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Environment Section

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5th February 2012

Minister for Planning and Environment,
South Hill,
St Helier.
JE2 4US

08 FEB 2012

PPI/05022012/
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Dear Deputy Duhamel,

Plemont Holiday Village
P/2011/1673

The previous Minister for the Environment indicated that he would hold a Public Inquiry because, in his view, the latest application for development of what was Plemont Holiday Village involved departures from the Island Plan. At that time, the application was P/2011/0144 and read –

Demolish existing buildings. Construct 28 new buildings. Return 2/3 of site to nature. Associated landscaping and footpaths. Footpath from site to North Coast cliff path.

That application was later withdrawn for redrafting and now reads -

Demolish all existing buildings and remove hard-standings. Return 67%.of total site area (16.19 verges) to publicly accessible natural landscape. 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.

Although there has been a relatively minor change in the northern boundary, the application is in essence unchanged. It remains a major development and one that has provoked considerable public concern for a number of years.

The Planning and Building Act, Article 12, applies (1) when the Minister is satisfied that if the proposed development were to be carried out –

- (a) the development would be likely to have a significant effect on the interests of the whole or a substantial part of the population of Jersey; or
- (b) the development would be a departure (other than an insubstantial one) from the Island Plan.

The following paragraph states (2) where this Article applies the Minister shall not determine the application until a Public Inquiry has been held.

With regard to 'the interests of the whole or a substantial part of the population of the Island', this is sometimes taken as being limited to only a financial interest but in this case there could not have been clearer evidence of wide public interest in this proposed development and the protection of the Island's coast and headlands than the concern steadily expressed in the press and the physical attendance of thousands at the 'Line in the Sand' demonstration.

With regard to infringement of the Island Plan policies, Proposal NE 6 – Coastal National Park, NE 7 – Green Zone, SP 1 – Spatial Strategy, SP 4 – Protecting the Natural and Historic Environment, and GD1 – Sustainable Development, are all relevant and are analysed below. We believe that in these two respects this application meet the criteria in Article 12 and that the Minister is thus under an obligation to hold a Public Inquiry, as the previous Minister intended. We therefore formally request that you commit to the holding of a Public Inquiry and that the following representations are conveyed to the Inspector.

[Redacted Signature]

R. Anthony
Environment Section Chairman

Representations with respect to Planning Application P/2011/1673 Plemon Holiday Village

This latest application can be considered as having three main components – ‘Demolition’, ‘New Development’ and ‘Associated Land Use’.

DEMOLITION

‘Demolition’ is classed as being ‘development’ in order that no buildings of value are destroyed without authority. On this site, the abandoned buildings are an eyesore and no objection should be raised to their demolition.

NEW DEVELOPMENT

Of major importance is the fact that the site is in the Green Zone, although this has then to be considered within the over-riding policies on Sustainability.

Under the 2002 Island Plan, Policy C2 – Countryside Character, stated ‘*The P & E Committee will promote the conservation, management enhancement and restoration of the Island’s countryside character. Development proposals and land management should be informed by, be sympathetic to and, wherever possible, restore the local landscape context and local character.*’

This 2002 policy is carried forward in the current Plan where its importance is strengthened and its relevance emphasised. Proposal 4, Coast and Countryside Character, reads - ‘*The Minister for Planning and Environment will have regard to the Countryside Character Appraisal when determining proposals for development which affect the Island’s coast and countryside.*’

‘*The primary consideration will be to protect and enhance the character of the Island’s coast and countryside: the landscape impact of development proposals on the coast and countryside will be assessed and determined against the Countryside Character Appraisal, which will be issued by the Minister as supplementary planning guidance.*’

This gives a clear expression of the Department’s current thinking and, by implication, clarifies the hierarchy of current relevant policies. It expresses the over-riding status of general policy on protection of the countryside. It follows that the later Green Zone policy is – and was earlier - intended to be interpreted within the general policy and subservient to it. Thus, where there may be any doubt as to the relevance and interpretation of any Green Zone policy, enhancement and restoration of the local landscape must be the deciding factor.

Policy NE 7 – Green Zone:

‘*The areas designated as Green Zones on the Island 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 may be permitted but only where the scale, location and design would not detract from, or unreasonably harm the visually sensitive character and scenic quality of this zone; -*’

The comprehensive list of exemptions makes no reference to permitting any new housing other than (1) extensions of existing houses, (2) limited ancillary building, (3) replacement of a dwelling, (4) staff accommodation, (5) redevelopment of existing non-residential building where its use remains the same, (6) conversions and (7) to meet agricultural needs.

Under 'For the avoidance of doubt', it is in fact specified that '(c, ii) there will be a presumption against the use of commercial buildings for purposes other than that for which permission was originally granted. Exceptions may only be permitted where (ii) their demolition and replacement with a new building(s) 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 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.'

It must be noted, first, that there is no requirement that an exception should be made – it is no more than an essential feature of any otherwise acceptable option – and, second, that this exception is only permissible with regard to the re-development of commercial buildings for some other commercial purpose. The proposal in this application is to change from commercial use to residential use: associated environmental gain may be a welcome element but it does not validate an application that otherwise fails to meet other conditions. Also, it is implicit that, to qualify as a re-development, a replacement should be on the original site – not some distance away and on a number of different footprints.

The policy recognises that any new building should have a reduced visual impact and be more sensitive to the character of the area and local relevance. In the proposal, 28 houses would be erected in three groups on a new site on which there have been no buildings. The groups have been described as simulating hamlets – but these are not a feature of the north-west of the Island. Any reduction in visual impact from the blocks of the Holiday Village would be replaced by the more widely-spread intrusion of the numerous individual houses. Rather than appear as hamlets, the three groups would be more like a new housing estate on agricultural land that has historically never found favour as being appropriate for residential use.

Thus, in this case, new buildings are for a different purpose and in a different area from that occupied by the old buildings that are to be removed: they cannot be accepted as qualifying for exemption from the presumption against development in the Green Zone.

ASSOCIATED LAND USE

It is claimed that the proposal would return 2/3 of the site to publicly accessible natural landscape. An area of this extent is difficult to explain unless the curtilages of all the private houses are included. This return of land to nature is welcomed but does not alter the fact that, even if the claim of returning 2/3 to natural landscape is accepted, the proposal is to develop 1/3 of the site by new buildings in the Green Zone contrary to policies in the Island Plan.

The current Island Plan.

Policy SP4: 'Protecting the Natural and Historic Environment' reads 'A high priority will be given to the protection of the Island's natural and historic environment. The protection of the countryside and coastal character types; Jersey's biodiversity; and the Island's heritage assets – its archaeology, historic buildings and places – which contribute to and define its unique character and identity will be key material considerations in the determination of planning applications.'

The current Island Plan retains the application site in the Green Zone. Further, the preamble (2.73) notes *The vigorous public response, in the Green paper and Imagine Jersey 2035, to further protect the countryside from development has demonstrated a clear need to review and strengthen existing countryside policies in order to protect this important asset.* This is developed into the proposed establishment of a Coastal National Park which applies to *'all those parts of the Island of highly sensitive and valuable landscape quality'*. Surprisingly, although proposed by consultees when the now-adopted Plan was at the Draft stage, the Plémont headland is not included, even though it is surrounded by the Park on three sides. This proximity is relevant in that this zone will, in Policy NE 6, *'be given the highest level of protection from development and this will be given priority over all other planning considerations. In this area there will be the strongest presumption against all forms of new development for whatever purpose.'*

In this case, the continued public demonstration of opposition specifically directed to proposed development on this site illustrates the expectation that Green Zone policy to protect and enhance the landscape should be enforced. Certainly, because of this site's intimate juxtaposition with a part of the Coastal National Park, Green Zone policy should be strictly applied rather than loosely interpreted. No new buildings should be allowed even if old ones are removed.

Spatial Strategy

Policy SP1 states "Development will be concentrated within the Island's Built-up area, as defined in the Proposals Map, and in particular within the Town of St Helier. Outside the Built-up Area, planning permission will only be given for development;

- 1. appropriate to the coast or countryside;*
- 2. of brownfield land, which meets an identified need, and where it is appropriate to do so;*
- 3. of greenfield land, in exceptional circumstances, where it justifiably supports parish communities or the rural economy and which meets an identified need and where it is appropriate to do so.*

The Plémont site – introducing residential use at the greatest possible distance from St Helier - is not

- (1) appropriate to either the nearby coast or the surrounding countryside;
- (2) even if accepted as being brownfield land, meets no identified need other than a general shortage of housing;
- (3) if it were to be considered as greenfield land, it would not be supporting parish communities or the rural economy; there is no identified need, and it is not appropriate to introduce housing.

Policy SP 4 is concerned with Protecting the Natural and Historic Environment.

A high priority will be given to the protection of the Island's natural and historic environment. The protection of the countryside and coastal character types; Jersey's biodiversity; and the Island's heritage assets; its archaeology, historic buildings, structures and places – which contribute to and define its unique character and identity, will be key considerations in the determination of planning applications.

This site – when clear of development - is typical of the North-west coastal landscape and its protection should therefore be given the highest priority.

It has been suggested that other developments of similar size have previously been permitted. In response, whatever past decisions may have been made, this development would be additional to any environmental damage that may have resulted from previous departures from the Plan. The proposed development would be contrary to both the spirit and letter of a fundamental policy of the island Plan. Two wrongs do not make a right.

At the Public Hearing in 2008, the Highways Section of T&TS noted that it had been taking a progressively firmer stance on the issue of traffic associated with any development at Plemont. Argument centered on what significant effect there would be from 36 houses and comparisons were made with the time when the previous holiday camp had been operating. T&TS opposed the application on the basis of the sustainability/car trips issue: whatever the traffic generated from a new development might be, the application could not be supported because the site location involved the use of the car for most trips, whereas the emerging Integrated Travel and Transport Plan proposed that significant new housing development should be located to encourage sustainable modes of transport. This approach is, of course, maintained in the Spatial Strategy SP1 in the 2009 Plan.

The level of the accompanying traffic should not be compared with levels of the time when the former Holiday Village was operating 11 years ago: now, any new traffic will be a straight increase on the current level.

SUMMARY

The fact that demolition is subject to planning control is simply to ensure that no buildings of value are lost without authorisation. Demolition and removal of the derelict buildings would be of environmental benefit but, although their removal may be welcome, it does not validate the legitimacy of *any* replacement.

Thus, new development should be judged on its own merits. It conflicts with at least 5 policies in the Island Plan – GD 1, SP 1, SP 4, NE 6 and NE 7. The proposed residential development in the Green Zone does not meet the requirements of any of the allowed exemptions to the general embargo. There is no provision in the Island Plan for replacing an obsolete development with another on a different site. Neither is there provision for allowing a different development as a compensating element in exchange for the removal of an eyesore.

The numerous previously refused applications for this site have mostly been based on reductions of scale. In June 2002, the Planning Committee advised that it would be willing to consider some limited form of residential development, subject to some conditions. This advice was issued without prejudice to consideration of any further applications. Informal approaches were later made and were refused on various grounds. In 2008 an application for 36 houses was refused, although an Officer recommendation was made that, were an application for 30 houses to be made, it should be accepted.

The Minister is now being asked for a decision on a scheme with 28 houses. In 2007 the Royal Court, during the 'McCarthy' Appeal, noted that '*the wider public interest should be given significant weight*' and stated that '*the Minister should not be held to indications by officials or other promises or hints that a planning permission will be granted.*'

With the history of applications for this site, we believe that an Inspector should properly recommend that the Minister should consider himself to be free to reach whatever decision he understands to be the intention of relevant Policies in the Island Plan. In so doing, he should take note of what he may see as being the wider public interest, and give primary attention to the Countryside Character Appraisal, where no exemptions to Green Zone policies appear to apply.

The proposal in this application is to change from commercial use to residential use: associated environmental gain may be a welcome element but it does not validate an application that otherwise fails to meet all required conditions.



R. Anthony
Environment Section Chairman