

# **The Plémont Bay Holiday Village Planning Application P2011/1673**

## **Inspector's Report**

## The Application

1. The application (Document CD1.1) seeks full planning permission at the former Pontins Holiday Village at Plémont to: "*Demolish all existing buildings and remove hard-standings. Return 67% of total site area (16.19 vergees) to public accessible natural landscape, similar in size to Howard Davies Park. Replace existing Manager's bungalow/Staff cottage with 2 No. four bed houses and construct 26 No. houses comprising of 10 No. three bed houses, 11 No. four bed houses and 5 No. five bed houses all in three groups plus landscaping, footpaths and reed-bed rainwater recycling pond. Create passing place on C105 at Western edge of Field 48.*"

## Preamble

2. The application was referred to a public inquiry prior to determination, by Ministerial decision (CD6.1) dated 21 March 2012, in accordance with Article 12(1)(b) of the Planning and Building (Jersey) Law 2002, on the basis that it would be a departure (other than an insubstantial one) from Policy SP1 of the 2011 Island Plan.
3. Hearings were held on 25<sup>th</sup> and 26<sup>th</sup> September 2012 at the Société Jersiaise building, Pier Road, St Helier. My appointment (in place of a previous Inspector who was unable to continue) together with the intended inquiry hearings dates were publicly announced on 9 July 2012 (CD6.1b). I subsequently issued two pre-inquiry notes regarding the process, sent to all individuals and organisations who had expressed views on the application (CD6.3 & 6.4). I also gave the applicant prior notice of two of the questions I would raise at the hearings, in the interests of an informed and documented response (CD6.6). These concerned whether use of the site should be treated as having been abandoned for planning purposes and sought clarification regarding relevant land areas. The applicant submitted written responses to both questions (CD6.7 & 6.11), which were further examined at the hearings. At every stage all documents relating to the inquiry were promptly added to the inquiry website.
4. There were some 53 representations (all objections) in response to the application when first made (1A – 53A). In response to the public inquiry announcements, some 145 submissions objected (including 11 from those who had also objected at the earlier stage), some 22 supported with one commenting rather than expressing a position (1-145PIO, 1-22PIS & 1PIC). Internal States submissions were made by the Department of the Environment: Environmental Protection Section; Natural Environment Team & Historic Environment Team, also from Transport and Technical Services (TTS): Transport Policy Section & Drainage Section (1-7CON). Prior to the inquiry I read and have had regard to all written submissions, whether or not spoken to at the inquiry, and have also given full regard to the associated Environmental Impact Statement (CD1.CM).
5. I was familiar with the site from previous work on the Island, but revisited it on 24<sup>th</sup> September, when I was also able to go inside and spend time looking closely at the grounds and buildings, mainly outside but also in places indoors. I then visited the Portelet residential development, which featured in submissions, and Howard Davies Park, St Helier, which the applicant cited as comparable in area to the land that their proposals would cede to the public. The day following the inquiry (26<sup>th</sup> September) I undertook extensive visits, both close to the site and from viewpoints between Grosnez and Sorel Point. The Programme Officer and I were accompanied at the site by Mr Coates (Senior Planner) and both there and at most of the other locations by Mr Leithgoe (applicant's landscape architect), Mr Alluto (Chief Executive National Trust for Jersey) and Deputy Young. There was no discussion regarding the merits of the proposals.

6. I record my thanks to all participants for an informed and courteous debate into these controversial proposals, which helped my understanding immeasurably. I also thank the Programme Officer, Helen Wilson, for her professionalism and tactful efficiency throughout, similarly Angela Almeida, the States officer who ensured that everything was in place as needed at the right time and not least the States website team for their work.
7. When opening the inquiry, and in response to numerous submissions on the point, I made clear that I would neither consider nor report on the separate, political, issue of whether the States should or should not purchase the site with a view to clearance. I am, of course, aware that in the same week as the hearings the Chief Minister and Deputy Chief Minister stated their intention to put just such a Proposition before the States Assembly. To my mind this reinforces the importance of me limiting my report to planning matters.
8. This report includes the gist of the cases, as I see them, based on written submissions, oral evidence and replies to questions put by me. I then set out my conclusions and recommendations having regard also to what I saw during the site visits.

## The Site

9. Few people reading this report will I suspect require a description of the site: the former Pontins Holiday Village standing on the Plémont headland in the north-west corner of the Island. It comprises 8 two storey visitor accommodation blocks, a three storey central amenity building, 2 two storey staff accommodation blocks, a manager's bungalow and staff cottage, ancillary buildings, facilities including tennis courts and a swimming pool (now infilled) and open recreational land. The complex closed in 2000.
10. It is reached by a minor road or lane, Route de Plémont (C105), leading north from a cross-roads junction in the small village of Portinfer. A little beyond the site entrance, the road forks at a turning circle which includes the No 8 service bus stop terminus and also serves a public car park. One arm of the road turns, snaking downwards past a few houses to the popular Plémont Bay beach and café. The other continues as Rue de Petit Plémont, rising alongside the site and ending at an informal parking area on the headland crest.
11. The defined site excludes an area (stippled green on CD1/A 1871-08-62c) within the Holiday Village but now subject to disputed ownership with Jersey Property Holdings (JPH). This strip is along the northern, seaward, side of the complex and is part of the more extensive area that the applicant would cede to the public as open space, in association with the development. On this basis, the applicant and JPH have agreed to suspend their land dispute pending the outcome of the application. This disputed area contains an Occupation structure, as it stands heavily compromised by supporting a water tank and by attachments.
12. As foreshadowed at the inquiry hearings, I used the submitted photographs and photomontages (CD1.BM-CH), particularly the panorama shots, largely as identification aids. Assessments outlined in this report derive primarily from what I saw standing at the various viewpoints and from visualising the proposed development in place of that currently on the site.
13. The former Holiday Village stands prominent in views between La Hougue de Grosnez (some 1.3 km/0.8 mile to the west) and Sorel Point (some 4.7 km/3 miles to the east) and from intermediate points such as the headlands at Devil's Hole, Crabbé and Rouge Nez, and intermittently along the North Coast Cliff Path which also passes close by below on the seaward side. It dominates the view approaching on Route de Plémont and looking inland from the outer headland, La Piece Michel, and it can be clearly seen from roads and lanes further inland including Rue du Val Bachelier and Rue de la Denise. Although small relative to

the whole complex, the Occupation structure's exposed location and post-war additions makes it noticeable, even in quite distant views and particularly unsightly seen close to from the coastal path.

14. A fortuitous flight path enables me to confirm also that the complex stands prominently and obtrusively in the wider sweep of Island landscape seen from the air, while views from Sorel Point and La Piece Michel demonstrate that it has similar impacts in landward views from the sea.

### **Planning History** (15PIS/SOC1 & 7CON/SOC)

15. In 1874 the Plémont Hotel opened in the immediate vicinity. In 1935 the Jubilee Holiday Camp of wooden accommodation was built at the location of the existing buildings. It was rebuilt in 1946, following the Occupation, as the Parkins Holiday Camp, which was acquired by Pontins in 1961. The present complex of buildings was permitted in 1967 and 1968, under the Island Planning (Jersey) Law 1964, registration references 4/10/3736E and 4/10/3736 (CD6.11).
16. The more recent planning history can be briefly summarised:

**PP/1998/2766:** December 1998 application by Dandara Island Homes Ltd for Permission in Principle to demolish and erect 117 dwellings was refused.

**PP/2001/0028:** January 2001 application by Scottish and Newcastle plc for Permission in Principle to change the use to residential (of equivalent floorspace). This was withdrawn in January 2004.

**P/2006/1868:** application to demolish and replace with 36 dwellings. Refused against Officer advice in May 2008.

**PP/2009/0709:** outline application to demolish and replace with 46 two bedroom and 27 three bedroom self catering units, a one bedroom staff unit and associated facilities. This was refused against Officer advice in November 2009.

**P/2009/2108:** November 2009 detailed application by Plémont Estates Ltd to demolish and erect 30 houses (later amended to omit part of the defined site, subject to dispute with Jersey Property Holdings, and separately to reduce the houses to 28) together with land donation and other matters. This application remains pending.

**P/2011/0144:** application for 28 houses, land donation and other matters, generated by the Planning Department as a duplicate of P/2009/2108 in an attempt to progress matters. This application was not recognised by Plémont Estates Ltd and was cancelled in May 2011.

**P/2011/1673:** December 2011 the current application.

### **Gist of the Case for the Applicant** (15PIS/SOC1, CD6.15, oral evidence and supporting reports)

#### *The proposals*

17. As it stands the site, 39,471 sq m, includes 20,388 sq m (51.65%) of buildings and hardstandings at its north with associated grassland, 19,083 sq m, to its south, all within the Green Zone. The buildings amount to 9,660 sq m gross internal area. The remainder of the site is a small parcel of grassland, 2,367 sq m, across the road within the Coastal National Park. No development is proposed for that area which would form part of the land ceded to the public. The grasslands were formerly recreational areas forming part of the curtilage of the Holiday Village.
18. UK Planning Policy Statement 3 (PPS3) defines "*Previously developed-land as that which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.*" (CD4.1) The whole site, including its grassland, can be defined as brownfield.

19. The scheme would: remove all existing buildings and hardstanding; refurbish the WW2 structure as a bird hide; provide publicly accessible, naturalised grassland over 67% of the site area (26,757 sq m, 6.6 acres) divided between grassland/nature conservation land (16,338 sq m) to the north and west and naturalised grassland with reed ponds (10,419 sq m) on the central-south part; gift the naturalised landscape and grassland as public open space in perpetuity; construct three housing clusters, in traditional local style, comprising 28 houses (71% reduction in built footprint and hardstanding); ecological mitigation measures and archaeological evaluation; public artwork; and funds for research and monitoring Puffin and other seabird conservation. As there are two dwellings on the site, the net increase would be 26 rather than 28.
20. The scheme would create 6.6 acres (2.67 ha) of new publicly accessible open land with significant environmental, landscape, conservation and character quality improvements.

#### *Planning Law and Policy*

21. The claim of abandonment put forward by some has no basis in statute law and the only Jersey case to consider abandonment in a planning context *Maletroit v The Minister for Planning and Environment* [2012]JRC027A can be distinguished on its facts (CD6.11). In that case there was no existing building and no existing use. Applying UK case law requires caution; the planning regimes are not identical. There is for example no Lawful Development Certificate process on the Island. However, *Pioneer Aggregates (UK) Ltd v the Secretary of State for the Environment and others* [1985] 1 AC 132 HoL (*ibid*) established that the principle of abandonment does not apply to rights granted by planning permission. The existing Holiday Village was built in its entirety under planning permissions granted in 1967 and 1968. *Hughes v Secretary of State for the Environment, Transport and the Regions and South Holland District Council* [2000] 80 P&CR397 set four tests, referred to by the Royal Court in *Maletroit* as providing useful guidance (*ibid*).

*Physical condition:* the Plémont buildings are capable of repair and refurbishment. In *Hughes* the building had been beyond repair nine years previous and was in a ruinous state when the case was considered.

*Elapsed time:* the complex has remained unused largely because of delays with planning applications. Security and vandalism clean ups have been regularly undertaken.

*Other uses:* the only new use has been by the police for training purposes.

*Intention:* the owners intend to revert to tourism use in the alternative to redevelopment. **Mr Grindrod** confirms that the applicant has the resources and expertise, and would in practice revert to a tourist accommodation use as the alternative to residential development. The site was acquired in 2005 with a view to develop either for housing or tourism. The Planning and Building (General Development (Jersey) Order 2011 Article 3(1) and Schedule 2 Class F – Accommodation permits use as a guest house or hotel (CD2.4), subject only to registration under the Tourism (Jersey) Law 1948.

22. Tourism use remains extant and the topic of abandonment is a distraction to the merits of the application.
23. The proposals are not based on "anything is better than that which is there now." Mr Steenson says that the 2002 Law prevails over the Island Plan. Article 19 (3) of the 2002 Law (CD2.1) does allow the Minister to grant planning permission inconsistent with the Law, if he believes it is justified, however this scheme accords with both the 2002 Law and the Island Plan (CD3.1). Article 2 of the Law states that: "*The purpose of the Law is to conserve, protect and improve Jersey's*

*natural beauty, natural resources and general amenities, its character and its physical and natural environments.”* The scheme aligns precisely.

24. Mr Steenson states that the legal test of presumptions and exceptions in Island Plan Policies SP1, NE6 and NE7 and the priority given to each of these is important. This is legal semantics, because they have to be considered in parallel and literally. It should be borne in mind too that these traditional houses would contribute to the 3,000 (2,025 in years 1 to 5) windfall Category B dwellings required by the Island Plan Proposal 20.
25. The application accords with Strategic Policies:
- SP1 Spatial Strategy:* the scheme moves development away from the coast further into the interior agricultural land, which is entirely appropriate. This exception exists whether or not it is brownfield, although the applicant maintains that it is. The Jersey definitions are not clear (Mr Coates says as much) and Jersey Courts may look to the UK for clarity should the need arise.
- SP2 Efficient use of resources:* the proposals make efficient use of land and have been designed to limit carbon emissions, reuse brownfield land and recycle water.
- SP3 Sequential approach to development:* bearing in mind clearance of the existing unsightly development, the scheme has been located “where it causes least harm to the character and appearance of the landscape.”
- SP4 Protecting the natural and historic environment:* the scheme restores grassland destroyed many years ago, creates locally traditional residential clusters, restores an Occupation structure, establishes habitat for protected species and significantly enhances landscape and biodiversity.
- SP5 Economic growth and diversification:* protection of employment land does not include tourism accommodation (Economic Policy E1).
- SP6 Reducing dependence on the car:* the location is served by a bus route, with more regular services at Portinfer half a mile to the south; the scheme is below the threshold (50 houses) requiring a Travel Plan; the development would not increase traffic compared with the Holiday Village.
- SP7 Better by design:* following extensive discussions with the Planning Department, the scheme has been conceived in traditional style, with granite and rendered walls, slate and tiles roofs, dry garden walls (encouraging wildlife) together with landscaping and planting integrating the development into the wider landscape.
26. The proposals accord with General Development Policy GD1 *General development considerations*, for the reasons just stated; GD2 *Demolition and replacement of buildings*, because the outcome would enhance appearance; GD3 *Density of development*, because the low density is appropriate; GD4 *Planning obligations*, because of measures offered (which could reasonably be enlarged); GD5 *Skyline, views and vistas*, because the existing buildings substantially conflict whereas the clusters are carefully designed and located to minimise their impact; GD6 *Contaminated land*, because contaminants would be properly remediated; GD7 *Design quality*, because this high quality scheme replicates traditional St Ouen features, is well landscaped and designed in consultation with the Planning Department; GP8 *Percentage for art*, is fully met to the value of £44,645.
27. Natural Environment Policies NE1 *Conservation and enhancement of biological diversity*, NE2 *Species protection* and NE3 *Wildlife corridors*, are all met by habitat creation, translocation of protected species and funding for seabird monitoring and research. NE8 *Access and awareness*, is met by the gift of land and works to the Occupation structure.

28. Policy NE7 *Green Zone* covers most of the Island; its exceptions to most forms of development are likely to be used and considered regularly. Its preamble states: "*In planning terms, the redevelopment – involving the demolition and replacement for the same purpose in land use – of existing dwellings and other buildings in the Green Zone, where they have an established planning use, would be unreasonable to resist and may provide opportunities to secure improvements in design and local relevance, and to reduce the visual impact of existing buildings on the character of the area.*"
29. Point 13 of the Policy provides for "*development that has been proven to be in the Island interest and that cannot practically be located elsewhere.*"
30. It continues at paragraph c) "*there will be a presumption against the use of commercial buildings for purposes other than for those which permission was originally granted. Exceptions to this will only be permitted where: ... ii) their demolition and replacement with a new building(s) for another use would give rise to demonstrable environmental gains and make a positive contribution to the repair and restoration of the landscape character of the area through a reduction in their visual impact and an improvement in the design of the buildings that is more sensitive to the character of the area and local relevance. It is expected that such improvements would arise, in particular, from reductions in mass, scale, volume and the built form of buildings; a reduction in the intensity of use; more sensitive and sympathetic consideration of siting and design which ensured the local relevance of design and materials; and a restoration of landscape character.*" The scheme accords in its entirety.
31. Even in the adjoining Coastal National Park, where Policy NE6 has the strongest presumption against development, exception 5 allows demolition and new buildings which give rise, as this scheme would, to "*significant demonstrable environmental gains*".
32. Other, directly relevant, policies are also met. HE5 *Protection of archaeological resources*, as confirmed by the Museum of London Archaeology Service ("MOLAS") Archaeological Assessment (CD1/05) and an agreed planning condition (CD6.10); SCO5 *Provision and enhancement of open space*, by the gift of land; TT7 *Better public transport*, by the provision of a new bus shelter, and TT8 *Access to public transport*, by the existing service. All technical policies regarding water, energy, solid and liquid waste, would similarly be fully met. In all the proposals accord fully with the Island Plan.

#### *Traffic and Transport*

33. The Transport Assessment (for 30 houses) (CD1/CO) demonstrates that residential peak hour flows would not differ significantly from resumption of a 200 unit tourism use. Twenty eight houses would be even closer. Deliveries, waste collection and other commercial traffic would all be less than for the tourism use. Coach movements on hand-over days would not occur. A sample day in August 1998 recorded 96 coach movements.
34. The highest combined beach and residential traffic, during the August evening peak hour, is forecast at 86 movements two way (slightly fewer with 28 houses) whereas the equivalent figure recorded when the Holiday Village was operational was 97. It might be borne in mind also that in practice residential traffic would reduce somewhat in August below that normally generated, when beach traffic is highest.
35. UK Department for Transport Traffic Advisory Leaflet 2/04, with regard to "single track with passing places" advises: maximum two way flow of 300 vehicles per hour; a certain equality of flow to avoid one direction dominating; passing places minimum of 3 car lengths, ideally inter-visibility between the places and no more than 60 m apart; but visibility may influence locations.

36. There are passing places between the Portinfer Crossroads and the final turn into the development. The initial length north of the cross-roads is also wide enough to pass, and one new passing place would be incorporated in the final length of access road, mid way along its length. Even on the worst case assumptions, on average each vehicle would be expected to meet three cars or fewer travelling in the opposite direction.
37. The Portinfer Crossroads has ample capacity to carry the flows without congestion. Visibility there is restricted but in practice the accident record is low. Further afield, there are numerous routes that could be taken to reach St Helier, with little impact on the road network. TTS Highways section do oppose the housing, but on sustainability grounds relating to the remote location. This fails to take account of the alternative lawful tourism use or the benefits that would result from the scheme. They have previously advised that 40 to 45 houses would lead to an acceptable level of traffic on Route de Plémont with no improvements.
38. Of the other States responses (1-6CON), Drainage Section are satisfied, Land Controls Section opposes the loss of a very small area of field to provide the passing bay on the approach road. The area is insignificant, with no discernible impact on agricultural use of the field. Environment Protection seeks agreed planning conditions. There have been extensive discussions with Natural Environment Section, who are generally satisfied with ecological aspects. Their preference for the creation of new heathland is responded to below. Submissions by the Connétable of St Ouen (on behalf of the Parish Planning Panel) (38A & 38PIO) do not take account of planning conditions to remove permitted development rights and to safeguard planting and parking.

#### *Environmental Evidence*

39. Of the public consultation responses, many relate to matters not material to this application or planning. The applicant's environmental experts state categorically that claims of an "environmental disaster" are completely inaccurate with no basis in fact.
40. **Mr Hughes** (15PIS.SOC2, CD1/CM, CD1/CN and oral evidence) has been involved with the site since 2005 and prepared assessments with respect to P/2006/1868 (36 houses) and P/2009/0709 (self catering). He produced the Environmental Impact Statement (EIS) and Ecological Statement – Biodiversity and Nature Conservation Report (ES) with respect to P/2009/2108 (30 houses, amended to 28) (CD1/CM&CN). These reports, subject to consequential revisions (CD1/CT) and a typographical correction have been carried forward in support of the current application and remain consistent with it and the 2011 Island Plan.
41. The EIS (CD1/CM) concludes that the proposals constitute sustainable development because it would realise:
  - Major to moderate positive Economic and Social impact;
  - Major positive Environmental impact; and
  - Major positive Landscape and Visual Impact.
42. The Planning Department Review Checklist (CD5.1) concluded that "*The EIS and supporting documents present a comprehensive, professional and clear picture of the environmental issues surrounding this prominent site and the constraints and opportunities that it offers. In terms of information concerning survey, evaluation and proposed mitigation, the EIS is highly competent and sufficient to inform the processing and determination of the accompanying planning application (Ref P2009/2108).*" The current application is identical to that application as modified following submission.

43. **Mr Leithgoe** (15PIS/SOC3, CD1/CL and oral evidence) prepared the Site Specific Landscape and Visual Assessment, again initially with respect to P/2009/2108, with an August 2012 Addendum updating the assessment to the current application.
44. The Jersey Island Plan Review Countryside Character Appraisal 1999 (CD3.5) places most of the site within Landscape Character Type E: *Interior Agricultural Land* and more specifically Area E1: *North-west Headland (St Ouen)*. A small part of the site, grassland on the other side of Rue de Petit Plémont, is within adjacent Character Type A: *Cliffs and Headlands*, more specifically Area A1: *North Coast Heathland*. These designations have been carried forward into the 2011 Island Plan which now includes the E1 Area in the Green Zone and A1 Area in the Coastal National Park. The grassland area would remain undeveloped and form part of the area ceded to the public. All works would be within the E1 (Green Zone) Area.
45. Cultural heritage in the vicinity includes an Occupation observation post just outside the currently defined site, which would be restored for use as a bird hide, and a relic 19<sup>th</sup> century fort on the outer headland which would be unaffected. Although the wider area is rich in archaeology, there is no other Ancient Monument in the locality.
46. A series of photographs illustrate the prominence of the existing complex over a wide area; photomontages illustrate how the proposals, as well as being more attractive, would have less prominence (CD1/BM-CH). In particular the houses would be sited further from the cliff.
47. Pertinently the Character Appraisal describes the E1 Settlement and Building Character: *Settlement in this area has traditionally been sparse with low granite farmhouses, often clustered into groups, set into hollows on the plateau top*.
48. **Dr Young** (15PIS.SOC5, CD1/CI&CR and oral evidence) of Durrell Wildlife Conservation, is recognised as a leading authority on avian conservation. He produced the Puffin report, which also identified the other seabirds nesting regularly in the Plémont area, and coordinated work by specialist colleagues in preparation of the Protected Species Report, which focused on the Heath Grasshopper, Green Lizard and Slow Worm.
49. In short, the conservation status of the Plémont Puffin colony is dire. The reasons are not fully understood, but likely to be multiple and, in particular, predation restricts the colony to cliff face inaccessible to brown rats. Subject to rat eradication prior to demolition, and seasonal limits on demolition and ground works, there is no reason to suppose that the proposed houses would worsen the situation: there are for example already some 150 houses within roaming range of domestic cats, not to mention feral cats. Moreover, any cliff face inaccessible to rats will certainly not be reached by cats. Conversely, conservation measures are belatedly in hand and funding via the Planning Obligation Agreement would further this work.
50. The application includes a comprehensive programme for translocation of the identified protected species, prior to demolition to a prepared receptor site. The measures have been overseen and are agreed by the States Natural Environment Team. There is no reason to suppose that these measures would not be successful. A plan is attached to Mr Felton's evidence (15/PIS.SOC4 Appendix 2).
51. **Mr Felton** (15PIS.SOC4, CD1/BI-L and oral evidence) prepared the development's landscape strategy. The 2011 Island Plan gives increased emphasis to biodiversity, identifying (NE paragraph 2.25) environmentally Sensitive Areas which include: *North Coast habitats; especially heathlands, coastal grassland, maritime cliff vegetation and interconnecting habitats*. As it stands the site has limited biodiversity value.

52. The scheme strategy includes: protecting ancient roadside, field walls and banques; removal of invasive plant species; native species planting; control on encroaching bracken and bramble; grassland management and creation of associated species-rich dwarf/shrub habitat; creating reed-bed wetland habitat in association with rainwater recycling; and the formation and management of the receptor site for translocated protected fauna species. Habitat would be further extended by domestic dry-stone wall and hedge boundaries, and by a species enriching grass cutting regime.
53. Plant species, such as blackthorn, hawthorn, elder and broom, reflect the neutral to slightly acid soil. Significant tree planting is neither appropriate nor practical at this exposed location, but there are some trees locally, including pines, and some would be planted, as young specimens, in the lee of buildings or protected by low growing vegetation. Heathland is scarce on the Island, and the Natural Environment Section's preference for its creation on the restored land is understandable. However, this would be inappropriate here, above the escarpment, where the soil type is unsuitable and grassland predominates. Scrub clearance, the seed mixture and maintenance regime would all be important, and particular habitats would be incorporated within the translocation area for protected species. These matters would be subject to further detailed control through an agreed planning condition.
54. Following demolition of the existing complex, uninterrupted landscape and habitat corridors would be facilitated by the locations for the proposed clusters.

#### *Conclusions*

55. In conclusion, no contrary credible expert, or any, evidence is presented by objectors. It is indisputable that removing the buildings, which currently blight the views from the headland and coastline, can only improve the natural beauty of the area. It is difficult to comprehend why objectors prefer the existing buildings to remain close to the escarpment. Some opponents seem to think that the solution to these buildings is to have the Planning Minister require their removal under powers in the Planning Law, which enable the Department to deal with ruinous or dilapidated property. This is not the case at Plémont. These buildings have been maintained and are capable, without planning consent, of restoration.
56. This application furthermore has the support of the Planning Department. That should not be forgotten. Neither should it be forgotten, as many of the objectors might wish, that this is privately owned land and that the owner has the right to utilise it to its full potential, whether that be with this proposal for housing and publically gifted land, or as a tourism venue. No members of the public, or non-elected pressure group, has the right to stop the owner's enjoyment of their land. Claims of public rights over private land must be set aside and the application considered only on its planning merits: it accords with the Planning Law and Island Plan in its entirety, would provide significant environmental improvement, and should therefore be approved without further delay.

#### **Gist of Evidence for the Planning Department** (7CON.SOC7 and oral evidence)

57. The site is primarily within the Green Zone where Policy NE7 includes a strong presumption against all forms of development. Strategic Policies SP1 and SP3 would not lead to the selection of the application site as a preferred location for accommodating a net gain of 26 new dwellings. Accordingly, the Department considers the proposals to be a substantial departure from the 2011 Island Plan. But there are significant mitigating factors, sufficient for the Department to lend its full, but conditional, support to the application. Given the unique circumstances, this support does not lead to any form of precedent likely to weaken the objectives of the Island Plan.

58. Policy NE7 presumes against the redevelopment of commercial buildings for anything other than their original purpose, but makes an exception where the redevelopment would give rise to demonstrable environmental gains and where it would make a positive contribution to the repair and restoration of landscape. These proposals would secure the removal of an unsightly and extensive range of derelict buildings and revert a substantial area back to its natural state. The three clusters of dwellings are considered to be a reasonable and proportionate element of “enabling development” (Policy ERE3), without which the prospect of clearing the unsightly structures is very much diminished.
59. The proposal represents a clear and significant reduction in the building mass and floorspace; splitting the development into 3 clusters would further serve to break up the perceived bulk of the existing structures. The new dwellings would be visible on the skyline from various viewpoints, but not so as to result in a seriously detrimental impact or cause the loss of any strategic view or important vista.
60. The proposed new dwellings share a high quality of design following a rural vernacular, with significant openness punctuating the 3 clusters. Although not on the same footprint as the existing structures, the 3 clusters would be ‘pulled’ away from the North coast cliff path, offering a greater visual buffer between the coast and the development. This is an appropriate response to the sensitivities of the site and its surroundings.
61. The applicant’s submissions and evidence on the issue of abandonment is accepted. The complex could be refurbished and tourism use resumed without requiring a further planning application. An analogy would be a dwellinghouse, left vacant but still substantially standing: it could be reoccupied.
62. The Environmental Impact Statement submitted concludes that the development would lead to a very high positive environmental impact and this conclusion is also accepted.
63. Notwithstanding policy presumptions against new residential development outside of the principal settlements, this proposal would result in significant and substantial repair and restoration of landscape character and enable the wholesale clearance of the existing Plémont Holiday Village structures, currently a blight on the sensitive North coast. Accordingly, the proposals represent a justifiable exception to locational policies and accord with the exception permitted under Policy NE7 cii.
64. The Department supports the proposal, subject to conditions and an Obligation Agreement to secure ceding and onward maintenance / management of the reverted land and to secure compliance with the various requirements, as stated within the relevant policies of the 2011 Island Plan.
65. In reply to questions by the Inspector. In the particular circumstances of *Webb v The Minister for Planning and Environment* [May 2012] (CD6.13) the Royal Court recognised that a decision may be based having regard to the superseded 2002 Island Plan, but there are no such circumstances in this present application, which should be assessed under the 2011 Plan. The UK definition of previously developed land does have application as the Jersey definition is too vague. Island Plan Housing Policy H3 is not yet adopted (pending Supplementary Planning Guidance) and accordingly there is no policy requirement for an affordable housing component. The TTS Sustainable Transport Policy was adopted by the States in December 2010, but has yet to be brought into effect while it awaits funding (7CON.SOC.1).

**Gist of the Case for Mr John Henwood** (6PIS and oral evidence)

66. He has no connection with the applicant, but speaks solely as a concerned Jerseyman. The site is a deteriorating eyesore, which would be erased and a generous proportion returned to nature at no cost to the public. Unless replaced it is possible to envisage the site being returned at some date to tourist use (the owners have extensive leisure industry interests) with consequent noise and traffic disruption. Even were there no prospect of a return to tourist use, this modest vernacular housing scheme would be immeasurably more attractive and it would be located further from the cliff edge. Onerous planning conditions and obligations agreed to by the applicant add to the case. What is proposed is proportionate and offers much needed work in construction. There is a need for housing on the Island and if the current scheme for twenty eight homes is refused it is not difficult to envisage proposals coming forward at some time for more.
67. Although attractive, this length of coast is neither unique nor the very finest. The National Trust's 7,000 person (this number is uncertain) Line in the Sand demonstration was directed to *inappropriate* development on the coastline generally, not this scheme. As a proportion of the Island population, the number suggests that some 93% are in favour or indifferent about the issues.

**Gist of the Case for Mr Ben Shenton** (18PIS and oral evidence)

68. He was a States Senator from 2005 to 2011, holding several offices. He has no personal connection with the applicant. The outcome regarding this site should be on objective planning grounds. During the States Assembly debate (regarding possible purchase) in October 2010 he argued that the (then) development proposal was well thought out, generous, donating quite a bit of land to the public without cost to the taxpayer. That remains his view with regard to the current application, revised in line with advice by the Planning Department. It is a Jersey scheme, prepared by a Jersey architect, following guidance by Jersey planners; it is wholly different from the Portelet development. The application is entirely reasonable, complies with Jersey Planning Law and the Island Plan, removing a large blot on the landscape, offering huge environmental gains and much less built development, which itself would be of traditional form.
69. The alternative would be restoration to tourist accommodation, as proposed in 2009, for which there is a serious under-supply. The previous tourist use led to the lane being choked with coaches and other vehicles. What is proposed is much preferable. The site is suitable, with adequate road access and mains drainage.

**Gist of the Case for the National Trust for Jersey** (37A and oral evidence)

70. The application must be decided from the correct perspective. This should not start from the present state of the site. Everyone agrees that it is an eyesore, but the applicant's case is to retain that eyesore until they get their way. Their whole approach is predicated on the basis that one day they will get their way. The offer of land should not be seen as philanthropic, it is conditional on the grant of planning permission and not really a benefit. It would not be difficult to clear the site and return it to nature.
71. Crucial to the decision is the Planning and Building (Jersey) Law 2002 (CD2.1).

Article 2(1) states that "*The purpose of this Law is to conserve, protect and improve Jersey's natural beauty, natural resources and general amenities, its character, and its physical and natural environments.*"

Article 2(2) states that, amongst other matters, the intention of the law is:

*"b) to protect sites, buildings, structures, trees and places that have a special importance or value to Jersey;*

*d) to ensure that the coast of Jersey is kept in its natural state;"*

72. It is difficult to see how the development of twenty eight houses could protect and conserve the Island's natural beauty and coastline. The application is contrary to the Planning Law, and the Island Plan is expressly founded on the Law. The Law prevails, and it says nothing about approaching decisions on a comparison basis. Replacing something ugly with something slightly more attractive is not the aim of the Law.
73. No "legitimate expectation" was created when the Planning and Development Committee indicated in June 2002 that it would consider some limited form of residential development. This was "without prejudice", subject to a caveat against any form of estate development (as now proposed) and pre-dated the 2002 Law, itself subject to judicial guidance in *McCarthy v The Minister for Planning and Environment* [2007]JRC063 which emphasises the importance of due process (CD6.13a).
74. Strategic policies in the Island Plan (CD3.1) are the link between the Law and the implementation policies. Policy SP1 *Spatial strategy* requires development to be concentrated in the defined Built Up Area, with only limited exceptions, none of which conceivably apply in this case. Policy SP3 *Sequential approach to development* similarly unequivocally conflicts, and neither policy recognises exceptions.
75. Policy SP4 *Protecting the natural and historic environment* gives high priority to protecting the Island's natural and historic environment, requiring that protecting the countryside and coastal character types which contribute to its unique character will be key material considerations. The Policy draws on the Countryside Character Appraisal 1999 (CD3.5), which is itself therefore a material consideration. The Appraisal (page 41) highlights that any development at the holiday complex at Plémont would be a threat to local character. It goes on (page 42) to recommend that "*There is no capacity to accept further development. In this area, even small scale isolated developments can have a major impact on the sense of wilderness, isolation and remoteness which are important, although diminishing qualities in Jersey.*" In the light of the Countryside Character Appraisal, the application fails to meet the criteria and objectives of SP4.
76. Policy SP6 *Reducing dependence on the car* requires housing development applications to demonstrate how they will reduce dependence on the private car, by providing more environmentally-friendly transport modes and demonstrating easy accessibility to pedestrian, cycle and public transport networks. Housing at Plémont, just about the furthest point from St Helier, would be heavily reliant on the private car, a view shared by Transport and Technical Services.
77. It follows that the scheme conflicts with Policy GD1 *General development considerations* since this requires compliance with SP1, SP4 and SP6. Policy GD5 *Skyline, views and vistas* seeks to minimise the visual impact of development upon the Island's rich landscape including views of the coastline. Its preamble includes: "*The scale or height of existing buildings and structures which detract from an important skyline, vista or view will not be accepted as a precedent for their redevelopment where there is an opportunity to repair the skyline, vista or view with more sensitively scaled development. The Minister for Planning and Environment will seek to repair important skylines, views and vistas, through the development control process ...*" GD5 is particularly pertinent. Plémont is an extremely sensitive area of coastline, conspicuous from the road and key coastal locations including Sorel Point and Grosnez. The proposals would not repair the skyline, as the houses would be immensely visible along the roadside and, in its effect, obscure views towards the coastline in a similar way to the Holiday Village. The two clusters to the north would have a highly visible impact.
78. Island Plan Proposal 4 requires the Minister to "*have regard to the Countryside Character Appraisal when determining proposals for development which affects*

*the Island's coast and countryside. The primary consideration will be to protect and enhance the character of the Island's coast and countryside and the landscape impact of development proposals on the coast and countryside will be assessed and determined against the Countryside Character Appraisal ...” As summarised in paragraph 75 above, these proposals conflict with the Character Appraisal.*

79. Policy NE7 *Green Zone* opens by stating that these defined areas will be given a high level of protection and there will be a general presumption against all forms of new development for whatever purpose. This initial underlying presumption is subject to a list of 13 potential types of exception but even these “*will be permitted only where the scale, location and design would not detract from, or unreasonably harm, the character of the area.*” Effectively there are further presumptions against even the possible exceptions to the initial presumption against new development in the Green Zone. The application proposals do not accord with any of the development types listed, although regard may be had to the final one: 13) “*development that has been proven to be in the Island interest and that cannot practically be located elsewhere.*”
80. However this is itself “*for the avoidance of doubt*” subject to further negative presumptions, including: c) “*there will be a presumption against the use of commercial buildings for purposes other than for those which permission was originally granted.*” The proposals conflict with that presumption. Added to this, the Policy preamble paragraph 2.82 requires that what is there now has an established planning use. The applicant is left relying only on an exception, section cii, to this final layer of presumption against their proposals. Even that is subject, paragraph 2.83, to an “extremely limited” residential yield, in line with the aims of Spatial Strategy and Reducing Dependence on the Car.
81. Put shortly, Policy NE7 has cumulative layers of strong presumptions against what is proposed, each making an overall exception ever less likely. Approval requires every exception to every policy. The onus is on the applicant to demonstrate a very strong case to rebut the policy presumptions against their proposals. An exceptional case would be needed, not merely something that is better than what exists.
82. Permitting this application “because what is proposed would be better than what is there now” would be a dangerous precedent and the wrong approach, contrary to the Law and the Strategic Policies. If legitimate, it follows that any of the previous housing applications could have been approved. In 2009 permission was refused not just for the 36 houses applied for, but the 30 recommended for approval by Officers, as being significantly more than the then Minister was prepared to allow. A reduction to 28 is not a “significant” reduction and in any event the total residential floor area has been increased. There is no choice of options being put forward and if the wrong application has been made then it should be refused.
83. Comparisons with what is there now create a perverse incentive to allow the site to become an eyesore, combined with a somewhat unsavoury veiled threat made to the inquiry that without redevelopment it would deteriorate further. The claimed “fall-back” to tourism would be less desirable to the applicant – it failed previously and the site was purchased speculatively. The issue of abandonment is being pursued by others, but it may be noted that the applicant’s response relies heavily on UK case law. The only Jersey case cited (*Maletroit*) (CD6.11) was decided on its facts, which bear no relation to those here. And on the face of it, the four tests of abandonment in the UK cases could well be met.
84. There is nothing generous about donating land as a condition for residential redevelopment. Measures such as exterminating the rats, funding for bird research are worthy and, in themselves, bound to be welcomed by ecologists. But

this is not an "all or nothing" decision. There is a sliding scale between leaving things as they are and full return to nature. The wrong balance is proposed. Articles 84 and 86 of the Law may offer other remedies, but Mr Coates confirms that these have not really been considered. The Planning Department's reluctance on this is understood, but consideration at any rate ought to have been given as the site deteriorated, becoming subject to vagrancy, vandalism and potentially hazardous to children as an unauthorised play area.

85. The existing derelict buildings are an eyesore, but three substantial clusters comprising twenty eight houses would not in practice enhance the landscape. The claim of "two-thirds natural" requires factual examination. The applicant's own figures may be used to clarify the position.

	<b>Existing Sq Metres</b>	<b>Proposed Sq Metres</b>	<b>Outcome</b>
<b>Total application site</b>	39,471	39,471	No change
<b>Developed land</b>	20,388	12,121	40% reduction
<b>Undeveloped land</b>	19,083	26,757	40% increase

There would be 40% reduction in developed land: "two-thirds natural" fails to allow for the 19,083 sq metres that is not currently developed. The applicant has had to introduce the England definition of previously developed land, to include curtilage, when the Island Plan includes unambiguous Jersey definitions of what constitutes a Brownfield Site or Greenfield Site. The Royal Court in *Steenon v The Minister of Planning and Environment* [2009]JRC244A advised that "English policy may have little application" on the Island.

86. Also and crucially, Policy NE7 is not about public accessibility, but demonstrable environmental gains emanating from landscape restoration and reduction in visible impact: the issue is not whether the applicant delivers land equivalent to Howard Davies Park, but whether the project would restore this sensitive coastal area. This housing estate would not result in adequate landscape restoration: the site would remain visually intrusive, retaining an adverse impact on the open windswept headland. A 40% reduction is insufficient justification set against the presumption against use of this commercial site for housing, given the exceptionally sensitive, unique coastal location.
87. Policy TT8 *Access to public transport* states that developments of more than 10 units of residential accommodation should be within 400 metres of a bus service. This is not met on Sundays or during the winter when the nearest bus stop is at Portinfer.
88. Proximity to the designated Coastal National Park is a further material consideration. Even the applicant's team occasionally let slip that the site is on the coast. Mr Henwood's assertion that the Line in the Sand demonstration points to 93% of Islanders being in support or indifferent to the proposals does not bear examination; there has been no demonstration of support.
89. Article 19(1) & (2) of the 2002 Law requires that all material considerations must be taken into account and in general permission granted if proposals accord with the Island Plan. This application should be refused as failing to meet many Island Plan policy requirements, as well as key objectives of the Law. Article 84 provides an alternative route to remediating the dereliction, but Mr Coates has confirmed that this has not really been considered. The claimed environmental benefits are insufficient to overcome the policy presumptions against this development, as the outcome would simply replace what exists on the Plémont headland with another inappropriate form of development. Public access is largely a red herring, as the North coast would remain largely in private hands and public enjoyment is not based on accessibility and ownership, but rather the opportunity to walk along a narrow cliff path, through an open landscape retaining a sense of tranquility and

wilderness. This is the environmental benefit that the Trust seeks, but which would not be delivered by this application.

**Gist of the Case for the Société Jersaise** (45A, 45.1PIO, 45.2PIO and oral evidence)

90. Since its foundation in 1873 the Société has focused on Jersey's history, antiquities, ancient language, geology and natural history. The Plémont headland has many relevant features. Major concerns are the effect on visual landscape, including geological appearance, archaeological landscape (from the earliest habitations by Neanderthals) and seascapes.
91. The applicant commissioned Desk Based Archaeological Report (CD1/cs) confirms flint scatter areas in the vicinity, never properly studied but likely to be Mesolithic. This period has previously had little attention and no reduction of remains in situ should be allowed. The Report concludes that there is a high potential for prehistoric archaeology.
92. Of major importance is the location in the Island Plan (CD3.1) Green Zone, but in the context also of the Plan's overriding policies on sustainability. Proposal 4 *Coast and Countryside Character* sets the hierarchical approach to relevant policies, so that if there is any doubt regarding the application of Green Zone policies this should be resolved in a way that gives effect to enhancement and restoration of local landscape. Policy NE7 *Green Zone* gives a high level of protection to the areas so defined and a general presumption against all forms of new development for whatever purpose. None of the listed exceptions accord with what is being proposed. Moreover, to the extent that the exceptions do allow for some forms of redevelopment, they implicitly require replacement at the same location, not some distance away on several different footprints.
93. The Policy recognises that any building should have reduced visual impact and be more sensitive to the character of the area and local relevance. Here 28 houses would be built, substantially on land where there have been no previous buildings. The claimed "simulated hamlets" are uncharacteristic of this part of the Island. Any reduced impact from removing the Holiday Village would be replaced by more widely spread, essentially housing estates, on former agricultural land. New buildings for a different purpose at a different location cannot qualify as one of the exceptions in NE7 against Green Zone development. The claimed return of two thirds to nature is difficult to explain numerically, but even on this basis one third would be built on, contrary to policy.
94. The applicant refers to acceptance by the Planning Department that earlier proposals accorded with Policy C5 *Green Zone* of the 2002 Island Plan. That Plan has been superseded. The current Policy NE7 is much more comprehensive. Even were sufficient environmental gain offered, paragraph 2.83 rules out achieving this by more than extremely limited residential yield. Paragraph 2.85 further reinforces the point. The final part of NE7 puts the issue beyond doubt: "*Development proposals that are potentially permissible exceptions to the presumption against new development in the Green Zone will only be permitted where they do not seriously harm the character of the area*". Whatever the benefits of removing the derelict buildings, three new groups of houses cannot do other than harm the area's environment.
95. The Island Plan preamble (paragraph 2.73) confirms public support for strengthened rural protection and this led to designation of the Coastal National Park, subject to Policy NE6, where there is the highest level of protection and strongest presumption against development. Surprisingly and contrary to submissions at the time, the Plémont headland was excluded, but it is enclosed by Coastal Park on three sides and that proximity is an important material consideration.

96. The proposals are plainly contrary to the Island Plan Spatial Strategy, in particular Policy SP1 and its preamble: the site is remote, the development inappropriate to the coast and countryside and the site is at a sensitive landscape location. If viewed as brownfield these houses meet no identified form of need and if greenfield they are not intended to meet parish needs. Policy SP4 affords high priority to protecting the Island’s natural and historic environment, and makes specific reference to character types. The site, as distinct from the existing buildings, comprises past farmland on the edge of cliffs, entirely typical of the character type identified here by the Character Appraisal.
97. Transport and Technical Services Traffic Section are taking a progressively stronger stance against development at Plémont (4CON), on sustainability grounds, declining to compare traffic that would be generated now with that which resulted from the Holiday Village. Their written submission is much more forceful than suggested by the Planning Department in their own report on the application. This is almost the remotest part of the Island and bus services are infrequent; they are unlikely to increase in response to twenty eight houses. Car usage would be high as evidenced by the large number of garage spaces.
98. Past planning mistakes, here and elsewhere, do not justify a further mistaken decision. Judged, as it should be, on its own merits the proposals conflict with at least five Island Plan policies: GD1, SP1, SP4, NE6 and NE7. There is no provision in the Plan for replacing obsolete development with new development at a different location, nor for founding a decision on a comparison with an existing eyesore. The *McCarthy* (CD6.13a) judgment requires that significant weight be given to the public interest and that the Minister is not held to any previous indication regarding what might be permitted.
99. The decision now should be based on the Island Plan, in the public interest, having regard to the Countryside Character Appraisal, and concluding that none of the Policy NE7 exceptions are applicable. The environmental gains may be welcome but do not validate the application. This inquiry is to assess the application, not to seek to balance non-compliance with Island Plan policies (intended to control development) against any associated positive benefits. The Line in the Sand demonstrated public interest in the coastline generally and since the Plémont site had been in the news there can be little doubt that it featured in participants’ minds. It may be noted that some 145 objections have been submitted to this inquiry and only 22 submissions in support, most of the latter being either Government Departments or individuals concerned about financial implications.

**Gist of the Case for the Council for the Protection of Jersey’s Heritage** (13A, 13.1A, 13PIO and oral evidence)

100. Heritage is defined in its broadest sense as anything that is or may be inherited. It is now recognised that Governments have a legal and moral responsibility to protect heritage for future generations. Jersey is a signatory to the Valletta Convention for the protection of archaeological heritage. The Council of Europe recognises the need for “Integrated Conservation of Cultural Landscape Areas as part of Landscape Policies.” Self evidently, landscape protection also safeguards ecology and its natural flora and fauna. Disappointingly, Jersey’s Natural Environment Department has not addressed fundamental impacts, but appears to have accepted that the application would be approved and has merely sought protective conditions.
101. The Council has consistently opposed proposals for housing developments on this historic coastal headland, as contrary to the Building and Planning (Jersey) Law 2002, in particular Article 2, and now also the 2011 Island Plan, each specifically intended to protect important coastal and countryside areas. The application

development would constitute a major environmental disaster and reflect badly on Jersey's intellectual and cultural standards.

102. The Environmental Impact Assessment (CD1/CM) and Site Specific Landscape and Visual Assessment (CD1/CL) each fail to have adequate regard to the Countryside Appraisal Report 1999 (CD3.5) (which gives clear guidance contrary to the application) and an important viewpoint near Hougue de Grosnez. Directions by previous planning committees rejecting housing proposals have been ignored: this would be an estate form of development spread over a wider area than the holiday camp. The applicant's limited comparison of floor areas ignores garaging, parking areas and gardens, and says little about actual visual impact. The stated reasons for refusing the 2006 application for 36 houses remain valid.
103. The derelict holiday camp is the only conceivable support for the application. But the tightly built camp was permitted at a time when tourism was seen as paramount and preservation less appreciated than now. The unused buildings have decayed and consideration should be given to remedial action under Article 84 of the 2002 Law (CD2.1). New, large scale, essentially suburban residential development cannot amount to an environmental gain, or repair the landscape through reduced visual impact. The houses would be seen from viewpoints along the coast and would be more prominent, as seen from the local roads, than the existing buildings by being moved closer. Permanent destruction. Contrary to the applicant's claim, hamlets are not a Jersey tradition, the rural pattern has been scattered farm houses and other buildings; the clusters, including terraced housing, are just a modern contrivance with no local relevance. Domestication by occupants would complete the harm.
104. Replacing the existing derelict camp with large scale housing, much not even on the camp footprint, would be directly contrary to Island Plan Policy NE7. Specifically NE7 affords the Green Zone a high level of protection, with a general presumption against all forms of new (this key word is omitted in the Planning Department's Statement of Case) development for whatever purpose. Even the rather weak reliance on NE7 clause c ii is negated by the Policy proviso that "*development will be permitted only where the scale, location and design would not detract from, or unreasonably harm, the character of the area.*" Clause c ii is in any event simply within a section headed "*For the avoidance of doubt*", it should not be taken as somehow overcoming both the presumption against new development and against existing commercial development being redeveloped for a different use. To meet the limited exemption in NE7 it would be necessary for the applicant to demonstrate that the development is in the Island interest and cannot be located elsewhere. Twenty eight expensive houses cannot be said to meet housing or community needs. Based on Jersey definitions, 15 of the houses would be on Greenfield land, warranting immediate refusal, and regard should be had also to the importance of food supplies and Policy ERE1 *Safeguarding agricultural land*.
105. **Dr Renouf**, is an acknowledged expert on Jersey's archaeology and history, particularly with regard to its coast. The Plémont headland's importance cannot be overstated: an integral part of a prominent, scenically beautiful and historic landscape, seen in clear views between Grosnez to Sorel Point. *There is no comparable stretch of coastal cliff in the Channel Islands, in Brittany, in Normandy or in Southwest England that can claim such a range of geological, archaeological, historical, natural historical and other features as this area of cliff and heathland in Jersey*<sup>1</sup>. Priceless, scenic, cultural heritage to be preserved.
106. The planning distinction between Green Zone and Coastal National Park is not relevant: the whole stretch is coastal. The former holiday camp sits on the

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<sup>1</sup> From an unpublished paper by Dr Renouf

highest part of the headland: leaving Portinfer, the land falls initially before rising to the camp and then dropping to the sea. This is typical of a Channel Island headland, shaped by past changing sea levels. The headland should be seen as an archaeological site. The bay, once the home of Neanderthals, part of our ancestry, is now part of our heritage. Field patterns mapped in 1795 were not destroyed by the holiday village and remain of great historical importance. They should be fully restored. The skyline site affects a wide sweep of coastline, which without the development could well be eligible for designation as a World Heritage Site, or at least a European designation. This possibility would be destroyed by the development.

**Gist of the Case for Senator Sir Philip Bailhache** (6PIO, 6.1PIO, 6.2PIO and oral evidence)

107. Sir Philip modified his submissions in the light of evidence that the entire Holiday Village was created under the 1960s planning permissions. In particular he reserved his position, previously stated on the issue, of whether the use should be treated as having been abandoned. At the time of the inquiry he was imminently to submit a Proposition to the States to purchase the site, at a fair price, but affirmed that this is not a matter for the inquiry.
108. On the planning merits he aligned himself fully with the case presented by Mr Steenson. Pressure on the Green Zone is remorseless: planning officials have to be helpful, but also must have regard to the Island Plan. An uncomfortable place, but they erred in ever suggesting that residential development at Plémont might be permitted. A very unhappy precedent. Owners of dozens of derelict glasshouses would be delighted. The decision should be strictly in accordance with the Island Plan, and as set out by Mr Steenson, Policy NE7 sets a triple presumption against the proposals.
109. When the Preservation of Amenities (Jersey) Regulations 1947 (6.1PIO) was debated, opinion was sharply divided between those wanting to encourage the Island's tourism industry following the Occupation and those wishing to preserve its landscape. Economics versus landscape. Roll that debate forward to today, when there is a glut of expensive houses available on the market. The applicant's reliance on Policy NE7 c ii requires them to demonstrate environmental gain. This is subjective, balancing commercialism against the environment; the glorious landscape of the North coast. Would the "reasonable man" see these houses as an environmental gain?
110. It is understandable that the Minister has been reluctant to use the provisions of Article 84 of the 2002 Law while matters have been under discussion, but it should be considered now. Why will the applicant remove the existing hideous eyesore only with a grant of planning permission? It is rat infested and dangerous; a responsible owner would have taken steps to remove it. The buildings have been retained only to enhance the chance of a planning permission. Were the site cleared to the ground the considerations would be very different.
111. He has no criticism of the submitted designs, which are very attractive and in many locations would be acceptable. But at this location the outcome would be almost as bad as the present eyesore, with subsequent domestication adding to the harm. There would be no demonstrable environmental gain.

**Gist of the Case for Deputy John Young** (145PIO and oral evidence)

112. He would make the same points whether or not a States Member. He came to Jersey in 1979. From 1991 to 2004 he was Chief Officer of Planning but cannot recall any personal involvement with the Plémont site. After 2004 he lived close to Plémont. The locality is one of the finest. If spoilt, then nowhere is safe. He presents fundamental rather than detailed objections. The applicant's case asserts a "reasonable compromise" but why should one be contemplated? The

1987, 2002 and current 2011 Island Plans consistently recognised the importance of this locality, within which the Green Zone/Coastal National Park boundary is artificial.

113. Why should the applicant be "entitled" to replace a long derelict site? As the Planning Department acknowledge the new, residential use would be entirely contrary to the Island Plan strategic policies, which steer new development to the defined built up areas. Excellent points regarding Policy NE7 have been made by Mr Steenson, Mr Anthony, Mr Mesch and Sir Philip Bailhache; he aligns himself with them. Regard should be had to the development's appearance not just from the land but from the sea and indeed the air. There are no more than a few isolated dwellings in this part of the Island, originating prior to planning control. The suburban housing proposed would change this part of the Island forever. They would also overload the local lanes and capacity of available schools. The nearest shop is at St Ouen, several miles away and impractical to reach and return by bus.
114. The lanes and coastline are stunningly beautiful. People go there to relax and enjoy the tranquility. A holiday camp application would not be acceptable now. Life was very different in the 1960s. Visitors came and stayed on the site. There are empty holiday camps in the UK, and no suggestion that these will necessarily be replaced by housing. Twenty eight houses would lead to round the clock activity and coming and going throughout the year. Say 100 cars kept there and 500 to 600 traffic movements per day. The Traffic Assessment (CD1/CO) does not address this clearly, and should be based on the situation now, not by comparison with 1999. The States Sustainable Transport Policy was adopted at the end of 2010, steering the Strategic Policies in the Island Plan and plainly opposed to the proposals.
115. The question of whether existing tourism use of the site should be treated as having been abandoned can be considered in the practical and legal sense. There is an arguable issue in law. The facts in the Jersey *Maletroit* case (CD6.11) differed from those at Plémont, but the judgement does confirm that the UK *Hughes* case (*ibid*) provides useful guidance. The applicant argues that a use subject to a statutory planning permission cannot be abandoned, but the 1967 permission did not include the whole development – the 1968 Amenity Block came later – and it was for a replacement, not wholly new development. There was previously the hotel, pre-war holiday camp and then the early post-war camp. So the tourism use predicated modern statutory planning controls. Further, legal, exploration is warranted.
116. Given that UK case law can be relevant, the four tests of abandonment point to a need for planning permission for tourism use to resume now. The elapsed time: 12 years; condition of the buildings: deteriorated; intervening use: yes, by the police for training purposes; intentions of the owners: an application for bed and breakfast refused and otherwise residential applications. Tourism use has for all practical purposes been abandoned, and the current application should be considered solely on its own merits, rather than by comparison with the former use.
117. Also current building bylaw requirements would need to be met to bring the buildings back into use, and that would be likely to require works materially affecting the buildings' external appearance, making them subject to planning control. Any application would be judged against the 2011 Island Plan (CD3.1) and could be expected to fail.
118. Without wishing to criticise officers, Article 84 of the 2002 Law (CD2.1) is there precisely to address this type of situation. Preference for a mutually agreed solution implies a "done deal", which in the light of *McCarthy* (CD6.13a) cannot be binding. Other dilapidated buildings have been cleared to remove eyesores, the

Milano Bar in the 1990s for example. Alternatively, consideration could be given to a Legal Obligation to clear the Plémont site, enabled by development elsewhere at a more suitable location. It is not necessary to override the Island Plan in order to remove the holiday village, and any housing need is for affordable, not luxury, provision.

**Gist of the Case for Sir Nigel Broomfield** (22PIO and oral evidence)

119. Planning decisions balance rights between an applicant and the public interest. There are plenty of high value houses on the Jersey market, and so no housing need for those proposed on a unique area of coast. At the time when the holiday camp was built it was usual for visitors to stay put. The small access road was adequate. The Island population has grown considerably since and it is difficult to see it being kept below 100,000. The Island's southern side has been heavily developed and unspoiled countryside diminished. The Line in the Sand event demonstrated how Islanders value their undeveloped coastline. Lessons must be learnt from Portelet. If Plémont goes ahead other proposals to in-fill a bit more coastline will follow.

**Gist of the Case for Mr Pierre Horsfall** (82PIO, 82PIO/SOC and oral evidence)

120. The application is contrary to the 2002 Law (CD2.1), primary legislation sanctioned by the Queen in Council. The Island Plan is subordinate to the 2002 Law, which can be amended only by a further Act similarly sanctioned. Articles 2(1) and 2(2) are particularly apt, and with regard to them the coast's natural state has to be judged as much from the sea as from the land. The application reverses the requirements of this primary legislation, so approval would be *ultra vires* even if purportedly compliant with the Island Plan. Articles 84(1) and 86 provide other means of addressing the site's existing impacts. Combined with Compulsory Purchase Powers under Article 119 or by agreement (in either case on a fair valuation) the remedy is clear. The rugged North coast is one of the Island's most precious assets, and in the past the States has safeguarded coastal land by purchase, such as above Bouley Bay and L'Etacq. That same spirit should prevail here. But for the ruined holiday camp, no one would contemplate houses there. If allowed, the headland would be lost forever.

**Gist of the Case for Mr Bob Le Seur** (96PIO and oral evidence)

121. While sharing objections made by others, he will focus mainly on traffic implications. He remembers the 19th Century Plémont Hotel, followed by the very basic wooden holiday camp which was very greatly extended in the 1950s. Life was very different with few cars. Plémont beach was popular but people went by bus or bicycle, as did most visitors staying at the holiday camp. The road from Portinfer was generally adequate with just occasional problems on sunny Sundays. Now virtually everyone has a car. The two car parks can be quite full and congestion occurs when people leave. Add an estate of high quality properties, with every adult owning, probably, a larger car, and the access road would be hell for residents and beach visitors alike. It would also be used by those servicing the houses: deliveries, meter readers, cleaners, contract gardeners etc. There would be constant two way traffic. Almost all would also use the main road to the Parish Hall and many the road to St Peter's. With congestion would come the temptation to speed. Nobody looking at a map of Jersey would choose Plémont as the location for housing and the traffic issues have been only lightly addressed.
122. The Line in the Sand event demonstrated widespread concern to protect Jersey's coast. In the past dangerous structures have been demolished and the site at Plémont should be cleared and restored to its natural state. Trees would not mask these houses.

## Written representations

### *Comments (1PIC)*

123. Mr John Shield strongly opposed any suggestion that the States purchase the site, suggested that an order could be served requiring removal of the Holiday Village, but made no comment regarding the application scheme.

### *Objections (1A-53A and 1PIO-145PIO)*

124. As well as urging that the site be cleared and returned to nature, and references to greed, on the whole written objections reflect issues raised by participants at the hearings. One distinction was a proposal to replace the Holiday Village with wind turbines and other facilities supporting renewable energy. Objectors decried the example of Portelet Bay and raised fears that the Plémont development would set what was seen as a further, highly undesirable, precedent. Domestication, residential activity and pet cats and dogs associated with the development were seen as adding to the harm, including harm to seabirds and other wildlife. Resulting traffic on local lanes, including construction traffic, was seen as problematic. The value of this stretch of coast was repeatedly stressed and supported, including by reference to the Line in the Sand event. Headlands where hotels were removed and not replaced were cited. High standards on Jersey were described as the counterpart to concerns about environmental degradation in other parts of the world.
125. The Parish of St Ouen (38A & 38PIO) did not participate at the hearings, but made written submissions: much of the information, including the EIA, was based on the 2002 Island Plan. Twenty eight houses, in three clusters, are unlikely to bring environmental or visual benefits. Too much is proposed: with poor public transport, no social provision and a general lack of amenities. While supporting removal of what is there, what is proposed may not be an improvement. Is the development appropriate in this environmentally sensitive area? Does it meet Island Plan requirements: specifically protection of the Green Zone (Policy NE7) and Coastal National Park (NE6)? Also relevant are Policies SP3, GD1, GD2, GD5 and NE4. The traffic report, on 1999 figures, may be irrelevant and contrary to Policy SP6, close to one of the most popular Island beaches. It also shows that the access road would be at capacity. How does this application comply with Policies GD1(2a, b & c) and GD2(4 & 5)?
126. Predominantly large houses are proposed. The largest, at the highest (northeast) cluster would be some 3 m higher than the existing building and on the skyline, contrary to Policy GD5. Traditional hamlets normally consist of a mixture of one and two storey buildings, far less imposing than those proposed. Parking provision is insufficient and would be more so with potential roof space accommodation. The adjacent public car park is already inadequate. The clusters could undesirably become gated. The exposed location and poor ground may well cause landscaping to fail, while occupants may introduce a variety of boundary fences and more generally change the development's appearance and character. Energy efficiency is inadequately explained and the availability of State school spaces needs consideration. The EIA effectively just says the proposal is better than the existing, but the 2011 Plan requires significantly positive benefits. But for the Holiday Camp, the site would be within the Coastal National Park. Any failure of the planting would cause continued visual intrusion, and the open areas of "managed grassland" are unlikely to lead to public use.

### *Support (1PIS-22PIS)*

127. As well as generally opposing any suggestion of purchase by the States, supporters essentially saw what is proposed as sufficient improvement over what is there now as to warrant approval. The design was applauded and the outcome, particularly in the longer term, foreseen as less intrusive than described by objectors.

## **Planning Obligations and Conditions (CD6.10)**

128. Prior to the inquiry and without prejudice to its outcome the applicant and Planning Department agreed the heads of an intended Planning Obligation Agreement and 20 suggested planning conditions (Page 49 below). These were subject to an open, similarly without prejudice, discussion by participants.
129. Obligation head a) is to cede the open land to an appropriate body or trust. Jersey Property Holdings, the National Trust for Jersey or the Société Jersiaise were suggested as possibilities. Mr Harding reserved his position pending the preparation of a detailed agreement. Head b) would commit the applicant to ensure 10 years maintenance of the ceded land following completion of the development. Mr Harding advised that this could be funded either by a legal requirement on the purchasers or by a commuted lump sum. Head c) would require the applicant to provide "appropriate funding towards a research and monitoring programme for the conservation of Puffin and seabirds". "Appropriate" is intended to be defined within the terms of suggested planning condition 9 referred to below. Head d) would require restoration of the Occupation structure for use as a bird hide, and ceding to an appropriate body or trust. The structure lies outside the defined site, within the area of disputed land ownership, taking these measures outside the scope of a planning condition. The Channel Island Occupation Society and the Royal Society for the Protection of Birds were mooted as possible recipients.
130. In response to a question from Sir Philip Bailhache, Mr Harding confirmed that demolition details would be controlled by condition 9 rather than the legal obligation and Mr Coates pointed out that the general requirement for compliance with approved plans would ensure full demolition. One further suggested head supported by several people would be to require covenants on the house sales prohibiting domestic use of the adjacent land ceded for public use.
131. Mr Steenson and Deputy Young questioned the lawfulness of suggested conditions 4 and 5, requiring continued engagement by the scheme's existing architect and landscape architect.
132. Other suggested conditions were subject to detailed rather than fundamental comments. Condition 10: to prohibit demolition and groundwork outside of the main *bird* rather than just *seabird* breeding season, with any exception to be to the approval rather than in liaison with the States Environment Section. Condition 16: to give greater precision to reasonable access for archaeological work.
133. Condition 17: Deputy Young argued that as well as providing a bus shelter, there should be a commuted sum towards improved bus services. He referred to TTS as appointing a new bus operator and seeking to improve rural routes. Mr Harding contrasted the lack of such a requirement for the West View Farm development at St Ouen, permitted when [then] Mr Young had been Planning Chief. He saw a requirement at Plémont as unnecessary and unduly onerous, given what he described as a good existing service and on top of the project's other obligations. Mr Coates likewise saw it as unreasonable.

### *Inspector's observations*

134. The hearing discussion on the suggested obligations and conditions was without prejudice to the outcome and I offer my thoughts now on the same basis.
135. Mr Coates advised that detailed consideration of the obligations would be triggered by the Minister indicating that he were minded to grant planning permission, subject to satisfactory completion of a legal agreement within a specified time. On this basis the suggested heads of agreement appear sound and it would not be helpful for me to comment on, for example, which body might take on the ceded land, or what financial bond or other mechanism would

ensure future maintenance. These matters would be for discussion and negotiation, and of course the Minister would retain the option not to conclude an agreement, in the event that satisfactory details could not be achieved.

136. On the suggested conditions, Mr Coates advised that the standard 5 year period for commencement would be incorporated into the terms of a permission, as would a list of approved drawings. Accordingly I do not need to question these omissions from the submitted suggested conditions.
137. I share concerns raised regarding conditions 4 and 5, tying the development to the present architect and landscape architect. The motive, to deter “dumbing down” following a grant of permission is understandable, but the conditions do impose a severe restraint on trade and might be well nigh impossible to enforce if, purely by way of example, there were some irreconcilable breakdown in contractual arrangements between the parties concerned. My own view is that there might well be better scope to achieve the same end by means of broadly similar clauses added to the legal agreement. It would then be for the parties concerned to be satisfied that they were content to commit themselves to the terms.
138. It would plainly be highly undesirable for residents to use adjacent – public – land for such things as bonfires, the disposal of grass cuttings or other domestic activities. It would be impractical to control such incursions, were they to occur, directly through the planning system. A better approach would be to consider covenants on the sales, which could be required within the scope of the land’s management plan required by the Obligations Agreement.
139. Condition 8 concerning boundary treatments should conclude by deleting “expected” and substituting “required in accordance with the approved drawings”. Condition 9 is widely drafted, correctly so in my view, to give detailed control over the various aspects of implementation at this sensitive location. I see no reason to suggest any revision to it. Condition 10 should be amended to refer to the main bird (rather than seabird) breeding season and any variation should be subject to approval by the Environment Section. Condition 16 should be amended to require access at all reasonable times for archaeological work and include a requirement for any finds (as well as records) to be safeguarded. Condition 20 regarding energy efficiency or carbon off-sets should conclude by requiring that that these be implemented, retained and maintained in accordance with the submitted and approved details, rather than to the imprecise “satisfaction of the Minister and thereafter maintained”.
140. I asked Mr Harding how he would approach the disputed land in the event that the Minister granted planning permission on the current application. The disputed land is outside the defined site, but does contain the outer edges of buildings and other structures, which neither structurally nor in any conceivable sense desirably could be left unsupported. He accepted that a further process would be required to authorise the demolition and clearance of those remnants, and to restore that land. In my view, this would be best addressed via a planning condition attached to the current proposals, to prohibit commencement in advance of permission to implement complementary measures on the disputed land.

## Inspector's Assessment, Conclusions and Recommendations

### *The correct approach*

142. A number of objectors stress the primacy of the Planning and Building (Jersey) Law 2002 ("the Law"), correctly so in my view. Mr Thorne, in his closing submissions maintains both that the proposals do accord with the Law and with the Island Plan 2011. It was I am sure a slip under time pressure that led him to suggest that Article 19(3) of the Law could in any event enable the Minister to grant permission contrary to the Law, if satisfied that there is sufficient justification for doing so. That power would be surprising, indeed self contradictory, and in fact Article 19(3) facilitates a decision inconsistent with the Island Plan, not the Law.
143. In general, I think it unnecessary and undesirable for decisions on individual planning applications to be based directly on an appraisal under the Law. The Island Plan is an instrument of the Law in accordance with Article 3. The Plan's paragraph 1.3 confirms as much and references the purposes of the Law. The Plan provides a comprehensive set of policies for the determination of applications, which if consistent with the Plan may safely be taken to be consistent also with the Law. The facts in *Webb* were very different from those in the present application, which should be determined solely having regard to the 2011 Plan rather than the superseded 2002 version.
144. There are two circumstances in which a direct reference to the Law would be warranted. First, if the Plan were silent or ambiguous on a material consideration, either generally or with respect to a particular application. It would then be right for a decision maker to have direct regard to the Law or seek to interpret the Plan, so far as its words allow, in a purposeful way so as to give effect to the Law. I see no such silence as regards the Plémont application and just one ambiguity, regarding the Plan's definition of brownfield land.
145. The second circumstance arises with regard to a decision inconsistent with the Island Plan. As above, Article 19(3) would authorise a grant of planning permission, if the Minister were satisfied that there is sufficient justification. But to my mind it would then be essential to consider whether the permission was nonetheless consistent with the Law, in particular the Purposes set out in Article 2. I conclude below that the proposals are inconsistent with an important aspect of the Plan and that accordingly any approval needs to be appraised also having direct regard to the Law.

### *Abandonment*

146. Part of the applicant's case is founded on the disused Holiday Village retaining a lawful use in planning terms for tourist accommodation, and that issues such as traffic generation and residential usage should accordingly be assessed by comparison with tourism use, rather than absolutely. Senator Bailhache, in his initial representations, argued that tourism use should be treated as having been abandoned. At the inquiry hearing he reserved his position on this when presented with evidence that the existing complex was established following grants of planning permission under the 1964 Law. Deputy Young, also argues that the use has been abandoned for planning purposes and maintains that position. The applicant argues otherwise, referring amongst other matters to the permissions.
147. As I made clear at the hearings, any formal determination of this issue is outside the scope of a determination of the planning application. I express no more than an opinion and only to the extent relevant to my appraisal of the application.
148. As in the UK, to the best of my knowledge there is no concept of abandonment in Jersey planning legislation. Article 24(1) of the 2002 Law (replicating UK law in

this respect) states that “*the grant of planning permission enures (except insofar as the permission otherwise provides) for the benefit of the land to which it relates and of each person for the time being having an estate or interest in that land*”. Article 1 states that planning permission means, amongst other definitions, “*permission to develop land under the Island Planning (Jersey) Law 1964.*”

149. The permissions in 1967 and 1968 are neither temporary nor personal. On clear documentary evidence the authorised works were undertaken within the period specified and on uncontested evidence the two permissions covered the entire building complex now on the site. Those permissions will still be on the States Planning Register required now under Article 29 of the Law.
150. The only relevant Jersey case law so far as I am aware is *Maletroit v Minister for Planning and Environment* [2012]JRC027A, but the facts are entirely different. There the building had long been fully demolished and its use rights lost. To the extent that UK case law may provide guidance, *Pioneer Aggregates (UK) Ltd v the Secretary of State for the Environment and others* [1985] 1 AC 132 HoL is authority that development carried out under a planning permission cannot be abandoned save under specific circumstances (such as implementation of a subsequent incompatible permission) which do not apply at Plémont.
151. I do not support Deputy Young’s distinction between the operational development (building works, which encompasses rebuilding works) authorised by the 1960s permissions and the use of those buildings for tourist accommodation and ancillary purposes. The permissions did not expressly permit the uses, but neither did they need to. Article 23(6) of the current Law states that: “*If the Minister grants planning permission that permits the erecting of a building, the permission may specify the purpose for which the building may be used but if no purpose is specified the permission shall be construed as including permission to use the building for the purpose for which it is designed.*” This closely reflects equivalent UK legislation and I am aware that Article 6(4) of the 1964 Law was in exactly similar terms other than in omitting reference to the Minister.
152. There was nothing unusual or untoward in the 1960s permissions not expressly permitting tourist accommodation and ancillary uses. This is the normal approach when an intended use of proposed buildings is clear from the application. The former buildings on the site will have lost their associated use rights on demolition and the replacement Holiday Camp was authorised both as regards erection and use. Accordingly my conclusion above that the permissions remain extant applies equally to the use as to the buildings.
153. *Hughes v Secretary of State for the Environment, Transport and the Regions and South Holland District Council* [2000] 80 P&CR397 was referred to in *Maletroit* as providing useful guidance. It outlines considerations to be given when considering whether an established use, that is to say a use established through the passage of time rather a planning permission, may be considered to have been abandoned. It will be apparent that I do not see these “tests” as material in this case, but in the event that the Minister disagrees I will run through them.
154. *The physical condition of the buildings:* they are dilapidated, might reasonably be described as derelict, but they are far from ruinous; the basic structures, including floors, walls and roofs, remain standing.

*The length of time that they have remained unused:* 12 years is a lengthy time, but for most of that period the owners retained someone living there, steps have evidently been taken seeking security against trespass of the complex and the individual buildings, measures have been undertaken to control the spread of vegetation, to cut the grassland areas and infill the swimming pool.

*Whether it has been used for any other purpose:* it has been used intermittently for police training, but that is not inconsistent with a future tourism use.

*The owners' intentions:* the planning applications made since closure indicate a preference for redevelopment, but that is far from demonstrating that the owners simply abandoned tourism use, indeed one of the applications was for bed and breakfast accommodation. Also, Mr Grindrod, acting for the present owner, is adamant that the company has the resources and expertise to resume tourism use and would do so in the alternative to residential redevelopment.

155. Even without the continued effect of the planning permissions, there is nothing in these further considerations that would come close to demonstrating abandonment.
156. However, the weight to be accorded to there being extant permissions for the complex hinges on the likelihood or otherwise that tourism use there would in practice be resumed. What is sometimes referred to as the reasonable prospect test. I pressed Mr Thorne on this, for a personal view, accepting that he is not the owner's land agent. After some hesitation he thought it unlikely if limited to the existing buildings. His reply was reversed by Mr Grindrod, who is the owner's land agent, but even so I found it telling. The application was supported by statements that the former Holiday Village had become outdated and unviable, to which the deteriorated state of the buildings since closure must now be a further negative factor.
157. My own assessment is that resumption on anything approaching the scale of the Holiday Village, with up to some 400 guests, must be highly unlikely. For this reason I do not consider that traffic generated by the proposed houses or the more general residential impact ought to be benchmarked against past usage of the Holiday Village. A marginal allowance might reasonably be made for some resumption of use, possible as authorised by The Planning and Building (General Development) (Jersey) Order 2011 Article 3(1) and Schedule 2 Class F, rather than as a Holiday Village as such, but in the main traffic and other impacts resulting from residential usage need to stand or fall on their own merits.

#### *The Planning and Building (Jersey) Law: Remediation Articles*

158. There is a further preliminary issue that I need to address. A number of objectors argue that the present state of the site could and should be remediated using powers under Articles 84 and 86 of the Law. Article 84 provides that "*If it appears to the Minister that a building is in a ruinous or dilapidated condition the Minister may serve a notice requiring that the building or a specified part of it be demolished, repaired, decorated or otherwise improved and that any resulting rubbish be removed.*" Article 86 that "*If it appears to the Minister that the amenities of a part of Jersey are being adversely affected by the condition or use of any land, the Minister may serve a notice requiring work specified in the notice be undertaken to abate the injury.*"
159. A formal recommendation on these matters lies outside my terms of reference and scope of an inquiry into the planning application. As with the question of abandonment I comment on these Articles only inasmuch as they have been raised and may influence the basis on which the application should be considered.
160. On this basis, it seems to me that any application of Articles 84 or 86 would need to be proportionate to the perceived harm and no more. There is nothing to suggest, rather the Strata Survey report indicates otherwise, that the basic structural state of the buildings is a problem (which might otherwise also bring them within the scope of Article 66). That this complex is unsightly is beyond dispute and, when seen close to, a certain amount of graffiti, the evident poor state of the buildings and the security measures do add to the harmful impact. However, overwhelmingly the harm to amenity lies not in these buildings' state but in their presence.

161. Particularly bearing in mind that the buildings were erected, in essence as they now stand, with the benefit of planning permissions, I proceed on the assumption that Articles 84 and 86 could, at most, be used to achieve some tidying up, rather than wholesale demolition urged by at least some objectors.
162. Taking these various strands of preliminary considerations together, I now proceed to assess the application on the basis that the buildings, substantially as they stand, would remain in the absence of a planning permission for redevelopment but a resumption of tourist usage, at least one approaching that of the former Holiday Village, would be most unlikely.

*Previously Developed Land*

163. Finally, I need at this stage to address the disputed question of whether the site should be treated as brownfield. The applicant relies on the England definition of previously developed land in Planning Policy Statement 3, which includes not just the footprints of buildings and hardstanding, but associated curtilage. Mr Coates for the Planning Department accepts this approach, suggesting that the Jersey definitions are unclear.
164. The Island Plan Appendix B definitions are - Brownfield Site: *Land which is, or has previously been, developed*; Greenfield Site: *An area of land that has never been built upon*. On a strict reading, the wording of the Brownfield definition might arguably be said to encompass the whole site, since “developed” is not expressly limited to built-development, but could be held to include the material change of use of the site’s open land from agriculture to recreational use. This would be tantamount here to adopting the England definition of previously developed land. But it would also stretch the concept of brownfield, since it could bring in, for example, playing fields “developed” on open land. It would also be incompatible with the clear Jersey definition of greenfield, since there is no suggestion that the site’s open land has ever been built on.
165. On balance, I consider that the Jersey definitions are sufficiently clear, and should be interpreted here so as to view the application site’s built and paved areas as brownfield and its open land as greenfield. This “tighter” interpretation accords better with Article 2 of the Law than would adoption of the England definition.

*The Jersey Island Plan 2011: Application Assessment*

166. I disagree with Advocate Steenson and others when they suggest that the presence of the Holiday Village complex should in some sense be discounted when assessing these proposals against the Island Plan. However, it seems to me clear that the outcome – new housing at Plémont – irrefutably conflicts with Policy SP1 *Spatial Strategy*. As its title confirms, this is a fundamental, strategic policy, subsequently supported by other more specific Policies and Proposals in the Plan. It states that “*Development will be concentrated within the Island’s Built-up Area, as defined on the Proposals Map ...*”. There are few locations on Jersey more distant from defined Built Up Areas than Plémont. The Policy has three potential exceptions:

*Development that is appropriate to the coast or countryside*. I consider below whether the houses might be justified, but they could never be described as inherently appropriate at this location.

*Brownfield land, which meets an identified need, and where it is appropriate to do so*. In line with my conclusion above, some 15 of the houses would be on greenfield land; there is no identified need for these houses at this location; and again housing here is inherently inappropriate.

The third potential exception concerns the exceptional development of greenfield land in support of parish communities or the rural economy, meeting an identified need and appropriate. None of these apply.

167. For similar reasons the proposals are not supported by Policy SP3: *Sequential approach to development*, but neither do they necessarily and irredeemably conflict. As its title suggests, the policy looks to preferences for the location of development, but its fourth assessment criteria sets a presumption rather than a prohibition on the redevelopment for other uses of employment land and buildings outside the Built Up Area. This presumption has to be considered in the light of the specific provisions regarding proposals in the Green Zone, that is to say Policy NE7, and the express exclusion of tourist accommodation from the scope of Policy E1 *Protection of employment land*. This in turn takes the proposals outside the scope of SP5 *Economic growth and diversification*.
168. I consider that the proposals may potentially fall within the ambit of Policy NE7 *Green Zone*, and that NE7 is the most directly relevant policy consideration, regulating as it does development proposals anywhere within the Green Zone. Its opening paragraphs state:

*"The areas designated as Green Zone on the Proposals Map will be given a high level of protection and there will be a general presumption against all forms of new development for whatever purpose.*

*The Minister for Planning and Environment recognises, however, that within this zone there are many buildings and established uses and that to preclude all forms of development would be unreasonable. Thus the following types of development will be permitted only where the scale, location and design would not detract from, or unreasonably harm, the character of the area."*

169. There follow 13 development types including:

*"3. replacement of a dwelling;*

*5. redevelopment of an existing non-residential building where its use remains the same; and*

*13. development that has been proven to be in the Island interest and that cannot practically be located elsewhere."*

170. The Policy continues with a section headed: For the avoidance of doubt, which includes:

*"c. there will be a presumption against the use of commercial buildings for purposes other than for those which permission was originally granted.*

*Exceptions to this will only be permitted where: ...*

*ii. their demolition and replacement with a new building(s) for another use would give rise to demonstrable environmental gains and make a positive contribution to the repair and restoration of the landscape character of the area through a reduction in their visual impact and an improvement in the design of the buildings that is more sensitive to the character of the area and local relevance. It is expected that such improvements would arise, in particular, from reductions in mass, scale, volume and the built form of buildings; a reduction in the intensity of use; more sensitive and sympathetic consideration of siting and design which ensured the local relevance of design and materials; and a restoration of landscape character."*

171. Following the whole For the avoidance of doubt section, the Policy concludes:

*"Proposals for new developments which must occur outside the Built-up Area will only be permitted in the Green Zone where it is demonstrated that there are no*

*suitable alternative sites and, wherever possible, new buildings should be sited next to existing ones or within an existing group of buildings.*

*Development proposals that are potentially permissible exceptions to the presumption against new development in the Green Zone will only be permitted where they do not seriously harm the character of the area.”*

172. The formulation of Policy NE7, starting with a presumption against development which is then qualified by potential, qualified, exceptions, is a consistent approach throughout the safeguarding or protective policies of the Plan. I am aware that this is deliberate and intended to highlight and emphasise the protection to be afforded to the Green Zone, Coastal National Park, heritage assets, employment land and other locations valuable to the Island. A perfectly plausible alternative formulation could have been one along the lines of “Within the Green Zone (or other safeguarded location) only the following types of development may be permitted”. Although ostensibly similar the emphasis and tone would be quite different. However, it should not be thought that development compliant with one or more of the exceptions as drafted is anything other than compliant with the Policy. The exceptions are fully components of the Policy.
173. Read in context, it is clear too that the *For the avoidance of doubt* section of NE7 is intended to clarify or qualify any or all of the preceding 13 development types that might be permitted within the Green Zone. Two of the 28 houses proposed fall squarely within exception 3 as replacement dwellings. Of the others, section c ii qualifies type 5, the redevelopment of an existing non residential building, so as potentially to bring this application within the terms of the Policy, even though it would be for a different use. Finally, type 13 is intended in my view principally to facilitate such things as infrastructure development – utilities, transport and the like – needed by the Island but likely to have specific locational requirements. However, it is not framed to be so limited and the application development could potentially fall within its scope also.
174. New housing is inherently inappropriate at Plémont, but this does not mean that the particular application must necessarily conflict with Policy NE7, or could not be justified even though non-compliant with Policy SP1. This is the crux of the matter and at this stage it is worth repeating the full application description.

*“Demolish all existing buildings and remove hard-standings. Return 67% of total site area (16.19 vergees) to public accessible natural landscape, similar in size to Howard Davies Park. Replace existing Manager’s bungalow/Staff cottage with 2 No. four bed houses and construct 26 No. houses comprising of 10 No. three bed houses, 11 No. four bed houses and 5 No. five bed houses all in three groups plus landscaping, footpaths and reed-bed rainwater recycling pond. Create passing place on C105 at Western edge of Field 48.”*
175. The development’s impact would result not just from any part but the whole; it needs to be assessed on this basis. The demolition, clearance and landscaping are all “development” for planning purposes as much as is the erection of houses. The existing complex is a product of its time in the 1960s, but to my mind its unacceptability goes much further than changes in favoured architectural style and increased environmental awareness. On any objective measure it is worse than an eyesore but simply and inherently hideous; its mass dominates the headland, its strong horizontal emphasis, under flat roofs or in one case a metallic hipped roof, is the very antithesis of traditional rural Jersey buildings and its light, reflective colour adds unwelcome prominence.
176. These points are I think well illustrated in photographs, taken from the air, submitted by Senator Bailhache and also on drawing referenced CD1/M. The Holiday Village is dominant and destructive seen from anywhere in the vicinity

and remains conspicuous and intrusive in a wide arc from Grosnez to Sorel Point, as well as inland from the Plémont headland. It is a significant detraction when walking the North Coast Footpath. I need hardly add that all this is within what in most regards is some of the most beautiful and sensitive coastal landscape on the Island.

177. It is difficult to over emphasise the benefits that would result from the clearance of this complex. My considered opinions above were that the planning permissions for this complex remain extant, that other powers under the 2002 Law are unlikely to provide instruments for clearance and I continue to exclude any consideration of possible purchase by the States. This leads to the question of whether the housing could be justified as enabling development, as the instrument to remove the complex and partially restore its land to nature.
178. The preamble to Policy ERE3: *Enabling or linked development* opens (paragraph 5.145) by defining the term as “*development of a site for purposes outside the landowner’s principal business, with the capital so raised being used to fund the construction of facilities which will enhance business performance and/or have a positive environmental benefit.*” Here the principal business, albeit inactive, is tourism accommodation and the development of houses would plainly be outside that purpose. Read in context the policy is plainly aimed mainly at agricultural businesses, but not necessarily exclusively so and certainly the principle of enabling development is well established as a planning tool. It must be exercised with caution because, inherently, enabling development refers to something that would not be permitted solely on its own merits. The consequential linked outcome has to provide sufficient justification.
179. Considered on their own merits, the housing proposals are very well thought out. The locations, pulled away from the escarpment, are desirable as would be division into modest sized clusters, separated physically and visually by open grassland. The individual clusters are of an exemplary design, employing details and high quality finishes referenced to traditional forms and materials found in this part of the Island. These include five bay farmhouses, two storey or two with accommodation in the roof space, under slate or pantile roofs with chimney stacks, linked to houses reflecting those created from, traditional, barn conversions. Materials include granite and render with high quality joinery and rainwater goods, with boundary treatment of similar high and appropriate standards. Mr Harding confirmed that the applicant does not intend for these to be gated communities.
180. More than one objector was willing, fairly, to praise the intrinsic design. The qualities are well illustrated in the drawings referenced CD1: /D, F-H, J-K, N-S for the overall layout, CD1/U-AW for the individual houses, CD1/AX-BG for detailed finishes and CD1/BH regarding reference sources. On its own merits the scheme would further the aims of Policy SP7 *Better by design* and GD7 *Design quality*. High density housing would be entirely inappropriate here, and so the lower density proposed would not undermine the aim of GD3 *Density of development* generally to seek high residential densities.
181. Of course, the impact of this residential development would derive not just from its appearance, but also from people living there: such things as comings and goings of vehicles and pedestrians, activity and noise, garden furniture, play equipment and other paraphernalia, and lighting after dark. However, in this case such impacts would be substantially mitigated by the layout of inward facing clusters, outer boundary treatments and a wide-ranging, uncontested condition to impose control of measures normally permitted at dwellinghouses. This last would prohibit, without express permission: “alterations, additions, extensions (including loft conversions, conservatories, conversion of garages and car-ports to any other habitable space and, external lighting to dwellings and

vehicular areas), windows, doors, external utility meter boxes, fences, walls, sheds or other structures." The Planning Department would be in a powerful position to safeguard the integrity of the initial design.

182. The northeast cluster, the highest of the three, would have ridges higher than the existing building complex, but incomparably more attractive and much less massive. It would also be the smallest cluster, comprising just five houses. The other two, as well as being equally attractive would be set lower.
183. I do not question the claim by several objectors that hamlets are not a feature of Jersey, they are not, but what is proposed could not reasonably be so described. The application refers to three groups, which more frequently and entirely appropriately have been referred to as clusters. Small clusters, with early origins, at road junctions or farmsteads, do feature here and there in rural Jersey, including this northwestern part. There is, for example, a loose cluster no great distance away, around the entrance to the Racecourse and a closer matching example is an attractive grouping at La Gabourellerie just to the west of Portinfer.
184. The southeast cluster and part of the northwestern would be on what is currently grassland, recreational land for the Holiday Village, which I have concluded above should be treated as greenfield. However, any objection based on this is I think misplaced. Intrusion caused by the existing complex is substantially worsened by extending tight up to the escarpment. This is particularly so when seen in views from further along the coast in either direction, from below on the Coastal Path or outer headland, or from the air. It will certainly be similarly intrusive seen from the sea. Pulling the houses away from the edge, necessarily meaning building at least in part on existing grassland, would be highly desirable rather than objectionable in this case.
185. It follows of course that in part the houses, particularly the southeast cluster, would be closer to the road, but that would be a local rather than widespread impact. The impact along the coast would be greatly reduced and even in the immediate vicinity, although coming closer to the road, the clusters of attractive houses would have much less impact than the massive slabs of building higher above the road. It should be borne in mind that the land here rises towards the escarpment, before plunging steeply to the sea or outer headland.
186. Objectors understandably point out that some 15 of the 28 houses would be on, as I have concluded above, what is currently greenfield land and that much of the land to be ceded to the public is already on the same definition greenfield, albeit privately owned. From figures established at the inquiry, of the 29,124 sq metres ceded (2.9 ha), 16,127 sq metres (55%) is currently open land comprising much of the former recreational grassland falling to the road (9,667 sq m), areas of unkempt land immediately east and west of the complex (4,093 sq m) and the area of grassland across the road (2,367 sq m). However, this is only part of the picture, because currently brownfield land would also be reclaimed and ceded as open land. For practical purposes new "greenfield" land would be created. (The areas are on, or deduced from, 15PIS/SOC1.1, drawn up during the inquiry)

	<b>Existing</b>	<b>Sq M</b>	<b>Proposed</b>	<b>Sq M</b>	<b>Change</b>
<b>Brownfield</b>	Buildings & Hardstandings	20,388	Buildings & Hardstandings	5,720	<b>-69%</b>
			Access Lane	593	
	<b>Total</b>	<b>20,388</b>	<b>Total</b>	<b>6,313</b>	
<b>Greenfield</b>	Recreational & other open land	19,083	Nature conservation	16,338	<b>+64%</b>
	Grassland across the road	2,367	Natural landscape	10,419	
			Grassland across the road	2,367	
			Private gardens	6,156	
	<b>Total</b>	<b>21,450</b>	<b>Total</b>	<b>35,280</b>	

187. This would be a very substantial gain in terms of reduced brownfield land and increased (created) greenfield. If the private gardens were treated as developed land, the overall change would be a 39% reduction in brownfield and 36% increase in greenfield. On either basis, the quantitative beneficial outcomes would be additional to qualitative improvements in the built development and open land, as well as increased public access. The outcome would to some degree further the aim of Policy NE3 *Wildlife corridors* and more substantially NE8 *Access and awareness*. All told, building on some greenfield land but creating substantially more, better located, may fairly be seen as a further form of enabling development supporting removal of the existing complex.
188. Moreover the outcome would be particularly beneficial with respect to the Coastal National Park. The division between Green Zone and the Park is based on the Countryside Character Appraisal 1999 (as were the divisions between the Green Zone and Zone of Outstanding Character in the 2002 Island Plan).
189. Amongst other designations, the Appraisal distinguishes between what it describes as Character Type A: *Cliffs and Headlands* and E: *Interior Agricultural Land*. Each is subdivided into more local Character Areas, at Plémont respectively into A1 *North Coast Heathland* and E1 *North-west Headland (St Ouen)*, the former now forming part of the Coastal National Park and the latter within the Green Zone.
190. References to the Appraisal by the National Trust for Jersey need to be read in original context. The *Threat to Local Character* (p 41) plainly refers to existing developments, including the Holiday Village, and their impact on the *Coastal Cliffs and Headlands*. The recommendation (p 42) that "*There is no capacity to accept further development. ...*" is similarly referring to the Coastal Cliffs and Headlands Area.
191. I do not accept suggestions that but for the Holiday Village the Coastal National Park would have extended over the application site. Both from the evidence I heard and from what is apparent on the ground and in aerial views, Jersey's farming forebears generally cultivated as tight to the escarpment as they could achieve. The retained historic field pattern is a part of the heritage, cultural and visual value of this part of the Island. It is clear too that the Holiday Village (other than some tennis courts) occupies what was formerly agricultural land, rather than the natural, uncultivated escarpment now safeguarded by being in the Coastal National Park.
192. The housing clusters would not only be wholly within the Green Zone as defined by the Island Plan, but in a more basic sense they would be within the man-made landscape. Locating the clusters away from the escarpment, and locating newly created open grassland there, would not just be beneficial seen from viewpoints, but repair and infill the more traditional transition along this coast from wild and natural to man-made, broadly speaking along the top of the escarpment. This would further, rather than undermine, the analysis and conclusions in the Countryside Character Appraisal. Not least of the benefits would be a very considerable enhancement of numerous views, and the proposals should be seen as strongly supported by Policy GD5: *Skyline, views and vistas*.
193. I accord little weight to the contribution that the development would make to Island Plan Proposal 20: *Provision of homes*. Such an argument could be made about any proposal for Category B housing anywhere in the Green Zone or even Coastal National Park. The housing contribution in this case should be treated as an incidental consequence, rather than a factor significantly supporting the application. I view the Percentage for Art contribution, and its compliance with Policy GD8, in much the same way.

194. Indeed, nothing I have written above should be taken as suggesting that, considered in isolation, there would be anything other than the most clear cut objections to residential development at Plémont. The locality is not just in the Green Zone, but one of the Zone’s most isolated and sensitive areas.
195. Moreover, the preamble to Policy NE7 includes, paragraph 2.83: “*The redevelopment of existing buildings in the Green Zone for other uses will only be permissible where environmental benefit is secured. This might be the case where, for example, the scale and mass of non-residential building is reduced through the redevelopment thereby lessening its impact in the landscape.*” That requirement, as I have concluded, would be met. It continues: “*In accordance with Spatial Strategy and Reducing Dependence on the Car permission will be not be granted for the proposed redevelopment of these buildings where it is likely to yield significant amounts of residential development and any permission for redevelopment for residential use will only be permitted where the residential yield is extremely limited.*”
196. These are powerful considerations, however what constitutes a significant residential yield must I think be weighed in the context of the scale of environmental benefits that would accrue. I have reached an overall, and finely balanced, conclusion only after considerable thought: cogent arguments were made for and against the proposals. However, taking everything together into account, my advice to the Minister is that as enabling development to remove the existing complex and repair the escarpment landscape the present proposals just overcome the objections and could in principle be justified. Taken as a whole the application is compliant with Policy NE7. It is likewise compliant with GD2 *Demolition and replacement of buildings*.
197. Two of the houses comply directly with NE7 item 3 as replacements, the remainder within both item 5 or 13, subject to the clarification in the policy’s paragraph c ii. With regard to 13, it would I have little doubt be in the Island interest to remove the Holiday Village and, although Deputy Young raised the suggestion, I cannot see how it would be practicable to locate the replacement, enabling, development elsewhere. This would necessarily have to be on land, as yet unidentified, where residential development would not ordinarily be permitted, almost certainly not owned by the applicant. As an enabling instrument to remove the existing complex the process would be fraught with problems and uncertainties.
198. Mr Thorne was emphatic that the applicant’s case is not based on “what is proposed is better than what exists”, and I will be similarly emphatic in saying that neither is my conclusion. Nor do I see my conclusion as creating a precedent that would make it harder for the Minister or Planning Department to resist future applications, if any, either here for more than 28 houses, or at other sites where dereliction might be removed. The balance is not just one of principle but of degree.
199. There is nothing to suggest that the applicant envisages a further application for more than 28 houses, rather the reverse since the company has reduced the number following past decisions and advice from the Planning Department. Should one arise, however, it would need to be considered on its merits. I will say only that my conclusion is based precisely on the current application P2011/1673 and implies no view on any other. As regards other locations, derelict glasshouses were referred to by Senator Bailhache, and I am familiar with this issue from previous work on the Island. Again any application would need to be considered on its merits, but it would bear no similarity to Plémont Holiday Village, which I can confidently say presents a unique set of circumstances on the Island.

200. If the Minister accepts my conclusion that the current application may be justified as enabling development, it still remains to consider other development management policies. I can confirm briefly that, subject to undisputed planning conditions, all technical requirements have been fully and adequately addressed, including demolition and construction management, remediation of contaminated land, demolition waste disposal, residential solid and liquid waste disposal and rain water drainage. The location is poor as regards sustainability, but the development itself would feature such measures as rainwater recycling and energy efficiency measures. Aside from the location, in all the particular circumstances here the scheme would further the aims of Policy SP2 *Efficient use of resources*. It also meets the requirements of GD4 *Contaminated land*; NR1 *Protection of water resources*; and WM1, WM4, LWM1, LWM2, & LWM3 regarding solid and liquid waste disposal or recycling.

201. Three topics warrant individual consideration: traffic and transport, wildlife and archaeology.

#### *Traffic and Transport*

202. The applicant's Traffic Assessment did I think suffer from being largely based on comparisons with the former Holiday Village. For the reasons at paragraph 157 above I consider that a more direct assessment is warranted. The remote location means that a household living here would typically drive more frequently and for longer average journeys, than would one living in a more accessible location. More specifically, visibility at the Portinfer cross-roads is poor and Route de Plémont leading northwards to the site is no more than a minor country lane. This is indeed all consistent with the locality's rural, coastal character, recognised by the Island Plan's Green Zone and Coastal National Park designations.
203. The standard of Route de Plémont makes further development served by it undesirable. There would inevitably be more vehicular coming and going than now, day and night, but it would be wrong to exaggerate the peak hour flows generated. This should not be based on assessments of the likely number of cars owned by the residents, or the number of bedrooms or likely number of adults. Not every household will include someone conventionally commuting each day or undertaking a school run. The generation rate used here for the am peak hour was advised by Jersey Public Services and is some 64% higher than the typical rate for broadly similar residential developments recorded in the well attested UK TRICS data base (*Trip Rate Information Computer System*). The equivalent TRICS pm peak hour rate was similarly uplifted for the Plémont proposals. From my own experience in the UK and on the Isle of Man I consider that the Jersey rate is robust.
204. The crucial length of road is between Portinfer and the southeast cluster, where beach and residential traffic separate, and the pm peak is the more crucial period when people may be leaving the beach as residents are returning home. Combining assessed traffic for the houses with recorded August evening traffic for the beach, suggests that:

<b>No of vehicles</b>	<b>Towards Portinfer</b>	<b>From Portinfer</b>
<b>August 17:00-18:00 hrs</b>		
Beach	57	40
Residents (30 house assessment)	8	16
<b>Total</b>	<b>65</b>	<b>56</b>

205. Route de Plémont carrying this flow is a little over 500 metres in length. With care, opposing cars can pass along a length just north of the village and then at four passing opportunities, not quite equally spaced but broadly so and inter-visible one to the next. There are I am quite sure many roads or lanes on Jersey

similarly below modern highway standards, but which in practice carry higher flows than those predicted here. The UK Department for Transport scheme for a single track with passing places refers to a maximum two way flow not exceeding 300 vehicles per hour, with a preference for roughly equal opposing flows so that neither dominates. That standard visualises a somewhat more idealised layout than Route de Plémont, but even so sufficiently similar to give confidence that in practice the road could cope without undue difficulty or congestion even at peak times. I note too that TTS Highways, while opposed to the development on broad sustainability grounds, have accepted in the past that up to 40 to 45 houses could be served by the road.

206. The Portinfer junction does not have a significant accident rate, notwithstanding its restricted visibility, and further afield the residential traffic would become increasingly diluted in existing traffic flows. None of this is to suggest that it is desirable to increase usage of Route de Plémont, or add even incrementally to traffic travelling to and from this remote part of the Island, but traffic considerations do not present an insurmountable objection to the proposals.
207. Policy TT7 *Better public transport* is aimed more at transport proposals *per se*, rather than developments which fall more within the scope of TT8 *Access to public transport*. This states that residential development of 10 units should be within 400 metres of a bus service, that where a bus service is not available, or the frequency too low relative to the scale and/or nature of the proposals, the developer will be expected to support the provision of an appropriate public transport service, and that site layouts should provide appropriate infrastructure. The first is technically met (there is a bus stop close by) and the third would be by the provision of a bus shelter at that stop. However, there is no service beyond Portinfer during the winter and no service at any time of the year even to Portinfer on Sundays. Neither does the service extend much into the evenings. On a fine day the walk between the site and Portinfer is far from unpleasant, but it is further than 400 m and on any basis the development would be served by no more than a limited bus service.
208. Mr Harding resisted suggestions that the applicant should be required to support a greater level of service, on top of the other, offered, obligations. I do not agree with his final point, there is no reason why the other obligations should in principle be treated as offsetting the quite different issue of bus access. However, I do accept that even allowing for the few existing houses beyond the Bay, just (from a public transport perspective) 28 houses here would not generate sufficient passenger usage to warrant an increased service at any realistic level of financial support. The inadequate bus service is simply a manifestation of the locality’s inherently unsustainable location, with consequential higher car usage, but as with the standard of Route de Plémont it is a shortcoming rather a determinative objection.
209. The scheme provides for bicycle storage and car parking provision fully compliant with Jersey standards away from the Built Up Area. The application could not be said to further the aims of Policy SP6 *Reducing dependence on the car*, but in its own terms it does comply with the policy’s specific requirements.

#### *Wildlife*

210. The impact on wildlife has understandably given rise to considerable debate. There is no reason to doubt that good provision has been made to translocate protected species – Heath Grasshopper, Green Lizard, and Slow Worm – to an adjacent suitably prepared receptor site prior to demolition. These proposals have had the close involvement of Mr John Pinel, Head of P&E Natural Environment and there is little or no challenge to them.

211. The colony of Atlantic Puffin that nests on the cliff face below the site has understandably and rightly been subject to much debate, along with the potential impact on other seabirds, including Northern Fulmar, European Shag, Razorbill, European Storm-Petrel and Manx Shearwater. It is clear that the conservation status of the Puffin colony is dire, the tiny numbers being recorded are unlikely to be breeding at a self sustaining rate, if indeed at all. There seems all too likely a prospect that this iconic species faces extinction on Jersey.
212. However, Dr Glyn Young of Durrell Wildlife Conservation is not only an internationally acknowledged expert on seabirds, but a known and determined champion for their conservation. So both his evidence that the houses would not impact on the Puffins or other seabirds and the fact that it was him presenting it carry commanding weight. His evidence is that the cause of the Puffin colony decline is unclear, but likely to be for multiple reasons. What is clear is that brown rats are likely to constrain the colony to just the most inaccessible areas of cliff. This will be one limiting factor since rats can reach into inaccessible locations further than any cat, and to the extent that cats have any impact here at all, there are already some 150 dwellings within nocturnal roaming distance.
213. Subject to rat eradication prior to demolition, to prevent a sudden influx into the surrounding area, and to demolition and groundwork being outside the breeding season, there is simply no evidence that the houses would pose any additional threat to the Puffin or any other seabird. Conversely an obligation offered by the applicant to fund research and monitoring would be of benefit. The proposals meet the requirements of Policy NE1 *Conservation and enhancement of biological diversity* and NE2 *Species protection*. Taken together with my earlier conclusions regarding landscape and related impacts, the overall outcome would comply with SP4 *Protecting the natural and historic environment*.

#### *Archaeology*

214. The applicant's archaeological evidence presented directly to the inquiry was thin. This part of Jersey is known to be rich in remains extending back to the early prehistoric period. The site has never been systematically studied and field work in the first half of the last century was evidently poorly documented regarding locations. The Museum of London archaeological assessment ("MOLAS" August 2006) provides an authoritative summary and conclusions based on available evidence following liaison with the Jersey Heritage Trust and collation of archive material held on the Island. As submitted with this application, the MOLAS document includes a copy of the April 2009 30 house layout. However, as may be expected, it was evidently drafted initially having regard to the 36 house scheme current in 2006, which featured four clusters and road widening. The now current scheme for 28 houses in three clusters has less potential impact and, by reducing road widening to just a single new passing bay on the final approach road, the historic field boundary there referred to in the MOLAS report would be preserved in every practical sense. The loss of agricultural land would be trivial.
215. There is no reason to doubt that such remains as may have existed in the northern part of the site, from prehistoric to previously existing 20<sup>th</sup> Century structures, were largely if not wholly destroyed during construction of the Holiday Village. The Occupation structure just outside the site would, as noted previously, be restored and retained. Elsewhere, within the site's currently open areas, the housing clusters and associated services could displace remains inasmuch as any exist. However, there is nothing to suggest that there has ever been a permanent settlement at this location; rather the reverse, at most transient flint workings. A planning condition ensuring access by a professional archaeologist, with facilities to record and recover any finds, is an entirely

appropriate response. Subject to that, the requirements of Policy HE5 *Preservation of archaeological resources* would be met.

216. Taking the various strands of consideration above together, the development would accord with Policy GD1 *General development considerations*, except insofar as this policy has a cross reference to SP1.

*The Planning and Building (Jersey) Law 2002*

217. None of these conclusions overcome my initial conclusion that the application conflicts with Policy SP1. However, in my view the Minister may properly be satisfied that there is, exceptionally, sufficient justification for a decision inconsistent with that aspect of the Island Plan, under the provisions of Article 19(3) of the 2002 Law. It is necessary to go on to consider whether such a permission would be compliant with other provisions of the Law and in particular:

Article 2(1) which states that:

*"The purpose of this Law is to conserve, protect and improve Jersey's natural beauty, natural resources and general amenities, its character, and its physical and natural environments."*

Article 2(2) states that the intention of the law is:

*"b) to protect sites, buildings, structures, trees and places that have a special importance or value to Jersey;*  
*d) to ensure that the coast of Jersey is kept in its natural state."*

218. Housing on a previously cleared site at Plémont would plainly and substantially fail to accord. However, this particular housing, as enabling development to clear the site and restore a significant area of the most sensitive land, close to the escarpment, to its natural state, would in my view further the Law's purposes and intentions.

*Summary and Overall Conclusions*

219. In summary, I conclude that the outcome, housing at Plémont, conflicts with the Island Plan Spatial Strategy and therefore requires cogent, exceptional justification. On a finely balanced assessment I consider that the proposals taken as whole do accord with Policy NE7 Green Zone provided that the 28 houses (well designed and laid out in themselves) are treated as enabling development to bring about removal of the existing eyesore and create more and better located and landscaped open land. Also, that when the application is considered as a whole, its overall balance would meet the aims of the 2002 Law Article 2. The narrow access road and limited bus service are shortcomings, rather than determinative objections. The Puffin colony, and other seabirds and wildlife, would not be harmed but rather supported. Archaeological interests would be adequately protected. There are no technical obstacles with respect to demolition, drainage and the like that have not been adequately addressed.
220. I am conscious that more than a few of the written objections suggested that their opposition was forlorn, that the applicant company would eventually "get its way" or words to that effect. I am also in no doubt regarding the depth of feeling amongst objectors, not least those who participated at the hearings. Also, the "Line in the Sand" event was evidence of a more widespread concern to protect the Jersey coast. It will probably be little consolation, but I can say now that while approaching the application with an open mind, at the outset I was far from convinced that replacing the Holiday Village with houses was the right approach. When examining the then Draft Island Plan with Mr Shepley, it will be evident from our reports that we repeatedly accorded priority to the Spatial Strategy over the promotion of remote sites put forward for housing on

the basis of their individual circumstances. In similar vein, I sought to test the present applicant's case critically.

221. Overall, I consider that it stood up adequately to critical examination. If it had not, I would certainly be recommending accordingly. However, for the reasons I have given, I consider that the application scheme is the best (or perhaps least worst) way forward starting from the very unfortunate but nonetheless all too real situation existing at present.

## **Recommendations**

222. I recommend that the Minister approves the application and grants planning permission subject to:
- the prior conclusion of a Planning obligations agreement under Article 25 of the 2002 Law covering the heads of terms submitted to the inquiry and also (subject to acceptance by the States legal service) incorporating the aims of planning conditions 4 and 5 submitted to the inquiry and the condition of sale referred to at paragraph 138 above; and
- the planning conditions submitted to the inquiry, omitting conditions 4 and 5 and otherwise as amended in line with paragraphs 135 – 140 above.

**Alan Langton**

DipTP CEng MRTPI MICE MCIHT

Independent Inspector

<b>Final Inquiry Programme and Appearances</b>		
<b>Tuesday 25/09/2012</b>	<b>Inquiry Opening</b>	Inspector
	<b>Opening Statements</b>	Plémont Estates Ltd National Trust for Jersey Société Jersaise Council for the Protection of Jersey's Heritage
	<b>Submissions and Evidence</b>	
	<b>Plémont Estates Ltd</b>	Peter Thorne/Paul Harding Michel Hughes Andrew Leithgoe Michael Felton Dr Glyn Young Mike Grindrod
	<b>States Planning Department</b>	Alistair Coates
	<b>Supporter</b>	John Henwood
	<b>Wednesday 26/09/2012</b>	
	<b>Supporter</b>	Ben Shenton
	<b>Objectors</b>	
	<b>National Trust for Jersey</b>	Advocate David Steenson
<b>Wednesday 26/09/2012</b>	<b>Société Jersaise</b>	Chick Anthony
	<b>Council for the Protection of Jersey's Heritage</b>	John Mesch
	<b>Individuals</b>	Senator Sir Philip Bailhache Deputy John Young Sir Nigel Broomfield Pierre Horsfall Bob Le Sueur
	<b>Obligations &amp; Conditions Session</b>	All participants
	<b>Closing Submissions</b>	
	<b>For all Objectors</b>	Advocate David Steenson
	<b>For Plémont Estates Ltd</b>	Peter Thorne
	<b>Accompanied Site Visit Arrangements</b>	Inspector
	<b>Wednesday 26/09/2012</b>	
	<b>Accompanied Site Visits</b>	Inspector Programme Officer Alistair Coates (Senior Planner) (site only) Andrew Leithgoe Charles Alluto (CEO National Trust for Jersey) Deputy John Young

## Inquiry Documents

Statements and submissions from named individuals are as submitted and do not include concessions or additional points that may have been made orally at the inquiry. Documents in *italics* are not attached as they are readily available.

### Core Documents

CD1	APPLICATION DOCUMENTS
A	Location Plan (No 1871-08-62 C)
B	Existing Site Plan (No 1871_08_01 A)
C	Existing & Proposed Site Plan (Render) (No 1871/8/02 J)
D	Proposed Site Plan (No 1871_08_03 G)
E	Visual Positions Outside Site Periphery (No 1871/8/04 B)
F	South East Cluster Plan (No 1871_08_05 E)
G	North West Cluster Plan (No 1871_08_06 E)
H	North East Cluster Plan(No 1871_08_07 F)
I	Photo Montage & Rural Settlement Context(No 1871/8/09 A)
J	Visuals 6,7,11-14,17 & 18 (No 1871/8/10 D)
K	Visuals 1-4,8,15 & 19 (No 1871/8/11 C)
L	Existing Site Appraisal (No 1871/8/51 A)
M	Existing Aerial View (No 1871/8/52)
N	South 'Street' Elevation (No 1871_08_55 C)
O	East 'Street' Elevation (No 1871_08_56 B)
P	Existing & Proposed Section AA (No 1871_08_57 C)
Q	Existing & Proposed Section BB (No 1871_08_58 B)
R	Existing & Proposed Section CC (No 1871_08_59 B)
S	Existing & Proposed Section DD (No 1871_08_60 B)
T	Not used
U	No's 1 & 2 Ground Floor Plan & Elevations (No 1871/A/01 C)
V	No's 1 & 2 First Floor Plan & Elevations (No 1871/A/02 C)
W	No's 3 & 4 Ground Floor Plan & Elevations (No 1871/B/01 C)
X	No's 3 & 4 First Floor Plan & Elevations (No 1871/B/02 C)
Y	No's 5,6 & 7 Ground Floor Plan & Elevations (No 1871/C/01 C)
Z	No's 5,6 & 7 First Floor Plan & Elevations (No 1871/C/02 C)
AA	No's 8 & 9 Ground Floor Plan & Elevations (No 1871/D/01 D)
AB	No's 8 & 9 First Floor Plan & Elevations (No 1871/D/02 D)
AC	No's 10 & 11 Ground/First Floor Plans & Elevations (No 1871/E/01 C)
AD	No's 10 & 11 Second Floor Plans & Elevations (No 1871/E/02 C)
AE	No 12 Ground Floor Plan & Elevations (No 1871/F/01 C)
AF	No 12 First Floor Plan & Elevations (No 1871/F/02 C)
AG	No 13 Ground Floor Plan & Elevations (No 1871/G/01 D)
AH	No 13 First/Second Floor Plan & Elevations (No 1871/G/02 D)
AI	No 14 Ground Floor Plan & Elevations (No 1871/H/01 D)
AJ	No 14 First Floor Plan & Elevations (No 1871/H/02 D)
AK	No 15 Ground Floor Plan & Elevations (No 1871/I/01 C)
AL	No 15 First Floor Plan & Elevations (No 1871/I/02 C)
AM	No 16 Ground Floor Plan & Elevations (No 1871/J/01 C)
AN	No 16 First Floor Plan & Elevations (No 1871/J/02 C)
AO	No's 17-19 Ground Floor Plans & Elevations (No 1871/K/01 D)
AP	No's 17-19 First Floor Plan & Elevations (No 1871/K/02 C)
AQ	No's 17-19 Second Floor Plan & Elevations (No 1871/K/03 C)
AR	No's 20-22 Ground Floor Plan & Elevations (No 1871/L/01 C)
AS	No's 20-22 First Floor Plan & Elevations (No 1871/L/02 C)
AT	No's 23-25 Ground Floor Plan & Elevations (No 1871/M/01 C)
AU	No's 23-25 First Floor Plan & Elevations (No 1871/M/02 C)
AV	No's 26-28 Ground Floor Plan & Elevations (No 1871/N/01 C)

AW	No's 26-28 First Floor Plan & Elevations (No 1871/N/02 C)
AX	Garages / Carport Plans & Elevations (No 1871/O/01 C)
AY	Typical Window & Dormer Details (No 1871/P/01 B)
AZ	Typical Stone Work Details (No 1871/P/02)
BA	Typical Details (Generic) (No 1871/P/03)
BB	Typical Cart Shed & Wood Finish Details (No 1871/P/04)
BC	Typical Granite House Section & Details (House 3) (No 1871/P/05)
BD	Typical Render House Section & Details (House 7) (No 1871/P/06)
BE	Typical Garage Wing Section & Details (Houses 5-7) (No 1871/P/07)
BF	Typical Arch & Patio Doors Sections & Details (House 4) (No 1871/P/08)
BG	Typical Bell Tower & Juliet Balcony Details (No 1871/P/09)
BH	Traditional Precedent Reference Studies (No 1871/P/10)
BI	Landscape Site Plan (No 201 P5)
BJ	Landscape Management Plan (No 202 P2)
BK	Landscape Sections (No 203 P2)
BL	Landscape Management/Maintenance Schedule of Work (Revision 4)
BM	Existing Photograph CP21 (No 1871/8/20)
BN	Photomontage CP21 (From Devils Hole) (No 1871/8/21 A)
BO	Existing Photograph CP22 (No 1871/8/22)
BP	Photomontage CP22 (No 1871/8/23 A)
BQ	Existing Photograph CP23 (No 1871/8/24)
BR	Photomontage CP23 (No 1871/8/25 A)
BS	Existing Photograph CP24 (No 1871/8/26)
BT	Photomontage CP24 (No 1871/8/27 A)
BU	Existing Photograph CP25 (No 1871/8/28)
BV	Photomontage CP25 (No 1871/8/29 A)
BW	Existing Photograph CP26 (No 1871/8/30)
BX	Photomontage CP26 (No 1871/8/31 A)
BY	Existing Photograph CP27 (No 1871/8/32)
BZ	Photomontage CP27 (No 1871/8/33 A)
CA	Existing Photograph CP28 (No 1871/8/34)
CB	Photomontage CP28 (No 1871/8/35 A)
CC	Existing Photograph AL 1 (No 1871/8/36)
CD	Photomontage AL 1 (No 1871/8/37 B)
CE	Existing Photograph AL 2 (No 1871/8/38)
CF	Photomontage AL 2 (No 1871/8/39 A)
CG	Existing Photograph AL 3 (No 1871/8/40)
CH	Photomontage AL 3 (No 1871/8/41 B)
CI	Grasshopper & Reptile Survey
CJ	Site Waste Management Plan
CK	Environmental Impact Statement Non-Technical Summary
CL	Site Specific Landscape & Visual Assessment
CM	Environmental Impact Statement
CN	Ecological Statement
CO	Transport Assessment
CP	Outline Construction Environmental Management Plan
CQ	Contamination Preliminary Risk Assessment
CR	Puffin & Seabird Report
CS	Archaeological Assessment
CT	Revisions to Planning Application Documents
CU	Schedule of Existing & Proposed Areas (see also 15PIS/SOC1.1)
CV	Accommodation Schedule
CD1.1	Planning Application Form for 28 houses
CD1.2	Letter dated 12 December 2011 from BDK Architects accompanying the planning application
CD1.3	Landscape Strategy Report
CD1.4	Comparison of Green and Built Areas

CD1.5	BDK Design Statement
CD1.6	Schedule of Existing and Proposed Building Heights
CD1.7	Percent for Art Statement
CD1.8	Schedule of Sample Panels/Assemblies
CD1.9	Public Exhibition of 2009 scheme (P/2009/2108 for 30 houses) on 14 and 15 January 2012, attendees' written comments and online opinion

<b>CD2</b>	<b>STATES LEGAL &amp; PROCEDURAL DOCUMENTS</b>
CD2.1	<i>Planning and Building Law (Jersey) 2002 (Revised edition as at 1 January 2011)</i>
CD2.2	<i>Planning And Building (Environmental Impact) (Jersey) Order 2006 (Revised edition as at 1 January 2007)</i>
CD2.3	<i>Planning And Building (Public Inquiries) (Jersey) Order 2008</i>
CD2.4	<i>Planning And Building (General Development) Order 2011</i>

<b>CD3</b>	<b>STATES POLICY DOCUMENTS</b>
CD3.1	Island Plan 2011
CD3.2	Island Plan 2002
CD3.3	Supplementary Planning Guidance on Disposal of Foul Sewage
CD3.4	Jersey Design Guide 2008
CD3.5	Extracts from Countryside Character Appraisal (Jersey Island Plan Review), December 1999
CD3.6	Countryside Character Appraisal Supplementary Report, Land Use Consultants, December 1998 – Island Wide Policies and Priorities
CD3.7	Supplementary Planning Guidance, Draft Advice Note for consultation – Policy application: NE6 Coastal National Park, May 2012
CD3.8	Supplementary Planning Guidance Practice Note 18 Environmental Impact Assessment July 2011

<b>CD4</b>	<b>UK NATIONAL POLICY DOCUMENTS</b>
CD4.1	Annex B to Planning Policy Statement 3 (PPS3) Housing, 4 <sup>th</sup> Edition June 2011

<b>CD5</b>	<b>PLANNING DEPARTMENT'S ASSESSMENT DOCUMENTS</b>
CD5.1	Environmental Impact Assessment, Environmental Statement Review Checklist, February 2009
CD5.2	Planning and Environment Department Report, published September 2010

<b>CD6</b>	<b>INQUIRY DOCUMENTS</b>
CD6.1	Ministerial Decision for a public inquiry
CD6.1a	Inspector's Terms of Reference
CD6.1b	Press Announcement
CD6.2	Response to applicant dated 12 July 2012, regarding the length of Statements of Case
CD6.3	Pre Inquiry Note 1 dated 27 July 2012
CD6.4	Pre-Inquiry Note 2 dated 6 August 2012
CD6.5	Invitation dated 9 August 2012 to the Case Officer to appear at inquiry and his response
CD6.6	Prior notice questions from the Inspector to the applicant.
CD6.7	Response from the applicant dated 17 September 2012 in response to the Inspector's prior notice question on site area (see also CD1/CU)
CD6.8	Draft site visit itinerary dated 19 September 2012
CD6.8a	Revised Draft site visit itinerary dated 22 September 2012
CD6.8b	Mr Leithgoe's supplementary viewpoint location plans
CD6.9	Note from the Council for the Protection of Jersey's Heritage dated 19 September 2012 setting out suggested site visits and questions
CD6.10	Suggested Planning Obligation Agreement and Planning Conditions – agreed

	by the Planning Department of Environment and <b>Plémont Estates Ltd</b>
CD6.11	Response from the applicant submitted on 21 September 2012 in response to the Inspector's prior notice question on Abandonment
CD6.12	Email from John Mesch, Council for the Protection of Jersey Heritage dated 24 September 2012 to the Programme Officer regarding the pre inquiry meeting of the environmental groups
CD6.13	Webb et al, Royal Court 30 May 2012
CD6.13a	McCarthy v Minster for Planning and Environment [2007]JRC063
CD6.14	Bus timetables
CD6.15	Closing Statement by <b>Plémont Estates Ltd</b>
CD6.16	Final Inquiry Programme

### REPRESENTATIONS TO THE PLANNING APPLICATION

1A	Representation by Beverly Amy
2A	Representation by Remi Beard
3A	Representation by David Beaugeard
4A	Representation by Mrs Fleur Benest
5A	Representation by Ms M Bourniquel & Mr M Du Feu
6A	Representation by Shenna Brockie
7A	Representation by Mrs J B Cadin
8A	Representation by Dr R J Campbell
9A	Representation by Miss A Chamier & Miss P De Ste Croix
10A	Representation by Channel Islands Occupation Society (Jersey)
11A	Representation by Colin & Jan Clayson
12A	Representation by Rosemary Collier
13A	Representation by Council for the Protection of Jersey's Heritage
13.1A	Oral statement by Council for the Protection of Jersey's Heritage
13A Res	Applicant's response to Representations by the Council for the Protection of Jersey's Heritage
14A	Representation by Jurat J A Crill
15A	Representation by N H Crocker
16A	Representation by E A Curzons
17A	Representation by Mrs Jean Dale
18A	Representation by Mel Davison
19A	Representation by Mrs Mary Friswell
20A	Representation by David And Janet Grimshaw
21A	Representation by Anne Haden
22A	Representation by Francis & Sonia Hamon
23A	Representation by Sue Hamon
24A	Representation by Tony & Wendy Hurford
25A	Representation by Celia Jeune
26A	Representation by Miss F Jeune
27A	Representation by Mr R Jeune
28A	Representation by R Jeune CBE
29A	Representation by Mr A Lawson BSc
30A	Representation by Caroline Leach
31A	Representation by Dr John & Mrs Mary Le Gresley
32A	Representation by Mr Stephen Le Quesne
33A	Representation by David Levitt
34A	Representation by J Le Maistre
35A	Representation by Josephine Moss

36A	Representation by Mrs Helen Murphy
37A	Representation by the National Trust For Jersey
37A Res	Applicant's response to Representations by the National Trust For Jersey
38A	Representation by Parish of St Ouen
39A	Representation by Sarah Pexton
40A	Representation by Mrs H Pluymaekers
41A	Representation by Mr L Pluymaekers
42A	Representation by Mrs A Queree
43A	Representation by Mr & Mrs Radcliffe
44A	Representation by Ms G S Robinson
45A	Representation by Société Jersiaise
45.1A	Response by Société Jersiaise to the applicant's response to their representation
45A Res	Applicant's response to Representations by Société Jersiaise
46A	Representation by Michael J Stentiford MBE
47A	Representation by Mr G Syvret
48A	Representation by Alison Taylor
49A	Representation by Gail Tingey
50A	Representation by R G Tompkins
51A	Representation by Mrs N D True & Mrs Violet Beer et al
52A	Representation by Linda Mary Williams
53A	Representation by James Yates

**CONSULTATION RESPONSES TO THE PLANNING APPLICATION**

1CON	Department of the Environment Land Controls section, States of Jersey
1CON Res	Applicant's response to Consultation Response by Department of the Environment Land Controls section, States of Jersey
2CON	Department of the Environment Environmental Protection section, States of Jersey
2CON Res	Applicant's response to Consultation Response by Department of the Environment Environmental Protection section, States of Jersey
3CON	Department of the Environment Natural Environment Team, States of Jersey
3CON Res	Applicant's response to Consultation Response by Department of the Environment Natural Environment Team, States of Jersey
4CON	Transport and Technical Services Transport Policy Section, States of Jersey
4CON Res	Applicant's response to Consultation Response by Transport and Technical Services Transport Policy Section, States of Jersey
5CON	Transport and Technical Services Drainage Section, States of Jersey
6CON	Department of the Environment Historic Environment Team, States of Jersey
7CON/SOC	Statement of Case by the Planning Department
7CON/SOC.1	Extract from the TTS 2012 Business Plan

**INITIAL REPRESENTATIONS FOLLOWING NOTICE OF THE INQUIRY**

Objectors	
1PIO	Initial Representation by Valentine Aitken
2PIO	Initial Representation by D Y Austin
3PIO	Initial Representation by Andrew Avery
4PIO	Initial Representation by Mrs Fleur Benest
5PIO	Initial Representation by James Avery

6PIO	Initial Representation by Senator Sir Philip Bailhache
6.1PIO	1947 Planning Regulations submitted Senator Sir Philip Bailhache
6.2PIO	Photographs of the existing site from the air submitted by Senator Sir Philip Bailhache
7PIO	Initial Representation by Mrs J Baker
8PIO	Initial Representation by Anne Barnes
9PIO	Initial Representation by Mark & Margaret Baylem
10PIO	Initial Representation by Rosemary Bett
11PIO	Initial Representation by David Bisson
12PIO	Initial Representation by Peter Bisson
13PIO	Initial Representation by Council For The Protection Of Jersey's Heritage
14PIO	Initial Representation by Jurat J A Crill
15PIO	Initial Representation by Andrew Blake
16PIO	Initial Representation by Charles Blampied
17PIO	Initial Representation by John G Boulton
18PIO	Initial Representation by Mrs Jennifer Bratch
19PIO	Initial Representation by Mrs Mary Friswell
20PIO	Initial Representation by Paul Bratch
21PIO	NOT USED
22PIO	Initial Representation by Sir Nigel Broomfield
23PIO	Initial Representation by Mrs C Burgess
24PIO	Initial Representation by Fiona Cassels-Brown
25PIO	Initial Representation by Nancy Casey
26PIO	Initial Representation by Andy Chadd
27PIO	Initial Representation by R & Jane Churchill Blackie
28PIO	Initial Representation by Paul Clements
29PIO	Initial Representation by Rosemary Clements
30PIO	Initial Representation by Alex Cole
31PIO	Initial Representation by Jane Collins
32PIO	Initial Representation by Deborah Colman
33PIO	Initial Representation by Geoff Compton
34PIO	Initial Representation by Terry Connor
35PIO	Initial Representation by Jill Coutanche
36PIO	Initial Representation by Jean-Pierre Cremer
37PIO	Initial Representation by Mr & Mrs Cronin
38PIO	Initial Representation by Parish of St Ouen
39PIO	Initial Representation by Sue Curtis and Michael Goulborn
40PIO	Initial Representation by Diana Daniels
41PIO	Initial Representation by Arthur De Caux
42PIO	Initial Representation by Mrs Barbara De Caux
43PIO	Initial Representation by Mr & Mrs Radcliffe
44PIO	Initial Representation by Genette Dagtoglou
45.1PIO	Initial Representation by Société Jersiaise
45.2PIO	Initial Representation by Société Jersiaise
46PIO	Initial Representation by Michael J Stentiford MBE
47PIO	NOT USED
48PIO	Initial Representation by Alison Taylor
49PIO	NOT USED
50PIO	Initial Representation by R G Tompkins
51.1PIO	Initial Representation by Violet Beer

51.2PIO	Initial Representation by Mrs N D True & Mrs Violet Beer et al
52PIO	Initial Representation by Linda Mary Williams
53PIO	Initial Representation by Ian Dagtoglue
54PIO	Initial Representation by Patrick Delafield
55PIO	Initial Representation by Nicola & Michael Doleman
56PIO	Initial Representation by Richard Dupré
57PIO	Initial Representation by Michael Eades
58PIO	Initial Representation by C Evans
59PIO	Initial Representation by Rosemary Evans
60PIO	Initial Representation by Jean Falle
61PIO	Initial Representation by Gerard Farnham
62PIO	Initial Representation by Emma Gardner
63PIO	Initial Representation by Mrs Jennifer Gare
64PIO	Initial Representation by E Garnier
65PIO	Initial Representation by G V Gaudin
66PIO	Initial Representation by J H Gaudin
67PIO	Initial Representation by Mrs J M Gaudin
68PIO	Initial Representation by Mrs N J Gaudin
69PIO	Initial Representation by R H Gaudin
70PIO	Initial Representation by Andrea Gavey
71PIO	Initial Representation by Mrs Christine Gill
72PIO	Initial Representation by Hugh Gill
73PIO	Initial Representation by June Gould and Dale Baker
74PIO	Initial Representation by Jonathan Gready
75PIO	Initial Representation by Elizabeth Haas
76PIO	Initial Representation by Nigel & Suzi Hall
77PIO	Initial Representation by Nicki Hamon
78PIO	Initial Representation by Suzette Hase
79PIO	Initial Representation by Mrs Jane Hill
80PIO	Initial Representation by Preston Hobbs
81PIO	Initial Representation by Alan Holmes
82PIO	Initial Representation by P F Horsfall CBE
82PIO/SOC	Statement of Case by P F Horsfall CBE
83PIO	Initial Representation by Dr & Mr John Howell
84PIO	Initial Representation by John Peter Hunt
85PIO	Initial Representation by Barbara Journeaux
86PIO	Initial Representation by Jill Keogh
87PIO	Initial Representation by Susan Kerley
88PIO	Initial Representation by Colin King
89PIO	Initial Representation by Mrs V Lavarack
90PIO	Initial Representation by Mrs Kay Laverty
91PIO	Initial Representation by Philip Le Brocq & Jurat Sally le Brocq OBE
92PIO	Initial Representation by June Le Feuvre
93PIO	Initial Representation by J Le Feuvre & Family
94PIO	Initial Representation by Simon Le Feuvre
95PIO	Initial Representation by Alec Le Sueur
96PIO	Initial Representation by Bob Le Sueur
97PIO	Initial Representation by Susan Lissenden
98PIO	Initial Representation by Melinda Lowther
99PIO	Initial Representation by Becky Makin

100PIO	Initial Representation by M Marquis
101PIO	Initial Representation by Jenifer Marshall
102PIO	Initial Representation by Sophie Marshman
103PIO	Initial Representation by Nicky Martini
104PIO	Initial Representation by Michele Masterton
105PIO	Initial Representation by Melissa Messervy
106PIO	Initial Representation by Peter Messervy-Gross
107PIO	Initial Representation by Wendy & Tom Middleton
108PIO	Initial Representation by B A Morris
109PIO	Initial Representation by C O'Connor
110PIO	Initial Representation by Mrs R O'Connor
111PIO	Initial Representation by Mr & Mrs Olsen
112PIO	Initial Representation by James Painter
113PIO	Initial Representation by Kat Painter
114PIO	Initial Representation by Hugo and Vicky Peterson
115PIO	NOT USED
116PIO	Initial Representation by Nigel & Judith Queree
117PIO	Initial Representation by Trevor Rabet
118PIO	Initial Representation by A de Gruchy
119PIO	Initial Representation by Bruno Rioda
120PIO	Initial Representation by John Roberts
121PIO	Initial Representation by Ian & Ruth Rolls
122PIO	Initial Representation by Thelma Rondel
123PIO	Initial Representation by Dr. Freda Ruderham
124PIO	Initial Representation by C W Twiston Davies
125PIO	NOT USED
126PIO	Initial Representation by Celia Scott Warren
127PIO	Initial Representation by Mr C Shales
128PIO	NOT USED
129PIO	Initial Representation by William & Phillipa Simpson
130PIO	Initial Representation by Mrs P Small
131PIO	Initial Representation by Judy Smith
132PIO	Initial Representation by Simon Stead
133PIO	NOT USED
134PIO	Initial Representation by Tony Taylor
135PIO	Initial Representation by Andrew Thompson
136PIO	Initial Representation by Mrs B Vardon
137PIO	Initial Representation by Mrs J Vibert
138PIO	Initial Representation by Vivien Vibert, Walter Saunders & Jackie Doran
139PIO	Initial Representation by Martin Walton
140PIO	Initial Representation by Olivia Warham
141PIO	Initial Representation by M West
142PIO	Initial Representation by Mrs D S Widdowson
143PIO	Initial Representation by Mr & Mrs R L Williams and Family
144PIO	Initial Representation by Mrs Valerie Wood
145PIO	Initial Representation by Deputy John Young

<b>Supporters</b>	
1PIS	Initial Representation by Paul Acton-Phillips
2PIS	Initial Representation by Rita and Tony Allman

3PIS	Initial Representation by A R Beer
4PIS	Initial Representation by Gerry and Julie Bougourd
5PIS	Initial Representation by Steven and Sue Foulds
6PIS	Initial Representation by John Henwood MBE
7PIS	Initial Representation by Philip Jeune
8PIS	Initial Representation by Chris Lamy
9PIS	Initial Representation by Mr T Langlois
10PIS	Initial Representation by A Luce
11PIS	Initial Representation by M Machon
12PIS	Initial Representation by Deputy Judith Martin
13PIS	Initial Representation by P E Mauger
14PIS	Initial Representation by Leslie Norman
15PIS	Initial Representation by Plémont Estates Ltd.
15PIS/SOC1	Statement of Case by Plémont Estates Ltd.
15PIS/SOC1.1	Appendix 2, revised with additional information regarding land areas
15PIS/SOC1.2	Response by Plémont Estates Ltd. to a question raised by the Inspector on drainage
15PIS/SOC2	Witness Statement by Michel Hughes, Michel Hughes Associates
15PIS/SOC3	Witness Statement by Andrew Leithgoe, Inermis
15PIS/SOC4	Witness Statement by Michael Felton, Michael Felton Ltd
15PIS/SOC5	Witness Statement by Dr Glyn Young, Durrell Wildlife Conservation Trust
16PIS	Initial Representation by Gary Romeril
17PIS	Initial Representation by Paul Sands
18PIS	Initial Representation by Ben Shenton
19PIS	Initial Representation by Paul Strudwick
20PIS	Initial Representation by Dick Turpin
21PIS	Initial Representation by D F Waters
22PIS	Initial Representation by David & Carol-Ann Syvret

<b>Comments</b>	
1PIC	Initial Representation by John Shield

## **Planning Obligation Agreements & Conditions**

(As submitted jointly by the Planning Department and Applicant)

### **Obligations**

- a) Prior to completion of the development the Applicant shall cede the open landscape created outside the boundaries of the three housing clusters (as defined on drawing no. 1871-08-68 Areas 2, 3 & 4) to an appropriate body or trust, with full agreement of the Minister, for allowing public access in perpetuity in accordance with a scheme of continued access to be agreed in writing with the Minister.
- b) The Applicant shall undertake, or arrange for the body or trust referred to in a) above, to undertake, landscape maintenance regime works for a period of at least 10 years after completion of the development, in accordance with a comprehensive programme to be agreed in writing by the Minister. Such programme shall include a monitoring schedule and provision for the maintenance regime to adapt according to the findings of the monitoring schedule.
- c) The Applicant shall provide appropriate funding towards a research and monitoring programme for conservation of Puffins and seabirds.
- d) The German Coastal Observation Post (M3) shall be retained, or ceded to an appropriate body or trust, and refurbished by the Applicant, body or trust for making accessible to members of the public for use as a bird hide, prior to completion of the development, in accordance with a scheme and timescale to be submitted to and agreed in writing by the Minister.

### **Planning Conditions / Reasons**

1. The development shall be carried out strictly in accordance with the approved plans, drawings and schedules, and strictly in accordance with the submitted reports. No variations shall be made without the prior written approval of the Minister for Planning and Environment.

*For the avoidance of doubt and in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.*

2. Physical samples of all external materials to be used as identified on the approved Schedule of Required Sample Panels / Assemblies, dated 9 September 2010 shall be submitted to and approved in writing by the Department prior to such materials being used.

*To safeguard the character and appearance of the area and in accordance with the requirements of Policies GD 1 and GD 7 of the Adopted Island Plan 2011.*

3. Prior to the commencement of development, the finished floor levels, eaves and ridge heights of each dwelling shall be approved in writing by the Department. On sloping ground, detailed sections indicating the precise level of cut and/ or fill shall be similarly approved. No such approved level shall be exceeded without the express written approval of the Department.

*For the avoidance of doubt and in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.*

4. The Architect appointed in the development of the scheme hereby approved (BDK Architects) shall be retained throughout all the construction phase of the development. Prior to the occupation / use of each element of the development, the Architect must give written confirmation to the Minister that he or she is satisfied that the building has been completed in accordance with the approved plans and that the quality of materials and workmanship is of

the highest possible order. The Department reserves the right to request minor amendments to the approved development following advice from the Architect.

*To safeguard the visual amenities of the area and to ensure the use of appropriate detailing in accordance with the requirements of Policies GD 1 and GD 7 of the Adopted Island Plan 2011.*

5. The Landscape Architect appointed in the development of the landscaping scheme hereby approved (Michael Felton Ltd.) shall be retained throughout all the landscaping (both hard and soft) phase of the development. Prior to the occupation / use of each element of the development, the Landscape Architect must give written confirmation to the Minister that he or she is satisfied that the landscaping has been completed in accordance with the approved plans and that the quality of materials, planting and workmanship is of the highest possible order. The Landscape Architect shall liaise directly with the Department, including the Environment Division and the Department reserves the right to request minor amendments to the landscape proposals following advice from either the Environment Division or the Landscape Architect.

*To safeguard the visual amenities of the area and to ensure the use of appropriate detailing in accordance with the requirements of Policies GD 1 and GD 7 of the Adopted Island Plan 2011.*

6. Notwithstanding the provisions of the Planning and Building (General Development) (Jersey) Order 2011, or the provisions of any Order that replaces, amends or supersedes the 2011 Order, no alterations, additions, extensions (including loft conversions, conservatories, conversion of garages and car-ports to any other habitable space and, external lighting to dwellings and vehicular areas), windows, doors, external utility meter boxes, fences, walls, sheds or other structures shall be installed, affixed or erected on any part of the site or building therein without the prior written approval of the Department.

*To enable the Minister for Planning and Environment to control the development and so safeguard the character and visual amenities of the area and to ensure that adequate private amenity space is retained within the curtilage of the dwelling in compliance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.*

7. In respect of the provisions of Condition No. 6 above, a ‘pattern book’ shall be produced by the retained Architect for the applicant / developer detailing the form, style, materials and positioning of any future alterations, additions or extensions to the proposed dwellings that would respect the vernacular architecture of the development. Such a pattern book shall be submitted to the Department for written approval and shall thereafter, and without prejudice to any future decision, be used as guidance when assessing future planning applications relating to each dwelling.

*The Minister considers that the production of a pattern book would be an appropriate mechanism by which to guide any subsequent planning application for alterations or extensions to the new dwellings.*

8. Before the dwellings are occupied, the proposed means of boundary treatment to all external aspects of the development and between dwellings shall be submitted to and approved in writing by the Department. The use of low granite walls, banques, post & rail fences and hedgerows will be expected.

*To safeguard the character and appearance of the area in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.*

9. The stated Mitigation Measures, as embodied in the Environmental Impact Statement and supporting documents, and all other recommendations of the Environmental Impact

Assessment and, any additional or revised measures as may be required by the Department as a result of a specific concern or consultation response, shall be implemented in accordance with a schedule of works, timings and on-going monitoring / remediation to be agreed in writing by the Minister.

*The Minister considers that the proposed development may not be acceptable without the implementation of the stated mitigation measures.*

10. All demolition and groundworks shall be undertaken outside the main seabird breeding season (April to August), unless written authority for specific elements of the proposal is given by the Department, in liaison with the Environment Section.

*In the interests of minimising disturbance to seabirds which form an important element of the Island’s bio-diversity.*

11. A rat eradication programme and programme for the clearance of invasive plants (including Hottentot Fig) shall be agreed and implemented to satisfaction of the Environment Department prior to any demolition works taking place.

*In the interests of allowing less invasive native species to establish within the area.*

12. A detailed landscaping scheme shall be submitted to show sensitive planting with relevance to the landscape character and wildlife habitats of this area. The scheme shall provide for locally relevant habitat creation and shall be drawn up in consultation with the relevant Officers of the Planning & Environment Department’s Countryside Section.

*To safeguard the character and appearance of the area in accordance with the requirements of Policies GD 1 and NE 4 of the Adopted Island Plan 2011.*

13. Precise details of the proposed means of foul and surface water drainage, including full details of the reed-bed ponds and measures to store and re-use rainwater where practicable shall be submitted to and approved in writing before works commence. A sustainable drainage system will be required.

*In order that such details can be the subject of further consideration by the relevant bodies to ensure that the site and development is adequately drained.*

14. Precise details of types, positions, luminosity, shielding and justification for each external light, including measures to minimize sky-glow shall be submitted to and approved in writing by the Department before the development commences.

*In order to prevent unnecessary light pollution in this sensitive headland setting.*

15. The garages to all the houses shall not be used for any purpose other than those incidental to the enjoyment of a dwelling house but not including use as living accommodation.

*To safeguard the character and appearance of the area and to ensure the provision of adequate parking accommodation within the three housing clusters and to avoid congestion by residents vehicles of adjoining lanes or public parking areas in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.*

16. Reasonable access shall be made prior to, and during, the demolition phase to allow for an independent archaeological trenching evaluation to be undertaken to the standard proscribed by the Institute of Field Archaeology. Reasonable access shall also be given to a nominated member(s) of the Department’s Historic Environment Team, Jersey Heritage Trust and the Channel Island Occupation Society for the purpose of observing and recording any Occupation structure or other archaeological finds. A minimum of 3 weeks written notice

shall be given to each party prior to any works commencing. All subsequent records shall be lodged with the Department.

*The Minister is aware that the site may hold archaeological finds, including Occupation material and wishes to ensure that appropriate opportunity is given to record such objects.*

17. Prior to completion of the development the Applicant shall provide and pay the costs for the construction of a bus shelter at the south-western end of the central area footpath, to a design and details approved by the Department.

*In order to promote the use of public transport.*

18. A work of art shall be delivered in accordance with the advice of the appointed Approved Art Advisor and the Percentage for Art Statement dated 10th September 2010 which has been submitted to and approved by the Minister for Planning and Environment. The work of art must be installed prior to the first use/occupation of the development hereby approved unless otherwise agreed in writing.

*To comply with the provisions of Policy GD 8 of the Adopted Island Plan 2011.*

19. Details of the siting and nature of all temporary site huts, compounds, security fencing, security lighting, fuel storage and waste disposal during the demolition and construction phases shall be submitted to and approved by the Department before works commence. Should additional elements be required during the course of works, subsequent approval from the Department shall be required.

*To ensure that all construction / demolition related materials and operations do not result in unacceptable damage to the local environment.*

20. Prior to commencement of the development, full details shall be submitted to the Minister to demonstrate how the proposed development will incorporate on-site low carbon or renewable energy production to off-set predicted carbon emissions by at least 10% or shall fully demonstrate that the proposed development will otherwise off-set predicted carbon emissions by at least 10% by alternative means. Any such measures as may be approved shall be implemented to the satisfaction of the Minister and thereafter maintained.

*To ensure that the development complies with the provisions of Policy NR7 of the Island Plan.*