EIS as a good example of an Environmental Statement with regards to structure and coverage of solid waste and sustainable waste management issues. However the procedures for separation of asbestos from excavated fill needs to be agreed as does the disposal of material at La Collette alongside recycling requirements. These elements will be covered by conditions.

Liquid Waste Management (TTS)

The Department point out that the States will only adopt the diverted foul and surface water trunk sewers. They support the use of grey water or rainwater recycling. Off site discharge rates and water quality will require to be agreed during construction and on completion. These matters will be covered by conditions.

Traffic and Transport (TTS)

They support the development for residential development on the basis that it represents a sustainable approach adjacent to St Helier with public transport connections. They support the provision of weather proof cycle storage for the apartments and a bus shelter. They also support the drawings submitted for provision of access to the scheme should Esplanade Quarter not go ahead and the retention of the East/West cycle routes. These matters will be dealt with by conditions.

Marine and Coastal Section

The proximity of the site is noted adjacent to St. Aubin's Bay. The sensitivity of that area to any additional inputs affecting either the physical or chemical nature of the Bay is emphasised. Concern is expressed if secant piling were not to be used thereby limiting the entry of seawater into the site at certain tidal states. No managed discharge to the marine environment should take place without a discharge permit having been issued. The disposal of fill at La Collette should take place in a manner to mitigate against transport pathways to the marine environment. The points are noted and will be covered by the use of conditions.

Jersey Water

No response.

Jersey Harbours

No response.

National Trust for Jersey

Have no comments to make.

Société Jersiaise

They express concern as to the environmental implications of the scheme on potential residents were the Esplanade Quarter development not to take place. The EIS addresses this issue.

Police and Fire Services

A number of detailed concerns have been expressed. Those that are relevant will be dealt with by the use of conditions.

The Parish of St Helier

They have expressed some concern in relation to the refuse strategy and the servicing of the development. They wish existing pedestrian and cycling facilities to be maintained around the site.

These concerns can be addressed through conditions but some changes can be made to the submitted plans.

Environmental Protection (P&E) have also commented extensively on the EIS. Their concerns have been communicated to Aecom who in turn have provided a detailed response. The exchange of correspondence has informed the conditions and enlightened the applicant and his agents as to the expectations and requirements of the Environmental Protection Section in relation to the development of the site.

Save Our Shoreline/Mr K Shaw

These two parties are grouped for the purposes of discussing the issues they raise. Neither are Statutory Consultees but the views of both have been sought and taken into account. The views of both parties are also remarkably similar and they share the same concerns. A common thread is the request from both that no decision be taken in relation to Zephyrus until such time as the Scrutiny Panel's investigation into the Energy from Waste Plant (EfW) at La Collette has been completed. Concern is expressed over the period of time given to respond to the EIS. Both parties make mention of the development at Castle Quays, and the experience of the flooding of that site during construction. Underlying, and at the core of both parties concerns, is the extent to which excavation during construction might allow contaminants currently in the land to leach out into the marine environment. Their assertions being that this process is being enhanced by water entering the site through the excavation required to enable construction. There is also concern expressed over the commitment to monitor any such water ingress by potential contaminants prior to the water being removed, by discharge permit or to the public sewer.

In responding to those points more detail has been provided as to how control will be exercised. The detailed nature of the comments here merit further explanation. Much is made of the sub-structure construction methodology and an additional technical note has been prepared to expand and to clarify the process. In summary, the first stages of the sub structure construction will be to complete a Secant pile wall around the perimeter of the proposed basement. These piles will go down to the rock. The foundations for Zephyrus will be concrete piles bored into the rock but this will take place after the Secant wall is in place. Once the Secant piling is in place effectively an impermeable wall has been constructed from surface level to the rock. This is different to the construction approach adopted by the EfW plant and CQ1. Excavation would then be carried out to the extent that is necessary to provide the single level of basement parking. This would be carried out in a controlled manner with any historically contaminated material being identified and removed and relocated in a manner and location agreed by relevant parties, and to accord with legislation..

Water penetration into the site will therefore be restricted either through rock fissures or through limited penetration around the Secant piling. Importantly this technical note also makes it clear the extent to which the ground survey its scope and its results will be shared with Environmental Protection. EP retain the right to undertake independent water sampling whenever and wherever they deem necessary. These controls will be delivered through the CEMP which will constitute a planning condition.

Save Our Shoreline (SOS) also raise issues in relation to Air Quality. These are:

- They can not accept the suggested decrease in emissions.

Response

This is not an unusual prediction at this time. Newer cars have better abatement techniques; older cars will gradually cease to use the roads and the long term strategy of the States is to reduce the dependence on car use.

- There is no acknowledgement of the use of the 81 car spaces to serve the commercial users.

Response

The basement car park will not service the non residential users. The adjoining Esplanade car park has spaces for 500+ cars. The non residential uses are intended for those who live or will live locally, and will either use public transport or walk.

- The construction phase will have vehicle emission issues which are not identified, and there will be a significant number of vehicle movements.

Response

There will be an intensified degree of vehicle movements during excavation. The CEMP will control vehicle movement, timing and routes to minimise any annoyance. Emission limits would also be set within the CEMP within the context of the construction process.

- The States mean levels of Nitrogen Dioxide suggests there are particular times when levels are high.

Response

It is not anticipated that the levels will ever breach the national guidelines and this is a view supported by the current measurements taken on the Island with heavy vehicle movements in constrained spaces. (Halkett Street) However, it will be tested before, during and after the development. This matter is to be covered by Planning conditions.

- The incinerator could affect the air quality of future residents.

Response

This matter has already been covered in the EIA for the EfW plant.

The original response to the consultation made by SOS has been

circulated to other statutory consultees where appropriate. The issues raised have been the subject of further investigation with the applicant. This is true also of the comments made by the statutory consultees themselves. A meeting has been held with members of SOS where these matters have been discussed. The points raised by them and by the others where they are deemed to be relevant and appropriate have been included either in revised plans or conditions which require further detail. The Planning conditions impose the level of control and the supply of extra data in order to allow a strict regime of control around the project. The Geo Environmental risk Report methodology will require to be approved by the Minister before any ground investigation is begun. This will in turn direct the nature and detail of the ground investigation and interpretive report which once again will require to be cleared by the Minister before a remediation strategy is agreed. The purpose of this process is to allow the Minister to raise any objection in principle or to amend the process as the contract progresses with the nature of the site, its profile, contents, and make up determining a custom fitted approach to analysis, investigation and remediation.

The Design and Appearance

The design and appearance of the scheme has been subject to changes since its original submission. There are to be 5 Rectilinear blocks built to the edge of the site with building height set at a maximum of 6 storeys. The ground floor uses have been selected to provide as much ground floor activity as possible but to take account of the other demands that a growing residential presence on the Waterfront will bring. There are roof gardens on the flat roofs and at basement level parking space and stores will be provided for the 59 apartments. The simple linear aesthetic character of the scheme will be emphasised by its clean form and by the use of a palette of materials identified by the St Helier Urban Character Appraisal as being appropriate for the Waterfront. These materials are concrete, glass, stucco, steel and granite. The Waterfront Supplementary Planning Guidance 2006 (SPG) suggests a mix of uses with a strong leisure and residential component whose form should be designed to enhance the urban form of the Waterfront. The SPG supports a scheme of 6 storeys. The changes that have been introduced since the application was submitted have resulted in a 'softer' but more elegant appearance. The concrete frame now has balconies and the living accommodation extrudes beyond the form of the frame. This has had the affect of softening and giving a less abrupt appearance. The ground floors will also be enlivened by the use of colour to distinguish between the buildings and to give variety. The hard landscaping around the buildings on their western and northern edges will be natural granite giving that colour and texture that gives context to much of Jersey.

The SPG gives considerable emphasis to the long views into the site from all directions. The Design Statement has very effectively addressed those issues and illustrates the extent to which the

proposed scheme can be successfully integrated into the existing and proposed development of the Waterfront. The Esplanade Quarter Masterplan illustrates buildings of a similar scale within its western section. Should that scheme go ahead it would form and define the open space on the western end of the southern boulevard where it meets St Aubin's Bay.

There are some constraints on site that have been recognised and accommodated within the scheme.

- The existing roundabout and entrance to the Radisson Hotel will have to be remodelled
- The existing foul sewer and a HV main serving the Cinema complex will have to be realigned
- The building will be joined to the Westwater development
- The seawall embankment along the western edge of the site must be respected.

Conclusions

There are two principle components of this scheme. The first is the EIS and the extent to which that document and its supplementary papers address the environmental effects of the proposal and provide an adequate and inclusive set of responses for their avoidance or mitigation. A very full set of replies and comments were received from those who were consulted on the EIA. Many of the issues raised have been the subject of further work and investigation. Some of these matters have been resolved by this extra work, some will require to be covered by conditions. The list of conditions attached to any permit will be substantial, but that is no criticism of the EIS which is a well prepared document and which was improved by the extra work done as a result of the consultation and by the contributions of both Statutory and Non-Statutory Consultees. The document in conjunction with those conditions will provide a robust regime of control to ensure the scheme can be implemented whilst safeguarding its potential environmental effects.

The second component of the scheme that required careful consideration was the design appearance and form of the development. The Design Statement has accurately reviewed the issues arising and the range of policies which are relevant to the development of this particular site. The proposed development will provide an elegant and appropriately scaled addition to the buildings on the Waterfront, and will begin to 'draw in' and give substance and form to the somewhat dispersed development layout. The development of the scheme in terms of its design and appearance has advanced significantly since its submission in August 2009. The scheme is significantly more refined and has been reviewed by the Waterfront Design Group, the Minister's advisors in matters of design. The scheme is compliant with the terms of the Supplementary Planning Guidance developed for the Waterfront in 2006. It is appropriate to reserve the final details of the materials and also to ensure that colour and interest at ground floor is

delivered. The detailed treatment of hard and soft landscaping is also reserved.

Officer Recommendation

Approve

Conditions/Reasons

1. Prior to the commencement of any work on site the applicant shall prepare and submit to the Minister a Construction Environmental Management Plan. This plan should cover all aspects and elements which feature in the Environmental Statement Volume 3 Appendices.
2. All work on site must comply with Supplementary Planning Guidance; Planning Advice Note 2 – Development of Potentially Contaminated Land (2005). For the avoidance of doubt this aspect must be included within the CEMP which will require to be approved by the Minister for Planning and Environment.
3. The Implementation and Auditing of the EMP and the CEMP shall be the responsibility of a third party co-ordinator nominated and approved by the contractor, the developer and the Minister. His task will be as described in para 1.5/1.6/1.7/1.8 of Chapter 1 of the Environmental Statement – Volume 3 Appendices (Appendix A). Weekly audits of the procedures shall also be supplied to the Minister alongside a programme for the schedule of works intended for the subsequent week.
4. Should Methane Gas be encountered on site the developer must provide engineering mitigation to prevent ingress to any buildings. The proposed methodology to be subject to the approval of the Minister. For the avoidance of doubt this aspect must be included within the EMP which will require to be approved by the Minister for Planning and Environment.
5. Contaminated Land Site Investigations - The developer must ensure that during the 3 phases of site investigation
 - Phase 1 Geo-Environmental Risk Report
 - Phase 2 Geo-Environmental Ground Investigation and Interpretive Report
 - Phase 3 Remediation Strategythat the methodology for each phase is submitted to and agreed by the Minister. That the results of each phase are submitted to the Minister for his approval prior to the progression of work to the subsequent phase. For the avoidance of doubt this aspect must be included within the EMP which will require to be approved by the Minister for Planning and Environment.
6. On the conclusion of all detailed site investigations the groundwater quality data and the groundwater quality change

modelling shall be submitted to the Minister. For the avoidance of doubt this aspect must be included within the CEMP which will require to be approved by the Minister for Planning and Environment.

7. All groundwater analysis and samples taken to comply with the CEMP shall be submitted to the Minister. For the avoidance of doubt this aspect must be included within the CEMP which will require to be approved by the Minister for Planning and Environment.
8. The developer shall fund and allow reasonable independent audit water sampling on site by the Minister whenever the Minister deems this to be appropriate. For the avoidance of doubt this aspect must be included within the CEMP which will require to be approved by the Minister for Planning and Environment.
9. Air Quality - The applicant shall undertake Nitrogen Dioxide (NO₂) monitoring at the site entrance using passive diffusion tubes:
 - At least 6 months prior to construction
 - Throughout construction
 - For a period of 12 months after construction has been completed.

All data must be presented to the Minister in a format to his satisfaction. A comparative report must then be completed by the applicant comparing the data collected with the modelled scenarios within the EIS. For the avoidance of doubt this aspect must be included within the CEMP which will require to be approved by the Minister for Planning and Environment.

- 11."Noise Exposure – For the avoidance of doubt the standards outlined in para 10.2.2.2 (Environmental Statement – Volume 2) design range 'good' shall be achieved. The night noise event level and the lower garden balcony noise levels as stated are to be achieved. The applicant shall supply evidence to the Minister that on completion the standards as set out in para. 10.2.2.2 have been achieved (Environmental Statement – Volume 2)".
- 12.Particulates – The developer shall comply with the WEB Residential Scheme (Zephyrus) Environmental Statement – Volume 3 Appendices para 3.5.2 in relation to construction vehicles and air quality. For the avoidance of doubt this aspect must be included within the CEMP which will require to be approved by the Minister for Planning and Environment.
- 13.Particulates – For the avoidance of doubt the applicant must adopt for dust and emission control as a minimum standard the 'medium risk' as laid out in Table 9.21 (Environmental Statement – Volume 3.) Appendices.

14. For the avoidance of doubt the applicant shall prepare and have approved by the Minister a Detailed Site Waste Management Plan prior to the commencement of any work on Site. This shall also form a component part of the CEMP.
15. For the avoidance of doubt a secant pile wall will be constructed from above sea level and will be drilled into the rock to form a barrier around the basement perimeter of the site prior to any excavation of the site. This shall form a component part of the CEMP.
16. Prior to the commencement of any work on site samples of all proposed external materials should be submitted to the Minister for his approval.
17. Prior to the commencement of any work on site a scheme for the hard and soft landscaping of the site should be submitted to the Minister for his approval. This shall make provision for the enclosure of the site along its northern boundary. Any landscaping scheme must clearly delineate the extent of the hard landscaping on that northern side and the means of enclosure intended to provide the boundary demarcation.
18. All trees and planting implemented as part of the landscaping scheme which die or become infected shall be replaced in the subsequent planting season. The replacements to be agreed by the Minister for Planning and Environment.
19. Provision shall be retained for the creation of a cyclepath along the northern section of the site to connect with the southern boulevard of the scheme for the Esplanade Square.
20. Should the scheme for the Esplanade Quarter not be implemented prior to the completion of this scheme the road layout as illustrated on drawing no. 101 PLA shall be implemented in order to serve this and other developments.
21. Prior to the commencement of any work on site the applicant shall submit a scheme to satisfy the requirements of the Minister and to satisfy the Percentage for Art: Supplementary Planning Guidance 2008.
22. The services of the project architect (Hopkins Architects Ltd) shall be retained throughout the subsequent design and supervision/construction stages of the proposed development. The development shall also be completed to the satisfaction of this architect and a written endorsement to this effect by the architect shall be submitted to and cleared by the Minister prior to the development being signed off as complete.

23. Notwithstanding the information on the drawings the ground floor treatment of all the buildings are not approved. Further details shall be submitted to the Minister for his consideration. These details must include further information in relation to materials, colour, lighting, design, layout, entrances and colonnades. These matters must be submitted to the Minister for his approval prior to the commencement of any work on site.

Reasons

1. To safeguard the visual amenities of the area and to comply with Policies G2 and G3 of the Island Plan 2002.
2. To safeguard the visual amenities of the area and to comply with Policy G2 of the Island Plan 2002.
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16. To safeguard the visual amenities of the area and to comply with Policy G2 of the Island Plan 2002.
17. To safeguard the visual amenities of the area and to comply with Policy G2 of the Island Plan 2002.
18. To safeguard the visual amenities of the area and to comply with Policy G2 of the Island Plan 2002.
19. In the interests of pedestrian and traffic safety.
20. In the interests of pedestrian and traffic safety.
21. To comply with the SPG in relation to Percentage for Art 2008.
22. To ensure that the design quality and details presented in the Architects submitted/approved drawings are executed in the implementation of the development.
23. To safeguard the visual amenities of the area and to comply with Policy G3 of the Island Plan, 2002.

Notes

1. In preparing the CEMP the applicant shall have regard to the comments made by the Statutory Consultees. The comments made by those parties must be reflected within a redrafted and expanded CEMP especially where it relates to matters involving :

Environmental Protection
 The Health and Safety Inspectorate
 Health and Social Services
 Liquid Waste Management - TTS
 Solid Waste Management - TTS

2. The applicant should note the comments made by the Jersey Fire and Rescue Service.
3. The applicant should note the comments made by the Parish of St. Helier.
4. The applicant should note the comments of the States of Jersey Police.

Background Papers 1:2500 Location Plan

Endorsed by:

Date: 15 February 2010