



Chartered Architects, Planning and Design Consultants

Our Ref: PWH/1871

20th February 2012

Deputy Rob Duhamel
Minister for the Environment
Planning Department
South Hill
St Helier
JE2 4US

Dear Deputy Rob Duhamel,

**Plémont Bay Holiday Village – P/2011/1673 –
2/3rds Land returned to Publicly Accessible Natural Landscape with 28 Houses
Letter from Chairman of Environment Section, La Société Jersiaise, dated 5th February 2012**

I refer to the letter from Mr Chick Anthony dated 5th February 2012 to you regarding the above application. It is unclear whether this has been actually endorsed by, or even been seen by, Council of La Société Jersiaise as the letter carries the writer's home address, but I respond to his representation and comments /opinions as follows:-

Generally

It is correct this application is in essence unchanged from P/2009/2108, as amended to requirements of your Senior Planners to 28 houses, except for relatively minor changes to the boundaries. Your Departments report on this application published 24th September 2010 for a Panel meeting to be held on 7th October 2010 (although the application was not heard then) concluded that:-

"In principle and in detail, the proposed site layout and vernacular approach to the design of the new dwellings is considered to be an appropriate response to the sensitivities of the location. The Department is keen to support this approach, and recommends that permission be granted, subject to the safeguard of the conditions suggested"

The application reference P/2011/0144 was not requested by my Client (no application form was submitted to your Department) and, having been subsequently withdrawn by your Department, has no status under the Planning Law.

Public Inquiry requirements not satisfied (Page 1)

Mr Anthony mistakes the requirements in Article 12 of the Planning and Building (Jersey) Law 2002 as somehow being satisfied by clear "evidence of a wider public interest" in proposals for my Client's property (which is not situated on any headland¹) arising from the 'Line in the Sand' demonstration. This is patently false because the 'Line in the Sand' demonstration was not about any proposals for Plémont, but against inappropriate development on the Coastline.

¹ Refer to Countryside Character Appraisal (CCA) classification of Plémont Holiday village situated within Character Type E: Interior Agricultural Land, E1 – North-West Headland (St Ouen).

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The Planning Law does not recognise any such 'demonstration' as a material Planning consideration. The requirements in the Application Publication Order², restricts valid public representations to written submissions carrying the name and writer's contact details. Clearly a 'demonstration' completely fails to meet the criteria for a valid material Planning consideration in all respects.

Further the renewed campaign by the National Trust for Jersey over Christmas week 2011 has resulted in a pitifully low response. It is apparent there is no widespread public interest in the application and even little interest from NTJ Officials (Council, Committee & Working Party Members) or their Members / supporters. The relatively low number of public representations demonstrates the overwhelming majority of Jersey's population are satisfied with the proposals in this application. There is absolutely no evidence of any concern by a substantial part of the population about this application having any effect, significant or otherwise, on themselves.

Clearly this application will not have a significant effect on the interests of the whole or a substantial part of the Island's population because, inter alia:- a) The proposals involve halving the amount of development on site, that will be replaced by traditionally designed houses in three clusters reflecting hamlets found elsewhere in the St Ouen's countryside, and at same time reverting 2/3rds of this private land to publicly owned natural landscape; and moreover b) The substantial part Jersey's population do not live anywhere near Plémont Bay Holiday Village.

Your Department has previously acknowledged in writing this application complies with all relevant 2002 Jersey Island Plan Policies³ and your Senior Planning Officer has confirmed to me, as far as this application is concerned, the applicable planning policies have not changed within the 2011 Jersey Island Plan.

On any view, even if there were a departure from the Island Plan (which there is not), it would clearly be insubstantial. There is no obligation on you to hold a Public Inquiry. Indeed the requirements in the Planning Law enabling you to call a Public Inquiry are not satisfied.

Components of the Application (Page 2 top half)

Mr Anthony misrepresents the nature of this application, which is to redevelop a brownfield site by replacing less than half of the existing development with an appropriate and sensitive re-development. This application does not propose any "new Development" as Mr Anthony erroneously claims.

Indeed the biggest component of this application is to create a new publicly owned, publicly accessible, natural landscape amounting to 14.87 vergées (similar in size to Howard Davis Park overall extent) with majority of this new natural landscape on northern part of site where existing buildings stand will comprise a substantial new public asset. This will amount to the largest major environmental improvement and substantial character enhancement of any Island location within the last 60 years.

It is extremely relevant that UK Planning Policy PPS3⁴ defines "brownfield land" as:-

"Previously-developed land (often referred to as brownfield land)

' Previously-developed land is that which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure'

² Article 4(2) of the Planning and Building (Application Publication) (Jersey) Order 2006

³ Confirmed in Department Report published 24th September 2010 for Planning Panel meeting on 7th October 2010

⁴ Planning Policy Statement 3 (PPS3): Housing, 4th Edition June 2011, Annex B page 27

Therefore according to the UK definition of "Brownfield Land" the whole of Plémont Bay Holiday Village site comprises previously developed land.

The proposals are entirely compliant with and achieve the objectives of 2002 Island Plan Policy C2 and 2011 Island Plan Proposal 4 "Coast and Countryside Character" as the primary result will be enhancement and restoration of the local landscape. The submitted Environmental Impact Statement (EIS) with supporting Landscape and Visual Assessment (as amended) concluded there will be (c) Major positive Landscape and Visual impact. Your Department's Report published on 24th September 2010 concluded⁵ these proposals comprised "an appropriate response to the sensitivities of the location," and further that " *The development will, clearly, re-use already developed land and with the reduction in floorspace and conclusions of the EIA, should serve to conserve and enhance the natural environment.* "

Your Head of Countryside Management, John Pinel, has also confirmed⁶ that creating nearly 10 vergées of natural landscape across the northern and western part of the site, totalling 42% of total site area, will provide habitat of value to indigenous species and comprises a "substantial beneficial environmental improvement".

It can therefore be seen the proposals are entirely compliant with the 2011 Island Plan objectives in Proposal 4 "Coast and Countryside Character", and completely achieves the "primary consideration will be to protect and enhance the character of the Island's coast and countryside".

Policy NE7 – Green Zone (Page 2 bottom half & Page 3)

The Green Zone policy is referenced as Policy NE7 in the 2011 Jersey Island Plan, exactly replicating Green Zone Policy C5 in the 2002 Jersey Island Plan.

Your Department's Report published on 24th September 2010 concluded these proposals complied with Green Zone Policy, confirming that:-

"In this instance, it is considered that the proposal to re-develop would involve a significant environmental and visual improvement compared to the existing situation and, as such, would be in accordance with the requirements referred to under Policy C5 to justify an exception to the general presumption against new development within the Green Zone.

Mr Anthony misconstrues the Green Zone Policy exception (c) (ii) that does allow for re-using commercial sites for other purposes (ie, uses other than commercial, such as housing) in situations where demolition and replacement "would give rise to demonstrable environmental gains and make a positive contribution to the repair and restoration of the landscape through a reduction in their visual impact and improvement in the design of buildings that is more sensitive to the character of the area and local relevance."

It is patently not the case this "*is only permissible with regard to the development of commercial buildings for some other commercial use*" as Mr Anthony erroneously suggests. Rather the policy allows for re-using commercial site (quoting Policy NE7) "*for purposes other than that for which permission was originally granted*", that is uses other than the existing commercial use, providing there is a resultant:- "demonstrable environmental gains and make a positive contribution to the repair and restoration of the landscape through a reduction in their visual impact and improvement in the design of buildings that is more sensitive to the character of the area and local relevance." Clearly your Department has concluded this is the case.

⁵ Confirmed in Department Report published 24th September 2010 for Planning Panel meeting on 7th October 2010

⁶ Minutes of meeting with John Pinel & Glyn Young on 8th November 2009 contained in e-mail from Paul Harding to John Pinel on 9th November 2009. Minutes agreed by John Pinel in his e-mail of 30th November 2009 to Paul Harding

The fact remains this property comprises a heavily developed "brownfield" site with a substantial amount of building thereon for over 60 years. My Client is entitled, without needing to obtain permission under the Planning Law, to refurbish the buildings and reactivate the tourism accommodation use. This refurbished existing accommodation could be used for holiday self-catering units under which the Tourism Registration Certificate (issued under the Tourism Law) allows for the existing accommodation to be let to 'non qualified' residents (akin to 'lodging' accommodation) outside the period of normal tourist demand (November to March), thereby increasing usage to year round occupation.

Further, if the owner or any prospective purchaser decided to submit an application to redevelop the site for a new tourism complex, they would have a reasonable expectation to receive permission for redeveloping the site for a similar floorspace area, subject to demonstration of visual improvement. In either case the end result would be retention of the existing buildings 'en-masse' and intensification of their use all year round.

The claim by Mr Anthony the re-development is not on the original site but "*placed some distance away and on a number of different footprints*" is extremely and totally ludicrous. These proposals contain all the proposed re-development within the existing curtilage of my Clients property, not "*some distance away*". As noted the definition of 'brownfield' land includes the curtilage of the developed land within which the existing buildings sit, not just the footprint of the existing buildings.

The submitted Environmental Impact Statement (EIS) with supporting Landscape and Visual Assessment (as amended) concluded there will be:-

- A) Major to moderate positive Economic and Social impact;
- B) Major positive Environmental impact; and
- C) Major positive Landscape and Visual impact.

Your Department considers it is preferable (indeed since 2005 has previously advised and guided us) to locate the replacement buildings in three small clusters moved as furthest away as practically feasible from the northern part of my Clients property where the existing structures stands, in order to maximise the new open natural landscape closest to the coastal headland and cliffs / North Coast Footpath. Your Department's Report published on 24th September 2010 confirmed⁷ that:-

"In this instance, it is considered that the proposal to re-develop would involve a significant environmental and visual improvement compared to the existing situation.."

After subjecting the detail design to the most intense scrutiny and exhaustive refinement during 2010, your Department's Report published on 24th September 2010 advised the scheme possessed a "*vernacular approach to the design of the new dwellings*". In September 2010 your Officers⁸, by arranging for the application to be decided at the Panel meeting on 7th October 2010, were satisfied the scheme represented an exemplar of vernacular architecture and they were 100% satisfied with every last detail.

It is therefore absolutely undisputable that creating a new publicly owned, publicly accessible, natural landscape amounting to 14.87 vergées (similar in size to Howard Davis Park overall extent) with majority of this new natural landscape on northern part of site where existing buildings stand will comprise a substantial new public asset. This will amount to the largest major environmental improvement and substantial character enhancement of any Island location within the last 60 years. This creation of natural landscape is completely outside the curtilage of the three house clusters including their gardens. It is entirely correct that 2/3rds of my Client's property would be

⁷ Confirmed in Department Report published 24th September 2010 for Planning Panel meeting on 7th October 2010

⁸ Reference e-mail from Alistair Coates, Senior Planner, to Paul Harding on 5th August 2010.

opened up and converted to a new publicly owned, publicly accessible, natural landscape.

Contrary to the fallacious claims made by Mr Anthony it is therefore apparent, In summary, that:-

1. The proposal significantly reduces the visual impact of the existing buildings.
2. Your own advisers have concluded the proposal will produce a significant environmental and visual improvement.
3. There are no agricultural fields within the existing curtilage, which is all 'brownfield' land.
4. The replacement houses are proposed on exactly the same site within the existing curtilage.
5. There are planning benefits (visual and character improvements) arising from moving the replacement houses as far away from the northern part of the site as feasible, which your department have directed us to adopt.
6. The replacement of the existing commercial buildings with new houses (less than half the existing amount of development) entirely complies with Island Plan Policy NE7.

Any objective assessment of this proposal and consideration against the Island Plan Policies would conclude this application is entirely compliant with stated objectives.

Coastal National Park (Page 4 top third)

It is irrational for Mr Anthony to claim the "Plémont headland" is excluded from the Coastal National Park (this headland is actually within the Coastal National Park) because:-

- i) The Countryside Character Appraisal (CCA) distinguishes between the "Plémont headland" which the CCA classified as Character Type A: Coastal Cliffs & Headlands, and Plémont Bay Holiday Village itself which the CCA classified as lying outside the "Plémont headland", but forming part of Character Type E: Interior Agricultural Land, E1 – North-West Headland (St Ouen). This is borne out by its historic use as agricultural fields over 60 years ago.
- ii) Your Planning Inspectors during the Public Inquiry into the draft 2011 Jersey Island Plan considered submissions arguing that the Coastal National Park should be expanded to whether Plémont Bay Holiday Village, but concluded⁹ there was no case that could be made to include my Client's property within the Coastal National Park.

d) The CCA level of protection recommended for Character Type E: Interior Agricultural Land, E1 – North-West Headland (St Ouen) concluded that:- "Jersey's interior agricultural land has some capacity to accept change". This CCA recommendation arises from the CCA's criteria (where relevant to this property) that should be applied:-

"• Any such developments must be of a style and design that is in keeping with the character [of the] area" - your Departments report of 24th September 2010 confirmed these proposals are in keeping with character of the area.

"• Careful consideration must be given to conditions regarding screening of developments. Large masses of trees and dense coniferous shelterbelts can be very intrusive within this bleak, open landscape" – your Departments report of 24th September 2010 confirmed that "with the implementation of the mitigation measures (including sensitive planting and habitat creation) outlined in the EIA, the proposed redevelopment would result in an enhancement of the countryside character."

"• Developments should not impinge on the sensitive heathland edge. Where developments are permitted, opportunities should be taken to achieve the environmental enhancements and management measures outlined above." – these proposals remove existing development from the heathland edge and the reduced replacement houses are drawn significantly away from the heathland edge. Your Departments report of 24th September 2010 concluded there would be a "significant environmental and visual improvement".

⁹ Refer to The (Draft) Jersey Island Plan Inspectors' Report Volume 1 dated 19th November 2010 Pages 28 & 29 Paras 4.27 to 4.32 inclusive and Volume 2 Page 26.

For the sound and justifiable Policy reasons already explained none of your own expert independent advisers (including CCA writers Land Use Consultants, your own Planning Policy Officers and Chris Shepley / Alan Langton acting as your Island Plan Inspectors) have recommended this property is capable of being included within the Coastal National Park. Therefore Policy NE6 cannot be applied to this application because a) It is not located within the Coastal National Park; and moreover b) The CCA classification of Plémont Bay Holiday Village does not support it being included within the Coastal National Park.

Spatial Strategy (Page 4 middle third section)

The 2011 Jersey Island Plan Strategic Policy Framework commentary regarding 'brownfield' land in the explanatory text supporting Policy SP1 confirmed that:-

"Brownfield land

2.24 The principle of reusing already developed land is a sound one and accords with the principles of sustainable development. The Plan's spatial strategy will focus much of the development activity over the Plan period on the Island's existing Built-up Area and will encourage the re-use, redevelopment and regeneration of already developed land and buildings..."

Your Department's Report published on 24th September 2010 advised¹⁰, in connection with 2002 Island Plan Policy G1 'Sustainable Development', being the pre-cursor to Policy SP1, that:-

"This is not a Greenfield site. Accordingly, Policy G1 needs to be viewed alongside the fact that this is an existing large, unsightly building complex/commercial site, and also needs to be seen in conjunction with Policy C5 (Green Zone) which, as explained above, makes allowance for redevelopment of commercial buildings in order to secure environmental gain.

In terms of this application, it is accepted that any redevelopment of the holiday village cannot be integrated within the Built-up Area and car trips are not expected to be any higher than when the holiday village was last operational. The development will, clearly, re-use already developed land and with the reduction in floorspace and conclusions of the EIA, should serve to conserve and enhance the natural environment."

As previously shown these proposals are:- 1) Deemed by your own advisers to be 'appropriate' in this location of the countryside, and 2) Related to re-development of 'brownfield' land and provides an identified need for housing. Patently the application fully complies with the requirements of Policy SP1.

Policy SP4 (Pages 3 & 4 bottom third)

Clearly the existing property does not comprise part of the Island's "natural and historic environment" of itself, therefore Mr Anthony refers to Policy SP4 out of context and misapplies the provisions of this Policy. It is undisputable these proposals comprise a major beneficial significant contribution towards enhancing the environmental and visual character of this location.

These proposals stand (and comply with all 2011 Island Plan Policies) entirely on their own merits, we have never suggested there is any precedent established by virtue of other developments of similar size having been permitted, nor any corollary to be drawn from such comparison.

Indeed the creation of a new publicly owned, publicly accessible, natural landscape amounting to 14.87 vergées (similar in size to Howard Davis Park overall extent) comprises the largest major environmental improvement and substantial character enhancement of any Island location within the last 60 years and it totally without any precedent.

¹⁰ Confirmed in Department Report published 24th September 2010 for Planning Panel meeting on 7th October 2010

The proposals in this application patently fully accord with both the spirit and letter of fundamental Island Plan Policies.

Traffic (Page 5 top third)

As earlier demonstrated the existing building could, without Planning approval being required, be refurbished and re-opened for self-catering holiday use combined with winter lettings to residential occupiers, at any time. That would result in approximately double the amount of traffic compared to this application.

Your Department's Report published on 24th September 2010 concluded¹¹, regarding traffic considerations:-

"The Department will encourage strategies that help to reduce the need to travel and which develop alternatives to the private car. A traffic Impact Assessment has been submitted with the application and it is evident that the proposed redevelopment would result in a lower maximum occupancy than the existing holiday village, when last operational, and as such, trip generation should also be reduced."

And in connection with advice received from Highways Section of T&TS advised that:-

"Development of the site by way of 28 dwellings will have a far lesser impact upon the local road network and junctions than the holiday village when operational. Whilst T&TS have some concerns regarding trip generation and lack of sustainable modes of transport, the Department is satisfied that the substantial gains to be had from the development of the derelict [sic] site outweigh any concerns regarding highways issues. The dwellings comply with the Departments recommended car-parking standards."

This proposal would clearly result in less traffic than was the case when the Holiday Village was operational, and would also involve about half the amount of traffic than would be incurred from the alternative of solution of refurbishing the existing buildings for operating them as a combined self-catering and residential winter lettings.

Summary and Conclusion

Patently the 2011 Island Plan 'Green Zone' Policy does allow for the re-development of commercial buildings with another use for replacement buildings, providing there is a concomitant demonstrable environmental gain and a positive contribution to the repair and restoration of the landscape character of the area.

Your Departments own reports plus the advice you have received from your own expert Consultants all affirm this application complies with 2011 Island Plan Policies GD1, SP1, SP4 & NE7. We have shown that Mr Anthony misconstrues Policy NE6 that is not relevant to these proposals for Plémont Bay Holiday Village as no part of the proposals lie within the Costal National Park.

While it is true Mr Anthony's claim there is "*no provision in the Island Plan for replacing an obsolete [sic] development with another on a different site*" we have shown his claim is factually incorrect. This application contains the re-development within the curtilage of an existing 'brownfield' site which, by accepted definition as supported by Para 2.24 of the 2011 Island Plan, allows and indeed actively encourages the "*re-use, redevelopment and regeneration of already developed land and buildings*" as a form of development totally inline with the principles of sustainable development.

Turning to the "McCarthy" judgement issued by the Royal Court in 2007, referred to by Mr

¹¹ Confirmed in Department Report published 24th September 2010 for Planning Panel meeting on 7th October 2010


Anthony, we note this related to a totally undeveloped Green Field. The differences between the subject matter of that judgement and this application could not be more dramatically opposite:-

- a) McCarthy started with a undeveloped Field and ended up with a Field - c/v - Plémont Estates purchased a heavily developed site with substantial buildings thereon.
- b) McCarthy's Field was zoned as Important Open Space in the Island Plan - c/v - Plémont Holiday Village is not classed as such in the Island Plan being a developed "brownfield" site in the Green Zone.
- c) McCarthy had been given indications by the previous Planning Committee without any formal application having been lodged or advertised - c/v -after advertising formal applications for Plémont Holiday Village then having received and considered statutory consultation responses and representations your Department has given written indications.
- d) McCarthy had not acted to his detriment in relying on previous Planning Committee's indications, nor had he purchased the Field based on such reliance - c/v - Plémont Estates relied on previous Planning Committee's indications in arriving at their decision to purchase Plémont Holiday Village.
- e) McCarthy's application was not in accordance with the Island Plan - c/v - Plémont Holiday Village application for 30 Houses is in accordance with the Island Plan as recorded in your Departments September 2010 report.

Instead I ask you to take into account all the material Planning considerations I have referred to in this response and affirm your Department advice in their report published on 24th September 2010 that concluded:-

"In principle and in detail, the proposed site layout and vernacular approach to the design of the new dwellings is considered to be an appropriate response to the sensitivities of the location. The Department is keen to support this approach, and recommends that permission be granted, subject to the safeguard of the conditions suggested".

Yours Sincerely,
For and on Behalf of
BDK Architects


Paul W. Harding BA (Hons) DipArch RIBA MIOd
Director

cc. Mr Alistair Coates – Senior Planning Officer
Mr Mike Grindrod – Northern Trust Group Ltd.