



Planning and Building (Jersey) Law 2002

Article 115(5)

Report to the Minister for the Environment

by

Jonathan G King BA(Hons) DipTP MRTPI

an Inspector appointed by the Judicial Greffe.

Appeal

by

Mr Paul & Mrs Sharon Fox

Jersey Gas Company site, Tunnell Street, St Helier

Application by The Brookfield Tunnell Street Holdings Limited

Hearing held on 7th June 2017 at the Employment Tribunal Offices, Bath Street, St Helier

Unaccompanied site visit carried out on 8th June 2017

Department of the Environment Reference: PP/2016/1414

Jersey Gas Company site, Tunnell Street, St Helier

- The appeal is made under Article 108 of the Law against a decision to grant outline planning permission under Article 19.
- The appeal is made by Mr Paul Fox and Mrs Sharon Fox.
- The application Ref PP/2016/1414, is dated 7th October 2016. Outline planning permission was granted by notice dated 27th March 2017, subject to conditions.
- The development is the demolition of existing gas works and associated office, showroom and staff accommodation; the construction of new residential development comprising of up to 253 one, two and three bedroom dwellings and associated residential facilities; 2 commercial units; semi basement parking; ancillary areas; landscaping amenities and public realm improvement at the Jersey Gas Company site, Tunnell Street, St Helier. All matters are reserved except scale and mass, siting, means of access and landscape.

Summary of Recommendations

1. I **recommend** that the appeal should be **dismissed**.

Introduction

2. This is an appeal by a third party against the grant of outline planning permission. Mr and Mrs Fox are residents of Tunnell Street, which forms the southern boundary of the site.

The scope of the report

3. Outline permission for the development was granted, subject to 17 conditions on 27th March 2015. Under Article 117(1) & (2) of the Law, the decision remains in effect, but the development may not take place until determination of the appeal.
4. Article 116 of the Law requires the Minister to determine the appeal and in so doing give effect to the recommendation of this report, unless he is satisfied that there are reasons not to do so. The Minister may: (a) allow the appeal in full or in part; (b) refer the appeal back to the Inspector for further consideration of such issues as the Minister may specify; (c) dismiss the appeal; and (d) reverse or vary any part of the decision-maker's decision. If the Minister does not give effect to the recommendation(s) of this report, notice of the decision shall include full reasons.
5. The purpose of this report is to provide the Minister with sufficient information to enable him to determine the appeal. It focuses principally on the matters raised in the appellants' grounds of appeal.

However, other matters are also addressed where these are material to the determination, including in relation to the imposition of conditions, and in order to provide wider context.

Procedural matters

6. The appeal form states that the appeal is made by “residents of Tunnell Street (c/o Paul & Sharon Fox)”, and the names and addresses of occupiers of a further 4 properties in Tunnell Street – another 7 individuals - were supplied. However, there is no provision in the Law for groups to bring appeals, and so the appeal is progressing solely in the name of Mr & Mrs Fox.
7. A public consultation exercise, comprising 2 meetings and an exhibition, was undertaken by the applicants prior to the planning application being submitted.
8. As submitted, the application was in outline with matters relating to external appearance and materials only reserved for subsequent approval.
9. The application is supported by statements concerning Transport; Historic environment; Environmental Impact (including a non-technical summary; Public Art; Design and Access (with Addendum); Public Consultation and a Design Code.
10. A Planning Obligation Agreement made under Article 25 of the Law has been entered into by the Minister for Planning and Environment and the applicants, Brookfield Tunnell Street Holdings Limited. Its principal provision relate to the payment by the applicants to the Treasurer of the States a total of £860,000 to be applied by the Minister for Infrastructure towards the development or enhancement of public car parking (whether on or off-street) and / or associated infrastructure. The provision of a bus shelter in the environs of the site would also be paid out of this sum. The Agreement is in line with the provisions of Policy GD 4 of the Island Plan. I consider it to be reasonably necessary in the interests of securing an appropriate form of development; and it is a material consideration in this appeal.

Background

11. This appeal relates to a revised proposal to redevelop the Jersey Gas site. An application for 285 flats on the site was submitted in 2014 and the development permitted in March 2015 (ref p/2014/1125). A third party appeal was made on behalf of residents of Tunnell Street; and a Hearing held in November of that year. I was the Inspector responsible for the conduct of the appeal; and I submitted a report in early 2015, My principal conclusions (in short) were:
 - The development has much to commend it. It would, in many respects, be in accordance with the provisions of the Island Plan

and the guidance of the North of St Helier Masterplan and the Development Brief for the site. The principle of residential development is entirely acceptable. Importantly, it would achieve the removal of an unsightly and potentially hazardous industrial use that presently detracts from the area and makes inefficient use of urban land. The setting of the new Town Park would be very significantly improved; a substantial number of housing units would be provided in a sustainable location; and progress would be made towards regeneration of the wider North Town area of St Helier.

- With respect to the main issues, the Masterplan is not fundamentally flawed or out of date; and the fact that the consultation process during its preparation was less than ideal does not invalidate its guidance. The effect of the development on highway safety and congestion is unlikely to be significant; and the parking provision would be sustainable, in that it would discourage unnecessary car journeys and encourage travel by other means.
- However, the submitted proposal would not integrate well into its surroundings, particularly with respect to Tunnell Street. Insufficient consideration has been given to the need to reflect the modest scale of existing development in that street and the area to the south, or to the reasonable expectations of local residents to enjoy acceptable living conditions. What was proposed would not result in the highest quality form of development that the Development Brief for the site clearly envisages.
- On balance the benefits of the proposed development would be outweighed by the lack of integration with its surroundings – both the local built environment and the living conditions of existing residents. The relevant policies, aspirations and objectives of the Island Plan or of the Masterplan and Development Brief would not be a fully met, thereby prejudicing the achievement of a satisfactory development of this important site.

12. I recommended that the appeal should be allowed; and this was accepted by the Minister for External Relations, who added 2 further comments:

- It is unfortunate in the context of a development of this scale that the opportunity has not been taken to achieve a widening of the narrow pavement alongside the Tunnell Street properties. The Minister expressed hope that the revised plans and associated agreements might secure that end; and
- This would be an important development for the town of St Helier. The Minister noted that the use of design had been reserved and would be the subject of further discussion with officers of the Department of the Environment. Having acknowledged that, he felt bound to say that the outlined design shown on the plans did not give hi confidence that the proposed development would enhance the urban landscape nor integrate itself into its surroundings. This

is or would be a very substantial development in the centre of the town and the Minister expressed the hope that the utmost care is taken to produce an outstanding design of which town dwellers and Islanders can be proud. The Minister hoped that further consideration might be given to an architectural competition to ensure the best possible outcome.

Description of proposals

13. The site comprises land bounded by L'Avenue Et Dolmen du Pre des Lumieres and Rue Le Masurier to the north; St Saviour's Road to the east; Tunnell Street to the south; and the new Town Park to the west. The greater part of it is presently occupied by a large disused gas holder, gas company offices, staff housing (2-10 Thomas Edge Place) and a vehicle parking area. The remainder, fronting St Saviour's Road includes Nos 1-4 Le Faux Bie Cottages. All of the existing buildings and structures are proposed to be demolished and the land, which is likely to include contamination, remediated prior to redevelopment.
14. The proposed development comprises 4 blocks of accommodation which would be occupied by a total of 253 units of accommodation, comprising 113 one-bedroom; 132 two-bedroom and 2 three-bedroom apartments and 6 town houses, together with 2 commercial units in Blocks A and C. There would be 2 semi-basement car parks: one accessed from L'Avenue et Dolmen du Pres de Lumieres, providing 153 spaces; and the second from Tunnell Street, giving access to 56 spaces.

Block A

15. This block would front the southern side of L'Avenue Et Dolmen du Pre des Lumieres, with short extensions on the corners to partially enclose a substantial public open area. The new Town Park would be to the west, while the eastern end would face a broad north-south pedestrian link and Block C. The remaining (southern) elevation would look towards the open area and Block B. It would be at a height of 5 and 6 storeys above the basement.

Block B

16. In plan, this block broadly mirrors that of Block A. It would face Tunnell Street to the south, with short extensions northwards partially enclosing the area of open space. Facing the street it would be 3.5 storeys in height, with 4 and 5 storey elements stepping back.

Block C

17. Block C is L-shaped in plan, with its long frontage to Rue Masurier mostly at 6 storey height, and a shorter one to St Saviour's Road of 4 storeys.

Block D

18. This block sits to the south and west of Block C and faces Tunnell Street. It is by far the smallest of the blocks comprising 6 town houses, 3 storeys in height.

Main changes compared to the previous proposals

19. The applicants have made a number of revisions to the previously-submitted proposals, having regard to the observations in my report and those of the Minister
- (a) The height of the proposed properties fronting Tunnell Street have been reduced from 4.5 to 3.5 storeys to conform to the recommended maximum height of buildings for this location set within the Brief.
 - (b) The proposed buildings fronting Tunnell Street have been set back to between 12 and 14 metres (from 8 metres) in order to widen the space between them and the existing buildings on the other side of the road.
 - (c) The widening of Tunnell Street and its pavements on both sides, together with resurfacing; traffic calming measures; lay-bys for loading and service vehicles; turning provision for vehicles; and the provision of an increased amount of “public realm” space within the widened street, including tree planting.
 - (d) A reduction in the number of residential units from 285 to 253.
 - (e) No public parking would be provided on the site.

The grounds of appeal

20. The appeal form lists 9 grounds of appeal. As a number address similar matters, I have combined them into 5. They may be summarised as follows:
- The North of St Helier Masterplan is flawed. There are no set planning policy guidelines & other comparable applications have been refused
 - The design & character of the proposed buildings is not in keeping with the area or surrounding buildings. The development would be overbearing and cramped.
 - The development would harm the living conditions of local residents by reason of noise, disturbance, loss of light & loss of privacy.

- The development would give rise to increased traffic in Tunnel street and surrounding roads.
- The parking provision would be inadequate for residents or visitors.

21. These grounds are broadly similar to those raised in relation to the previous appeal.

Main Issues

22. From my assessment of the papers submitted by the appellants, the Department and the applicant, and from what was given in evidence during the Hearing and seen and noted during the site visit, I consider that the main issues are:

- (a) *Whether the proposed development is consistent in principle with the policies of the Island Plan and the North of St Helier Master Plan.*
- (b) *The effect of the proposed development on the character & appearance of the area.*
- (c) *The effect of the proposed development on the living conditions of local residents in the vicinity by reason of proximity; overbearing impact; loss of privacy; noise and reduction in light.*
- (d) *The effect of the proposed development on the safety and convenience of road users, with particular regard to the volume of traffic created; pedestrian movement and safety; the adequacy of parking provision; and the impact on local residents and businesses.*

Main Policies and Guidance

23. The main documents that provide planning policy and guidelines include the Island Plan and Supplementary Planning Guidance (SPG). Under the Law, planning permission must in general be granted if the development is in accordance with the Island Plan.

The Island Plan

24. The Island Plan was adopted 2011 and revised in 2014. Its Spatial Strategy focuses development on the Island's built-up areas, particularly St Helier, while respecting its character. Opportunities for the regeneration of the urban environment and the realisation of the aspirations for the Town will be driven, amongst other things, by taking advantage of key development sites that already exist. In particular, the Plan says that it is imperative that to create an acceptable urban living environment, adequate provision of good

quality and accessible public open space must be planned for and made.

25. The development and regeneration of St Helier is described as a major task which will require a high level of integration and management to secure effective development outcomes that serve to meet the Island's needs whilst protecting and enhancing the character and quality of the Town, of benefit to its existing and new residents, workers and visitors. Six key areas of change in St Helier have been identified in the Plan as Regeneration Zones, amongst which is "North of Town", in which the appeal site lies.
26. The Plan makes the assumption that a yield of 1500 new homes might occur in St Helier over the Plan period, taking account of the likely take-up of sites and development at an appropriate density. In that context, the present proposals would represent a significant contribution both to the provision of housing and to regeneration. In order to seek optimum use of developable land, development at higher densities is promoted – though not at the expense of reduced internal space standards or amenity space – and with regard being had to the issues of design, character and impact on the amenity of neighbouring uses and users.

The North St Helier Masterplan 2011

27. The Masterplan has the status of SPG. It is principally concerned with opportunities for intervention in the north part of Town, with respect to sites owned by the states and the private sector, together with improvements to the public realm, including car parking and cycle and pedestrian movement.
28. Nine intervention sites are identified including the Jersey Gas site which is the subject of this appeal. The Masterplan states that it is suitable for a significant new residential development. It proposes 24,000 square metres of housing development (approximately 300 dwellings), enclosing public open space, with underground car parking for residents and commuters. Community or commercial uses could also be included. Any new buildings should be predominantly 5.5 storeys (including a lower ground floor), which should be sympathetic to the scale of the surrounding buildings. 180 residential parking spaces would be provided, together with 138 spaces for long-stay public use. Pedestrian routes to St Saviour's Road and to Belmont Road were envisaged, and remediation in the context of a thorough archaeological assessment.
29. The Masterplan seeks to provide a high-density approach to housing with associated generous public open space. The intention is to build on the heritage and architectural language of early nineteenth century terraced housing in St Helier, but at greater height.

The Jersey Gas Site Development Brief (Revision A)

30. The Development Brief was adopted as SPG in September 2013. It is specifically intended to provide the framework for the assessment and determination of any subsequent planning application. It refers to the preferred uses for the site identified in the Masterplan.
31. Nine overriding aims for the development of the site are identified, as follows:
- to secure a positive environmental and social improvement for the Town Park area by the removal of potentially hazardous uses from the Jersey Gas site in Tunnell Street, and create the potential for the relocation of LPG storage site at Les Ruettes, St John, to more appropriate locations;
 - to assist in the regeneration of the area and breathe new life into the town;
 - to provide a predominantly residential development that contributes to the provision of affordable homes;
 - to incorporate some limited small-scale commercial, retail use / or a community use to serve local needs;
 - to secure a contribution towards the provision of alternative public and residents' car parking and to contribute towards the enhancement of the public realm in the immediate locality and also the North of Town area;
 - to create a design that makes a positive contribution and improvement to the physical context of the neighbourhood and which provides a focal point, enclosure and physical connection with the new Town Park;
 - to deliver a form of development that responds to the heritage value of the site and its context;
 - to provide well-designed development that is efficient in terms of space and energy consumption, making best use of the site and its context; and
 - to provide the people who live there with the best level of amenity, in all its aspects, given the site's location on the town ring road and proximity to the new Town Park.
32. The Brief addresses key principles, constraints and factors affecting the development and other more detailed matters. Amongst these are that the density should be the highest consistent with maintaining reasonable standards of design, space about buildings and privacy, appropriate to the type of accommodation provided and the general surroundings. It says that there is potential for a scheme ranging from six storeys along the northern boundary of the site to up to four storeys along the southern boundary, adding that *"the southern side should respect the existing street context and that care must be taken to ensure that residential amenity (of) the existing dwellings along Tunnell Street is not compromised in terms of outlook and privacy, and specific attention is given to ... overbearing impact on the street"*.
33. Compared to the Masterplan, the Brief takes a different approach to the provision of public car parking. Following the outcome of the St

Helier Parking Needs Study (June 2013), it recommends that, for reasons of cost-effectiveness, rather than making provision on site, a commuted sum would be sought to contribute to off-site parking.

St Helier Urban Character Appraisal 2005

34. This document does not constitute SPG but nonetheless was specifically drawn up in the context of the former Island Plan. It was commissioned amongst other things as an aid to guiding policy formulation and the assessment of planning applications. It provides useful analysis of the urban character of the Town, albeit that the research on which it was based is now over 10 years old.

Reasons

Issue (a) Policy & the Masterplan

35. A central point made by the appellants is that the North of Town Masterplan is out of date and flawed. This is a repetition of an issue addressed at the previous appeal. In my report then I concluded that although the public consultation exercise associated with the production of the plan was in some respects flawed, its contents were not. At that time I was of the opinion that, together with the Development Brief that builds upon its principles, it reflects the general aspirations for St Helier contained in the Island Plan. I have been provided with no good reason to take a different view now.

36. The appellants oppose building at a higher density in the town, and point to other developments in the locality. They also refer to a suggestion in an earlier, superseded draft version of the Masterplan that envisaged the new Town Park being extended through to St Saviour's Road, thereby increasing the amount of green space locally. But that idea did not make its way through to the adopted version. In any event, the Island Plan, which was reviewed as recently as 2014, says (in Policy SP 1) that development will be concentrated in the Island's built-up area and in particular in St Helier. The Plan also indicates that a more sustainable approach to the development and redevelopment of land requires the application and delivery of higher densities and greater housing yields. The proposed development supports those aims. Policy GD 3 indicates that the highest reasonable density will be required for all developments.

37. It is true that the Island Plan – produced at approximately the same time as the Masterplan- based its projections of housing need on the States Strategic Plan 2009-2014, which established a maximum inward migration rate equivalent to 325 people each year. The appellants assert that the true figure (for 2015) has risen to 1,500-2,000 people per year. That may be so, but this has no direct bearing on the development of the Jersey Gas site. Indeed, if the demand for housing has risen as a result of migration, it tends to emphasise the

need for large-scale residential development at higher density. The present proposal would make a valuable contribution to that.

38. It appears to me that it is not so much that the planning policies and the Masterplan are out of date, but that the appellants do not support those policies. But this appeal is not the proper forum in which to seek to amend them.
39. The appellants have made generalised statements about parking, scale and the character of the area in the context of the aspirations of the Masterplan. I address these matters under my other issues.

Issue (b) Character and appearance

40. The appellants consider that the revised proposals would be unsympathetic to the scale and character of the surrounding buildings, contrary to the aims of the Masterplan.
41. In my report concerning the previous proposal I assessed at length the likely effect of the development on the character and appearance of the surrounding area by reference to relevant Island Plan policies, the Masterplan, the Development Brief and the Urban Character Appraisal. The factual elements of that assessment apply equally today, and I repeat them in a slightly shorter form below (in italics).
42. *Policy GD 1 of the Island Plan says, amongst other things, that a development proposal will not be permitted unless it is of a high quality of design, in accordance with Policies SP 7 and GD 7, such that it maintains and enhances the character and appearance of the Island and that, where appropriate, makes provision for hard and soft infrastructure that may be required as a result of the development.*
43. *Policy GD 3 indicates that the highest reasonable density will be required for all developments. However, it is important to note that this should be commensurate with good design, adequate amenity space and parking, and without unreasonable impact on adjoining properties.*
44. *Policy SP 7 requires the assessment of various components of development in order to ensure that it makes a positive contribution to a number of urban design objectives*
45. *Policy GD 7 similarly seeks high quality design in all development that respects, conserves and contributes positively to the diversity and distinctiveness of the built context. It should respond appropriately to a number of criteria, of which the following are particularly relevant:*
 - *the scale, form, massing, orientation, siting and density of the development and inward and outward views;*
 - *the relationship to existing buildings, and settlement form and*

- *character; and*
 - *the design of safe pedestrian routes, vehicle access and parking.*
46. *The appeal site is principally in commercial / industrial use, but also includes small-scale housing and parking. It does not form a coherent whole in land use or townscape terms and to a substantial degree detracts from the quality of its immediate and wider surroundings. It lies to the south of an area of the town that, though it includes housing, also contains a significant proportion of commercial development. Some, for example the Co-op Grande Marche, is of substantial scale. To the south, in Tunnell Street, the local character is also mixed, including both dwellings and commercial uses, but of a much smaller scale and with no consistency of design. To the east, and in the area beyond Tunnell Street, development is predominantly residential in character and also mostly small scale. A further critical aspect of the setting of the site is the new Town Park, an attractive landscaped area and an important informal recreational resource. It has an open character, and is of considerable scale. In general terms, the site together with its surroundings including Tunnell Street present something of an area of transition in terms of both use and scale.*
47. *Having regard to that varied context, the Masterplan and the Development Brief recognise that the redevelopment of the site should seek not only to take advantage of the opportunity to remove an incoherent and largely unattractive group of buildings and to replace them with something better, but also to enhance its surroundings. In order to do so, it must have careful regard to the surrounding uses and their scale. I acknowledge that the task of integrating a major development into this diverse setting is by no means easy, and some compromise may be inevitable.*
48. *The Brief sets out a number of objectives to which any scheme should respond:*
- *to comprise appropriately proportioned buildings and places using features, materials and colours which enhance the character of the locality;*
 - *to enhance the public realm through the contribution of the entire development, including buildings, spaces and landscaping elements, to the local townscape. This should be related to the design guidance provided in the North of Town Masterplan;*
 - *to enhance legibility of the area by ensuring that the new design respects the site context; and*
 - *to provide a safe and secure environment, where the access and internal circulation promotes a sense of neighbourliness, intimacy and human scale, and where the external spaces, including access routes, and the activities in them can be overseen by residents to promote a feeling of security. A crime impact assessment is likely to be required, in accord with Policy GD 1.*

49. *Further design guidance is provided. The plot and street widths of the surrounding streetscape should be respected where possible; and the development must provide an important focal point to the east of the new Town Park, with which it should "interface". The Masterplan development concept envisages a mix of terraced town houses and apartments with basement car parking; and the encouragement of pedestrian permeability around the perimeter of the site and through a series of private quadrangles, connecting the Town Park with St Saviour's Road. Enhancement of the local pedestrian infrastructure – for example pavement widths - is seen as part of this approach.*
50. *The Brief considers there to be potential for a scheme ranging from 6 storeys along the northern boundary of the site to up to 4 storeys along the southern boundary. This is a refinement of the "predominantly 5.5 storeys" set out in the Masterplan and, as is clear from the "possible height envelope" plan, envisages the development stepping down progressively from north to south, broadly reflecting, or at least having regard to the heights of the surrounding buildings. The southern side should respect the existing street context and care must be taken to ensure that residential amenity of the existing dwellings along Tunnell Street is not compromised in terms of outlook and privacy. The effect of the development on amenity is addressed elsewhere in this report, but it is clear that the Brief here is drawing attention to the connection between good design and the impact on those living in the vicinity of the site: good design is not only about appearance – it also relates to the integration of a development into its surroundings in the broadest sense.*
51. *The Brief acknowledges that the presence of the existing gas-holder may bring an opportunity for a higher element within the development, which may help create a significant area of public amenity space at ground level and a focal landmark for any scheme. Specific attention should be given to how the development "turns the corners" to avoid any unduly large blank gables and overbearing impact on the street. Care should be taken to ensure that the internal parts of the scheme are not constantly in shadow and that a good level of sunlight can penetrate the development.*
52. *The Urban Character Appraisal provides useful background with respect to the scale of buildings, stating in relation to massing that "modern buildings can easily clash with older neighbours either through being overscale or underscale relative to the wider context. The scale of buildings affects the scale of streets and spaces and is a strong determinant of urban character. Much of St Helier is of a markedly human scale, comprising a general matrix of buildings between 2.5 and 3.5 storeys in height. This is interspersed with discrete clusters of buildings up to 6 storeys in height and the very occasional high rise. Cues should be taken from the immediate context to determine the appropriate height and massing of new development".*
53. *I concluded that the submitted scheme clearly accorded with several*

elements of the guidance contained in the Masterplan and the Brief. In terms of the broader design objectives of the latter, it would enhance the character of the locality insofar as it would replace the gas holder - a disused and damaged piece of industrial equipment that, though a prominent and established feature, can hardly be said to be visually appealing. An unattractive vehicle park and a very ordinary office building would also be removed. Similarly, subject to the approval of the reserved matters, the development would in many respects enhance the "public realm", including the setting of the Town Park. The development would include other areas of open space that would add to and connect with the park. I am satisfied that these major benefits would be similarly realised by the present proposals.

54. I also concluded that the density of the development would not be inappropriate to an urban location and would be in accordance with the intention of Policy GD 3 that the highest reasonable density will be required for all developments. The density of the present proposals would be somewhat reduced by comparison, but equally acceptable. I was also content that the raised ground floors and the use of a semi-basement, which provided opportunities for vehicle parking, echoed the use of these features in older and modern buildings characteristic of the Town. Again, these are retained in the revised plans.
55. Looking first at the tallest elements of the proposed development, as before I remain satisfied that Blocks A and C would not appear out of place or unduly dominating, in view of the width of the adjacent L'Avenue Et Dolmen du Pre des Lumieres and Rue Masurier, their commercial character and the scale of the buildings opposite.
56. Policy BE 5 states that tall buildings, defined as those either above approximately 18 metres in height or rising more than 7 metres above their neighbours will only be permitted where their exceptional height can be justified including in design terms. Development which exceeds the height of buildings in the immediate vicinity will not be approved. The supporting text adds that the more successful new developments are those which respect the scale of the historic streetscape. It acknowledges, however, that there may be instances where a relatively tall building could add visual interest to the skyline; and at certain gateways to the Town, including fronting large open spaces, taller buildings could provide new focal buildings or landmarks.
57. In common with the earlier proposal, the tallest parts of the development at over 6 storeys would be a little over 18 metres in height. But I do not believe that this would breach the "approximately 18 metres" maximum set out in the policy, particularly as these elements would add visual interest and focus when viewed from the park, presenting a bold, appropriately large-scale focal point at its eastern end consistent with the supporting text to Policy BE 5. In turn, the park would provide a suitable and attractive setting for the development of that size. Though it would not be possible to reach St Saviour's Road through the development, the remainder of the site

would be highly permeable to pedestrians in both the north-south and west-east axes.

58. My criticism of the earlier scheme related principally to the buildings proposed on the Tunnell Street frontage, which was proposed to be 4.5 storeys, a little taller than the "up to 4 storeys" considered appropriate in the Brief. Given the context of a very narrow street, I took the view that the frontage development would dominate in terms of height, bulk and proximity when seen in the context of the modest buildings, mostly of just 2 storeys. Other than with respect to the town houses, I found that the scale and massing of this side of the development would not respect the street context or integrate well with it. In short, it would be unsympathetic and not fully in accordance with the Brief. Similarly, having regard to the advice of the Urban Character Appraisal, it would not take cues from the immediate context to determine the appropriate height and massing of the development. I concluded that it would adversely affect the character and appearance of the locality, contrary to Policies GD 1, GD 7, and SP 7 of the Island Plan.
59. The applicants' response has been to lower the height of the buildings fronting Tunnell Street to no more than 3.5 storeys; to widen the road and incorporate a more extensive "public realm". The appellants remain dissatisfied.
60. First, from my knowledge of the area, I take the view that buildings of the proposed height are commonplace in many of the roads in the vicinity – several of them of some age. A nearby example is in Belmont Street, immediately to the south of Tunnell Street, where 3-storey nineteenth century terraced housing with accommodation in their roofs sit comfortably next to and opposite 2-storey dwellings. St Saviour's Road and other streets provide other local examples. Second, the width of the road and the separation of the buildings would also approximate more closely with that found nearby.
61. With respect to the requirement of Policy BE 5 that buildings should not rise more than 7 metres above their neighbours, there is no definition of what should be regarded as a "neighbour". The tallest parts of the development in Blocks B and C would be more than 7 metres above the buildings on the southern side of Tunnell Street, but owing to the substantial set back from the road frontage of these elements of the buildings, I do not believe that they should be so regarded. Although in some oblique views from Tunnell Street their height would be apparent, I do not think they would dominate the street scene or be oppressive for pedestrians.
62. As for the requirement that development should not exceed the height of buildings in the immediate vicinity, to my mind this approach must be applied in the broader context of the policies that seek to promote good design. In my view, the important consideration is not so much that all neighbouring buildings should be of similar height, but that new development should respect and integrate satisfactorily with its

surroundings. This may mean exceeding the height of other buildings in the immediate vicinity. There are, for instance, many examples in the town of established streetscapes harmoniously incorporating buildings of different heights.

63. Taken overall, and in contrast to its predecessor, I am satisfied with respect to this issue that the revised scheme which is the subject of this appeal is consistent with the policies of the Island Plan, the Masterplan, the Development Brief and all other published guidance. The development, though of substantial scale, should integrate satisfactorily into its setting, having regard to the significant variety in the scale and use of surrounding buildings.

Issue (c) Living conditions

64. Policy GD 1(3) of the Island Plan says that development proposals will not be permitted unless (amongst other matters), they do not unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents. In particular, it should not unreasonably affect the level of privacy or the level of light to buildings and land that owners and occupiers might expect to enjoy. This is the test that should be applied. The Masterplan and the Development Brief also identify the need to protect living conditions of existing occupiers, especially in Tunnell Street.
65. The potential for the proposed development to impact on the amenity of those living in the vicinity of the site covers a number of matters, but they are for the most part related to the relationship of the development to existing dwellings. In Jersey there are no formally adopted standards with respect to the acceptability of relationships between buildings. Each case must therefore be taken on its merits, having regard to a range of factors such as the use of the buildings, proximity, height, bulk, aspect and intervisibility. This is not an unreasonable approach, as the application of standards or rules can be inflexible and can inhibit innovative design. The alternative, however, requires the sensitive exercise of judgment.
66. With respect to the previous scheme for the site, I concluded that, owing to the height and bulk of the proposed development fronting Tunnell Street, and of its proximity to dwellings on the opposite side, together with the potential opportunities for overlooking from windows, balconies and roof terraces, that development would unreasonably harm the amenities of a number of residents of the street, contrary to policy.
67. As outlined in in the preceding section of this report, the present proposals incorporate a number of revisions, some having the purpose of seeking to overcome the criticism. In the same way as these revisions have rectified the effect of the previously proposed development on the character and appearance of the area, I consider that they would very considerably overcome the concerns I expressed

about the potential to cause an overbearing or dominating effect for the residents of Tunnell Street. In simple terms, the new buildings opposite would be lower and further away, and more in keeping with the character of the locality. As a consequence, I believe that subjectively, or as an emotional response, residents would find the relationship between the buildings reasonably comfortable rather than oppressive. I am satisfied that in this regard, the test of Policy GD 1 would be met.

68. So far as daylight and sunlight is concerned, the fronts of the existing properties face roughly north or a little west of north. Having seen a photograph of sunlight striking the front of some of the houses, I accept that it does presently have that benefit. However, I would estimate that very little direct sunlight reaches that side of the houses for any prolonged period of time. It therefore seems to me unlikely that the proposed development would deprive the occupants of sunlight to any significant extent. But that is not to say that it would not reduce the amount of daylight (ie indirect light) experienced. The developers have undertaken a daylight and sunlight report which shows that the predicted reduction in light would affect few windows and even then not to a substantial degree. In relation to the previous proposal I concluded that the loss of light would not in itself be sufficient reason to oppose the development, though it could be an additional factor to be taken into account in combination with other effects on the living conditions of residents. That remains my view with respect to the present proposals and again the test of the policy is met.
69. As for the question of privacy, what is presently proposed would provide fewer opportunities for overlooking, owing to the reduction in the number of windows that would face existing properties. And, as they would be further away, the degree of intervisibility would also reduce. The applicants point out that, with separation distances of between 12 and 14 metres, the relationship between the buildings would be comparable with or better than in a number of other streets in the locality. For example: Apsley Road 7.5m; Belmont Road 8.5m; Oxford Road 11m and Bath Street 13m. I also understand that the redevelopment of the Metropole Hotel in Roseville Street will result in a separation distance of just 10 metres. What this demonstrates is that this kind of relationship is by no means uncommon. I agree that is generally accepted in urban areas though, as I indicated in my earlier report, very short distances such as that formerly proposed would not be likely to pass the "reasonableness" test of Policy GD 1. On the other hand, it would not be appropriate to seek separation distances frequently found in, for example, suburban situations.
70. The external appearance of the proposed development does not form part of the present proposals. Although the Design and Access Statement and the Design Code show balconies and roof terraces on the illustrative drawings, at this stage it is not possible to say whether the new buildings would incorporate them into the final design on the Tunnell Street frontage and, if so, their number and positioning. I

note that the Island Plan, while recognising the need to protect the amenity of neighbouring uses, positively promotes the incorporation of balconies and roof terraces into development in St Helier in the context of higher density development and a practical inability to provide private gardens. However, at the Hearing, the Department indicated that there may be no balconies at all, pointing out that the development would include communal amenity space and is next to the Town Park.

71. The applicants state that, should there be balconies, they would not intrude beyond the facades of the buildings. Consequently, the actual viewing distance would be no greater than from a window. Even so, I acknowledge that the perception of being overlooked might be greater.
72. Direct overlooking from roof terraces towards the existing houses could be prevented at the stage of approving reserved matters by setting a balustrade back from the façade. But this would not be possible with balconies. However, the Department suggested that they could be restricted to the ground floor and / or require obscure glazing to be fitted to them. As I indicated in my first report, I take the view that this would simply acknowledge that the relationship between the proposed and existing buildings would be unsatisfactory.
73. Whether there would be balconies or roof terraces is a matter that would have to be addressed at the reserved matters stage in the event that the development were to proceed. As things stand, I take the view that, although there would be the potential for some intervisibility or overlooking, under the revised proposals the buildings would not be so close to each other as to affect the privacy of existing occupiers unreasonably, having regard to the urban context. Consequently, the test of Policy GD 1 would not be breached.
74. Finally, the appellants are concerned at the potential for noise from the proposed development. It seems to me likely that Tunnell Street would be used by more pedestrians, but (see my next issue) vehicular traffic is predicted to reduce. There might be potential for noise from the occupiers of the new buildings, but that would be comparable to what might reasonably be expected in any residential neighbourhood. Bearing in mind that the site was formerly in industrial use and is still commercial, I am not convinced that the living conditions of existing residents would be harmed unreasonably by reason of noise

Issue (d) Highways matters and parking

Highways

75. The appellants oppose the development on the grounds that it will cause additional traffic in Tunnell Street, which is of insufficient width. There is no doubt that the street is presently substandard in a number of ways, including in relation to pavement width. However, the

applicants have demonstrated that the number of vehicles likely to use the street to gain access to the parking spaces served by it would actually reduce from that presently generated by the Jersey Gas site and associated dwellings. Moreover, under the present proposals, the street would be widened considerably, principally by improving the pavements on both sides; and dedicated parking bays for service vehicles such as refuse lorries would be provided, also creating passing places. I have no reason to believe that the environment in Tunnell Street for both pedestrians and vehicles would be made worse by the proposed development. Indeed, they would improve. However, so that the benefits can be realised at the right time, I suggest that a condition should be imposed prohibiting the occupation of any of the new properties fronting Tunnell Street, or any property having a parking space taking access from it, prior to the street improvement works having been completed.

76. The appellants again argue that the surrounding streets are inadequate to carry the additional traffic generated by the proposed development and claim that the traffic data on which the transport statement is based is out of date. However, no objection on those grounds has been received from the Department for Infrastructure. In the absence of any reliable contrary evidence, I have no alternative but to accept that there is no basis on which to object to the proposal on highways grounds.

Parking

77. The appellants express concern at the level of car parking to be provided for the development, partly because they consider it inadequate for the size of the development; and partly because of the problems of on-street parking experienced by the residents of Tunnell Street.
78. Policy TT 10 of the Island Plan indicates that (subject to the outcome of the proposals for North St Helier Masterplan and traffic impact assessments) the provision of up to 450 public car parking spaces would be made at 3 key development sites, including "Jersey Gas". The Masterplan subsequently envisaged the provision of 138 spaces on this site. However, the St Helier Parking Needs Study of June 2013 reported that insistence on these sites providing parking has created a burden on the developers that has rendered the sites unviable, and does not bring forward parking in the most cost-effective or suitable format for public use. It recommended that a commuted payment, set at a viable level, should be used to provide nearby parking in a more cost effective way.
79. At the time of the previous appeal, 230 parking spaces were to be provided on the site, of which 30 were to be for public use, to serve 285 dwellings. In my report I took the view that the level of parking provision (0.7 per unit plus the visitor parking) was acceptable. As presently proposed, a total of 209 spaces are to be provided to serve

the 253 units of accommodation. I understand that 10 of those are to be reserved for the occupiers of the Thomas Edge apartments, leaving 199 spaces giving a ratio of just under 0.8 per unit. The proportionate provision of parking spaces would therefore be greater than previously proposed and significantly greater than that indicated in the Masterplan (180 for approximately 300 units, or 0.6 spaces per unit). It would also be comparable to or greater than at a number of other fairly recent residential developments in the Town, including the Wesley Chapel (0.61); St Saviour's Place (0.43); and Summerlands (0.8).

80. No public spaces are to be provided on the site. Instead, under the terms of a Planning Obligation Agreement, the applicants have agreed to contribute £860,000 towards the provision of public car parking elsewhere in St Helier. This is in line with the Development Brief, but would yield far fewer public spaces than envisaged under the Masterplan.
81. I recognise that although individuals need to use their cars for purposes other than going to work and shopping, (eg taking children to school) the site is very sustainably located close to the town centre, where use of a car is largely unnecessary. The provision of parking has itself the potential to increase demand for it. On the other hand, limiting it would be consistent with the aims of Policies GD 1 and SP 6 to reduce dependence on the car in the interests of sustainability. The plans show storage for 1 cycle stand for each unit of accommodation, plus 34 public or shared stands. This is a further sustainable aspect of the development, in line with the intentions of policy TT 4 of the Island Plan.
82. I conclude that there is no basis on which to object to the development on traffic grounds or by reference to the level of parking that would be provided. The approach is in general accordance with the relevant policies of the Island Plan.

Other Matters

83. The appellants express dissatisfaction with the public consultation meetings arranged by the applicants. Such consultations, though welcome, are not a statutory requirement and so have no bearing on the outcome of this appeal. I have no reason to believe that the meetings were carried out other than in good faith, but it is not surprising that local residents are disappointed if as they say, little change to the proposals resulted.
84. Concern has also been expressed by the appellants about the fact that the planning application for the current proposals was dealt with by the same planning officer who handled the earlier application. Bias and conflict of interest is alleged. Again, I have no reason to believe this to be the case. It is not a material consideration in this appeal.

85. It has been brought to my attention that recent sharp rises in residential property prices in St Helier have been leading to speculation. I have no reason to disbelieve this, but restricting the development of this site would do nothing to overcome the problem or bring forward much needed accommodation.
86. Amongst the grounds of appeal related to traffic matters it is asserted that many of the children of residents from the development will not be able to go to their catchment school as these are already full. However, The Education Department's consultation response raised no objection.
87. I have been told that the appeal site notice at the Street entrance to Jersey Gas was displayed for only one day. However, I understand that it was replaced within a day. I have no reason to suppose that anyone was disadvantaged by the fact that the notice was not displayed for the full statutory period of 21 days. It is not material to my recommendations.
88. The Development Brief says that any new residential development on this site will be encouraged to provide affordable housing, but Island Plan Policy H 3, which seeks a percentage yield of affordable homes, is not operational. In the event, no provision is made within the proposal and the Planning Obligation Agreement does not address the issue.
89. Notwithstanding the comments made by the Minister who considered the earlier appeal, no competition has been held with respect to the design of the proposed development. This is not material to the outcome of this appeal.
90. A number of other representations were made concerning the planning application. All broadly repeat the grounds of appeal, so I do not address them individually.

Conclusions

91. The development would, in most respects, be in accordance with the provisions of the Island Plan and the guidance of the Masterplan and the Development Brief. The principle of residential development is entirely acceptable. Importantly, it would achieve the benefits in terms of regeneration and the provision of housing which I identified in relation to the earlier proposal.
92. With respect to the main issues, the Masterplan is not fundamentally flawed or out of date. The effect of the development on highway safety and congestion is unlikely to be significant; and the parking provision would be sustainable, in that it would discourage unnecessary car journeys and encourage travel by other means. In contrast to the previous proposal, I am now satisfied that the scheme would integrate satisfactorily into its surroundings and that the living

conditions of the residents of Tunnell Street would not be unreasonably harmed. In my opinion, the proposed development is acceptable in planning terms, subject to conditions and I recommend accordingly that the appeal should be dismissed.

Conditions

93. The planning permission dated 27th March 2017 includes 20 conditions, all based closely on those agreed at the Hearing into the previous third-party appeal and included in my earlier report. All are acceptable to the applicants. I recommend the imposition of the conditions set out in the Annex to this report. I have made a number of minor amendments to some in the interests of clarity and enforceability; and I propose 1 additional condition relating to the submission of details of works to be carried out in Tunnell Street, as referred to above. The conditions relate to:

Conditions A, B & C commencement & reserved matters.

These conditions are standard for all outline planning permissions, setting the timescales for commencement and submission of reserved matters. They are necessary in the interests of certainty and so that unimplemented permissions should not compromise the ability of the Minister to reconsider the planning of an area. I have made amendments to this condition to recognise the limited scope of the reserved matters.

Condition 1. Phasing Plan

A condition requiring a phasing plan to be submitted is necessary so that the development can proceed in a logical manner, not least having regard to protecting local amenity.

Condition 2. Percentage for Art

The making of a contribution for artwork is in accordance with Policy GD8 of the Island Plan. As discussed at the Hearing, I have replaced the requirement to submit a Public Art Statement with one requiring the submission of a scheme broadly consistent with the Statement that has already been submitted.

Condition 3. Demolition / Construction Environmental Protection Plan

An Environmental Protection Plan is necessary in the interests of protecting the amenity of the locality from the effects of the development while it is in the course of construction.

Conditions 4 & 5. Car and cycle parking

These conditions are required in order to ensure that the correct number of parking spaces are provided and allocated to individual properties. I have added reference to the quantity of cycle storage and a requirement that no unit of accommodation shall be occupied prior to the relevant parking being provided.

Condition 6. Green Travel Plan

The requirement to submit a Green Travel Plan is necessary and

reasonable in the interests of sustainability, and in accordance with Policy TT 9 of the Island Plan.

Condition 7. Service Infrastructure

This condition covers a requirement for a scheme to be submitted and approved relating to the provision of service infrastructure. It is necessary principally in the interests of sustainability.

Condition 8. Waste Management Plan

As the development includes demolition and a substantial amount of excavation, it is reasonable that the management of waste should be controlled in the interests of sustainability and local amenity through a Waste Management Plan, and the outcome reported.

Condition 9. Contamination

The site is contaminated owing to its previous use. It is therefore necessary to have in place procedures for dealing with contamination encountered. I have combined this condition with that requiring the submission of a certificate of completion prior to occupation of the development.

Conditions 10 & 11 Landscaping Scheme

Although landscaping is not a reserved matter, the information provided with the application shows only generalised proposals. Therefore the submission and approval of a detailed landscaping scheme is necessary. I have added reference to implementation in accordance with the approved Phasing Plan. Condition 11 relates to landscaping to integrate the development with the Town Park, in the interests of achieving suitable integration between the 2 uses.

Condition 12 footpaths

The pedestrian links through the site are indicated only illustratively on the submitted plans, so details are required to be submitted and approved.

Condition 13 Management of the landscaped areas

This condition requires a report to be submitted setting out the arrangements for the management of landscaped area including the replacement of failed trees.

Condition 14 Improvements to Tunnell Street.

As discussed above, this condition requires details of the improvement works to Tunnell Street to be submitted and approved, in the interests of certainty.

Condition 15 Archaeology

The archaeological site known as *Le Dolmen du Pre des Lumieres*, situated partly within the appeal site and partly under the avenue of the same name, has been designated as being of special archaeological and historic interest. The site has a high potential for the survival of archaeological, palaeoenvironmental and geoarchaeological prehistoric remains, which may be exposed in

excavations and could result in their loss. The condition requires an archaeological watching brief to be submitted for approval, with provision to record significant remains and post evaluation reporting. In the event that any significant unexpected finds are encountered during the remediation or other ground works, work shall cease to allow for their proper evaluation. This is broadly in line with Policy HE 5 of the Island Plan.

Condition 16. Foul & surface water drainage

This condition, requiring details of foul and surface-water drainage to be approved and implemented, is reasonable.

Condition 17. The aquatic environment

This condition requires the submission, approval and implementation of a Method Statement designed to minimise risks to the aquatic environment of the Town Brook.

Jonathan G King

Inspector

ANNEX

CONDITIONS THAT MAY BE IMPOSED ON THE PLANNING PERMISSION IN THE EVENT THAT THE APPEAL IS DISMISSED

A. The development shall commence within five years of the date of this decision or within 2 years of the approval of the final reserved matters to be approved, whichever is the later.

B. Application for the approval of Reserved Matters as detailed in Condition C shall be made before the expiration of three years from the date of this decision.

C. Approval of the details of the elevations, design (including the siting of any balconies and / or terraces) and external materials – hereinafter called the Reserved Matters – shall be obtained by application prior to any development commencing. The development shall be carried out as approved.

1. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Department of the Environment a Phasing Plan which shall include details of the order in which the principal elements of the development are proposed to be carried out. These shall include ground preparation works, construction of the Blocks A-D, vehicular access, vehicle parking, the improvement works to Tunnell Street, and the public realm and landscape works. The development shall thereafter be implemented only in accordance with the approved Phasing Plan.

2. Prior to commencement of development, a scheme shall be submitted to and approved in writing by the Department of the Environment broadly consistent with the submitted Public Art Statement, relating to the provision of a work of art and the timing of its implementation by reference to the matters addressed in the approved Phasing Plan. The approved work of art shall be installed in accordance with the approved scheme.

3. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Minister a Demolition / Construction Environmental Management Plan designed to identify and mitigate the environmental and amenity effects of the development while it is in the course of construction. The matters to be addressed in the Plan shall include, but shall not be limited to the following:

- (a) the control of noise, vibration, dust and other emissions;
- (b) hours of working, by reference to days of the week, Bank and Public Holidays and specified activities, including noisy activities such as piling;

- (c) crushing, sorting and management of waste material, including excavated material, on the site;
- (d) vehicle wheel cleaning;
- (e) management of traffic and pedestrians;
- (f) the detection and management of any asbestos encountered during works; and
- (g) details of a complaints procedure, including office hours and out-of hours contact telephone numbers.

The Demolition / Construction Environmental Management Plan shall be implemented as approved.

4. Notwithstanding the information submitted with the planning application, the development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Department of the Environment a scheme setting out the allocation of the car parking spaces and cycle storage spaces to individual dwellings and the manner in which their use may be controlled. The parking spaces shall not be used by persons other than residents or visitors to residents or other than in accordance with the approved scheme.

5. Notwithstanding the information on the submitted plans, no fewer than two hundred and nine parking spaces and storage sufficient for two hundred and eighty-seven bicycles shall be provided for the use of residents in accordance with the provisions of condition 4. No residential unit shall be occupied prior to the provision of parking to which it relates.

6. Notwithstanding the information submitted with the planning application, the development hereby permitted shall not be occupied until a Green Travel Plan to cover not less than 10 years from the date of first occupation has been submitted to and approved in writing by the Department of the Environment. No accommodation shall be occupied until a Green Travel co-ordinator has been appointed and their details forwarded to the Department. The details of any subsequent appointees shall also be forwarded without undue delay. The approved Green Travel Plan shall be implemented in full over the period covered.

7. The development hereby permitted shall not be commenced until a scheme of service infrastructure has been submitted to and approved in writing by the Department of the Environment. The scheme shall include details of:

- (a) communal waste facilities, including provision for the separation of wastes for recycling, to include, but not be limited to food compost, glass and cardboard;

- (b) arrangements for the collection of waste;
- (c) communications infrastructure, including but not limited to any communal satellite television reception system;
- (d) the location and number of electric car charging points;
- (e) a system of sustainable urban drainage and rainwater harvesting for the irrigation and watering of landscaped areas;
- (f) external lighting;
- (g) smart meters for water and electricity consumption visible within every residential unit; and
- (h) phasing of the implementation of the foregoing by reference to the matters addressed in the approved Phasing Plan.

The detailed matters shall be implemented as approved and retained for the lifetime of the development.

8. Notwithstanding the information submitted with the planning application, the development hereby permitted shall not commence until there has been submitted to and approved in writing by the Department of the Environment a revised Waste Management Plan to include monitoring and reporting arrangements for the actual waste streams arising from excavation and demolition of existing structures. Reporting on progress to the Department shall be undertaken no less frequently than every 6 months commencing with the first act of demolition or excavation. Prior to first occupation of the development a Waste Management Completion Report to demonstrate compliance with the Waste Management Plan shall be submitted to the Department.

9. Prior to the commencement of any works of excavation or demolition on the site, a scheme for the management of contaminated material and for the remediation of contaminated land identified in the Phase 1 Desktop Study; for arrangements for longer-term monitoring of pollutant linkages; and for contingency action and reporting, shall be submitted to and approved in writing by the Department of the Environment. The scheme shall be implemented as approved. In the event that additional contamination is encountered on the site during the course of development, work shall cease and the Department notified immediately. The levels of potential contaminants shall be investigated and any risks to human health or the wider environment assessed and mitigation measures proposed in a scheme which shall be submitted to and approved in writing by the Department. The scheme shall thereafter be implemented as approved and in accordance with the requirements of the Supplementary Planning Guidance Planning Advice Note 2 *Development of Potentially Contaminated Land*. Prior to the occupation of any part of the development hereby approved, a completion report and contaminated

land completion certificate demonstrating completion of the works and the effectiveness of any remediation undertaken within the context of the approved scheme(s) shall be submitted to and approved in writing by the Department of the Environment.

10. Notwithstanding the information supplied with the application, prior to commencement of the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Department of the Environment. The scheme shall include details of the following:

- i) the position of all new trees and/or shrubs to be planted, and their species, size, number and spacing and the means to be used to support and protect them;
- ii) other landscape treatments to be carried out including any excavation works, surfacing treatments, or means of enclosure; and,
- iii) a timescale for implementation.

The details of landscaping required to be submitted and approved under this condition shall include details of the phasing of implementation by reference to the matters addressed in the Phasing Plan approved under condition 1. The landscaping shall be carried out in compliance with the approved details and thereafter retained as such.

11. The landscape scheme required to be submitted under Condition 10 shall include details of the integration of the development hereby permitted with the Town Park. The scheme shall include the re-landscaping of the eastern part of the park (that part to the east of the existing timber pergola and water fountains within the red line of the application site shown on the approved plans) into the approved development. It shall be implemented in accordance with the phasing of matters relating to landscaping in the Phasing Plan approved under Condition 1.

12. Notwithstanding the information submitted with the planning application, the landscape scheme required to be submitted under Condition 10 shall include the details of all footpaths, including details of proposed pedestrian permeability and access into and through the development hereby permitted. The details shall be carried out in accordance with the phasing of matters relating to the public realm in the Phasing Plan approved under Condition 1.

13. Prior to the commencement of the development hereby permitted, a report setting out the arrangements for the management of the landscaped areas shall be submitted to and approved in writing by the Minister. The Report shall be implemented as approved. If, during the first 5 years from the date of planting, any tree or shrub planted in accordance with the approved landscape scheme dies, is removed or becomes seriously damaged or diseased, it shall be replaced in the next planting season by a similar tree or shrub, unless the Department of the

Environment gives written consent for a variation of the scheme.

14. Notwithstanding the information supplied with the application, prior to commencement of the development hereby approved, a scheme of works to be undertaken for the widening and improvement of Tunnell Street including all hard surfacing, provision for pedestrians, provision for the parking of service vehicles and all "public realm" works shall be submitted to and approved in writing by the Department of the Environment. The details of works required to be submitted and approved under this condition shall include details of the phasing of implementation by reference to the matters addressed in the approved Phasing Plan. None of the development fronting or taking access from Tunnel Street shall be occupied prior to the completion of the works as approved. The scheme shall be implemented as approved

15. Prior to the commencement of any development on site, a Project Design shall be submitted to and approved in writing by the Department of the Environment. The Project Design shall include, but not be limited to, an archaeological watching brief for the duration of the works hereby approved, together with the evaluation and recording of significant archaeological, palaeoenvironmental and geoarchaeological remains and post-evaluation reporting of such remains. The development shall be carried out in accordance with the approved Project Design. Should any unexpected significant finds be encountered during the course of the development, work shall cease on the site and the Department of the Environment shall be notified without delay. Work likely to be prejudicial to the integrity of the archaeology shall not recommence without the permission of the Department having been granted and until the finds have been evaluated and provision made for recording in accordance with the Project Brief.

16. Notwithstanding the information on the submitted plans, prior to the commencement of the development of the above-basement superstructure for any of the residential Blocks hereby permitted, details of the proposed foul and surface water drainage shall be submitted to and approved in writing by the Department of the Environment in consultation with TTS Drainage, to be thereafter implemented in full prior to first occupation of the relevant Blocks and retained for the lifetime of the development.

17. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Department of the Environment, a Method Statement to demonstrate how any risks to the aquatic environment will be minimised during the construction of the culvert for the Town Brook on the development site. The provisions of the Method Statement shall be complied with for the duration of demolition and construction works on the site.

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