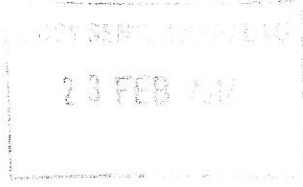


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PPI / 22022012 / NTJ

P/2011/1673

7th February 2012

R Duhamel Esq.
Minister of The Environment Department
South Hill
St Helier
Jersey JE2 4US

Dear Mr Duhamel

Plémont Bay Holiday Village, La Route De Plémont, St. Ouen

Further to the recent application for the development of 28 houses on the former Pontin's Holiday Camp, the National Trust for Jersey would kindly request that you take the following material matters into consideration:

Planning and Building (Jersey) Law 2002

In reaching any decision in relation to this application it is crucial to have regard to the basic principles which are enunciated in Article 2 of the Law and which are intended to safeguard the best interests of the Island in respect of developments.

Article 1(1) states that the purpose of the law is to *conserve, protect and improve the Island'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 to:

- (b) to protect sites, buildings, structures, trees and places that have a special importance or value to the Island
- (d) to ensure that the coast of the Island is kept in its natural state

The question therefore arises as to whether the replacement of a substantial commercial building with a residential housing estate is compliant with the overall objectives of the law. It is difficult to see how the development of 28 houses can be judged as protecting and conserving the Island's natural beauty and coastline and therefore our contention is that the application fails in this respect and is contrary to the Planning Law.

Legitimate Expectation

It has been previously stated that the applicant has a legitimate expectation in relation to the re-development of the site due to the Planning & Environment Committee having given a previous indication in June 2002 that it would consider some limited form of residential development. However, this had been issued without prejudice and with the caveat that it would not be prepared to accept any form of housing "estate" development.

This indication pre-dated the current Planning Law and the subsequent McCarthy case within which the Court stated:

"The 2002 Law also imposes upon the Minister a wide duty of consultation with interested bodies and persons".....All this serves to emphasise that, in a crowded Island, it is now recognised that there are a number of stakeholders in the planning process. Unless there has been due process and the Minister has reached a considered decision, he should not be held to indications by officials or other informal promises or hints that planning permission will be granted"

This clearly implies that given the change in the due process of planning applications since the introduction of the Law, there is an even lesser weight to be given to indications that predated the Law in 2006, namely because they will have not been subject to the due process and consultation that the Law now requires.

It is therefore the Trust's contention that the applicant does not benefit from legitimate expectation arising from the Committee's indication in 2002. In addition if the Committee's indication is still felt to be pertinent we would argue that the proposal for 28 houses in 3 distinct clusters still amounts to a housing estate development and therefore fails in this respect.

Island Plan Policies

Policy SP1 – Spatial Strategy

SP1 requires development to be concentrated within the Island's Built Up Area. Outside of the Built Up Area, planning permission will only be given for development appropriate to the Coast or Countryside; brown field sites which meet an identified need and in exceptional circumstances on green field land where it supports parish communities or the rural economy.

The Trust does not believe that the proposed development of 28 houses is appropriate for this sensitive coastal location outside of the built area. Also given its locality it is difficult to see how it would specifically support the Parish community or the rural economy. It is therefore the Trust's contention that the current application does not meet any of the above requirements and therefore fails to comply with Policy SP1

Policy SP3 – Sequential approach to Development

SP3 requires that a sequential test will be applied to already developed land starting with its re-use for the purpose for which permission was originally granted, and then for other uses that would support the rural economy, with a presumption against its development for non-employment related activities.

The Trust does not believe that the current application meets any of these requirements and therefore fails to comply with Policy SP3.

The Trust would respectively draw the Minister's attention to the fact that there is no exception to this policy. Therefore there is a clear and un-qualified presumption against development which fails to meet the specific criteria of Policy SP3.

Policy SP4 – Protecting the natural and historic Environment

SP4 requires that a high priority be given to the protection of the Island's natural and historic environment and that the protection of the countryside and coastal character types which contribute to and define its unique character will be key material considerations in the determination of planning applications.

This policy emanates from the Countryside Character Appraisal 1999 and so the recommendations within the report itself must be a material consideration for the Minister. We would therefore draw the Minister's attention to Page 41 of the report which highlights that any development at the holiday complex at Plémont would be a threat to local character. Also on Page 42 the report recommends:

"There is no further 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 light of the recommendations of the Countryside Character Appraisal we believe that the application fails to meet the criteria and objectives of SP4.

Policy SP6 – Reducing dependence on the Car

This policy requires that applications for housing development must demonstrate how they will reduce dependence on the private car by providing for more environmentally-friendly modes of transport. In addition a proposal must demonstrate that it is easily accessible to existing or proposed pedestrian, cycle and public transport networks.

Given the secluded locality of the site it is the Trust's contention that any proposed housing development would be heavily reliant on the private car in order to secure convenient and timely access to schools, shops and other day to day facilities. This view was shared by TTS in their submissions on the application for 36 houses in May 2008. The Trust therefore believes that this application fails to meet the criteria of Policy SP6.

Policy GD1 – General Development Considerations

This policy requires development proposals to be in accordance with SP1, SP4 and SP6.

As can be seen above the Trust does not believe this application meets the requirements of these policies and therefore by default it automatically fails to be compliant with GD1.

Policy GD5 – Skyline, views and vistas

This policy seeks to minimise the visual impact of development upon our rich landscape including views of the coastline. It states that 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....."

This policy is particularly pertinent to this application as the existing holiday camp is located in an extremely sensitive area of coastline with high levels of visibility from the road, as well as key coastal sites such as Sorel Point and Grosnez. The Trust believes that this application does not succeed in repairing the skyline as the development will be immensely visible along the roadside and will in effect obscure views towards the coastline in a similar way to the existing holiday camp. In addition the two clusters of housing to the north will still have a highly visible impact upon the coastal landscape and vista as a whole.

Proposal 4

This proposal requires the Minister to have regard to the Countryside Character Appraisal when determining proposals for development. It also states that the primary consideration will be to protect and enhance the character of the Island's coast.

We would once again draw the Minister's attention to Page 41 of the Countryside Character Appraisal report which highlights that any development at the holiday complex at Plémont would be a threat to local character. Also on Page 42 the report recommends:

"There is no further 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."

The Trust considers that the application is clearly contrary to the recommendations of the Countryside Character Appraisal as stated above and that this must be of prime consideration to the Minister when reviewing the application.

Policy NE7 – Green Zone

The key issue in relation to this policy is assessing whether the environmental gains and landscape restoration are sufficient to justify an exception to the presumption against the replacement of commercial buildings in the Green Zone with residential development. Presumption is key and the Minister is clearly not obliged to offer any consent unless the Minister is fully convinced that the current proposals will not have an adverse impact upon the Island's coastal landscape.

Whilst the Trust acknowledges that the existing derelict buildings are an eyesore it remains unconvinced that the development of 28 houses in 3 substantial clusters will enhance the landscape in the way that is being suggested by the developer. We would therefore urge the Minister to carefully consider whether the gains are so substantial in this application to permit the exception.

The developer has actively sought to promote the concept that this application will result in "2/3rds natural" at no cost to the public. We strongly believe that unfortunately this statement suffers from a degree of "spin" and that it would be preferable if we simply focused on the facts.

In this respect we have therefore taken the liberty of preparing a schedule using the applicant's figures to clarify the position:

	EXISTING	PROPOSED	RESULT
TOTAL AREA OF PLANNING APPLICATION SITE	39,471 SQ METRES	39,471 SQ METRES	NO CHANGE
DEVELOPED AREA	20,388 SQ METRES	12,121 SQ METRES	40.0% REDUCTION
AREA OF UNDEVELOPED LAND	19,083 SQ METRES	26,757 SQ METRES	40.0% INCREASE

As you can see there will be a 40% reduction in the developed area. The "two thirds natural" referred to by the applicant unfortunately takes little account of the 19,083 sq metres of land which is currently not developed.

Also Policy NE7 is crucially not about public accessibility but rather demonstrable environmental gains emanating from landscape restoration and reduction in visual impact. The core issue facing the Minister is not whether the applicant delivers a publicly accessible area equivalent to Howard Davis Park but rather whether the project results in the restoration of this sensitive coastal area.

It is our contention that this housing estate will not result in adequate restoration of the landscape. It will remain visually intrusive and continue to have a negative and adverse impact upon the open windswept landscape that characterises Plémont. Furthermore we do not believe that a 40% reduction in the developed area is sufficient to justify the presumption against the use of this commercial site for housing development given the exceptionally sensitive and unique coastal location.

Policy TT8 – Access to Public Transport

This policy states that all development of 10 units of residential accommodation should be within 400 metres of a bus service.

It should be noted that during the winter there is no such provision with the nearest bus stop being at Portinfer. Therefore this development does not meet the requirements of Policy TT8.

Conclusion

Under Article 19(1) and (2) of the Law the Minister when determining an application must take into account all material considerations and in general grant planning permission if the proposed development is in accordance with the Island Plan. It is the Trust's contention that this application should be refused as it fails to meet many of the policy requirements of the Island Plan 2011 as detailed above well as the key objectives of the Planning Law.

Much has been said about whether the environmental benefits are sufficient for there to be an exception to the presumption against such development. We sincerely believe this is not the case as the coastal headland at Plémont will simply continue to suffer from inappropriate development in a different guise from what already exists. Public access in this case is very much a red herring as the north coast still remains largely in private ownership and our enjoyment is not based upon accessibility and ownership, but rather the opportunity to walk along a narrow cliff path through an open landscape which retains a sense of wilderness and tranquillity. This is the environmental benefit we seek and which unfortunately is failing to be delivered.

Yours sincerely

Charles Alluto
Chief Executive of The National Trust for Jersey

CC: Chief Minister

Rec'd by email
22/2/2017
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