

PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)

Appeal under Article 108 (2) (b) against a refusal to grant planning permission

Report to the Minister for the Environment

By Sue Bell MSc., BSc, FCIEEM, CEcol, CWEM, MCIWEM
An Inspector appointed under Article 107

Appellant: Bouley Bay Farm Ltd

Planning Permission Reference Number: P/2017/0648

Decision notice date: 19th October, 2017

Location: Land at Bouley Bay Farm, La Rue de La Falaise, Trinity, JE3 5BD

Description of Development: Formation of new vehicular access and driveway onto La Rue de la Falaise. Alter existing vehicular access and driveway into pedestrian access. REVIEW REQUEST of refusal of planning permission.

Appeal Procedure and Date: Hearing, Tuesday 9th January 2018.

Site Visit procedure and Date: Accompanied & Unaccompanied. Tuesday 9th January 2018.

Date of Report: 2nd February, 2018

Procedural Issues

1. The written material produced by the appellant's agent and the Department included details of distances and heights of elements of the proposals, which appeared to differ from each other. In advance of the hearing, the Department and the appellant (but not the appellant's agent) met on site to clarify their measurements. This was helpful in enabling me to identify those areas of agreement or dispute between the parties at the hearing.
2. During the hearing, the Department presented new information, comprising five items: the Department's Supplementary Planning Guidance "Practice Guidance Note 11 - Information required for a P1 Planning Application" and "Practice Guidance Note 11a - Information required for a Householder P2 Planning Application" published in 2016; the measurements taken by the Department with the appellant; reference to a previous appeal case involving an access road (Daffodils - P/2016/1603); the Countryside Character Appraisal; and figures for the area of north facing gardens. I allowed the appellant's agent time after the hearing to respond to these new items.
3. In responding to the new items presented at the hearing, the appellant's agent took the opportunity to submit his own new information in the form of amended plans. I did not seek, nor require these plans, which I consider represent an amended proposal. For the avoidance of doubt, my assessment is based on the drawings as submitted with the application that was considered by the Department and the

Planning Committee (Plan 1 - Location Plan & Plan 2 - Proposed Plans 021E); the new drawings do not form any part of my consideration.

Introduction

4. This is an appeal by Bouley Bay Farm Ltd against a refusal to grant planning permission for the construction of a new vehicle access and driveway to the south of Bouley Bay Farm.
5. Permission was initially refused by the Department of the Environment under delegated powers on 27th July 2017. The appellant requested a review of this decision by the Planning Committee. At their meeting on 19th October 2017, the Planning Committee maintained the decision to refuse the application, on the following five grounds:
 - (1) The submitted plans are inaccurate in that they state compliance with the approved drawings forming part of application P/2016/1161 with regard to the extent of development. These drawings do not however correspond to each other, either with regard to the extent of the residential area or the position of the new garage building. The submitted information is also inaccurate and misleading in that the proposed development illustrated on the site plan extends outside of the red line indicated on the location plan, the purpose of which is to show the area of the proposed development. The information provided is therefore misleading and not of an appropriate level or quality required by Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
 - (2) The site is located within the Green Zone which is given a high level of protection from development but within which certain forms of development are permissible. The development of a new driveway of this nature is not considered to be a minor development and is not therefore one of these exceptions. Furthermore the extent and form of the proposal would be prominent in the land and within the site. It would constitute an unnecessary and creeping domestication within the Green Zone, damaging to the landscape character of the area and contrary to Policies GD1 and NE7 of the Adopted Island Plan 2011 (Revised 2014).
 - (3) The proposed driveway and other details indicated on the submitted drawings extend outside of the residential area defined by the approved application P/2016/1161. This would therefore constitute a change of use of land which has not been applied for and which would be contrary to Policies GD1 and ERE1 of the Adopted Island Plan 2011 (Revised 2014).
 - (4) The proposal would result in the loss of a significant area of roadside banking which would be damaging to the landscape character of this rural land and contrary to Policies GD1 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
 - (5) No information has been submitted to demonstrate that the existing site access arrangements serving the former farm group is a danger to traffic safety to justify its closure.
6. A summary of the cases presented by the appellant, the Department of the Environment and the Planning Committee are presented below. This takes account of points raised during the hearing. Further details of the written cases are

available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.

The appeal site and surroundings

7. The planning history of the site is summarised by the appellant's agent in his statement of case. Of greatest relevance to this appeal is the grant of permission P/2016/1161, which I refer to further below.
8. The appeal site lies within the Green Zone, to the east of the northern end of La Rue de la Falaise. It comprises a former farmhouse and associated farm buildings, which have recently been converted to habitable accommodation following grant of planning permission P/2016/1161. A garage and parking area also form part of the consented development. The site is accessed directly from Rue de la Falaise between the former farmhouse and the newly converted farm buildings.

The proposed development

9. The current appeal concerns an application to establish a new vehicle access from Rue de la Falaise around the south of the former farmhouse to the parking area and garage (approved under application P/2016/1151), which lie to the east of the dwellings. This proposed driveway would vary between 4 metres and 3 metres in width and would extend for over 40 metres in length.
10. The existing vehicle access would be adapted to provide pedestrian-only access onto Rue de la Falaise and to increase the depth of the gardens of the converted dwellings.

Case for the appellant

11. The appellant's agent has stated 13 grounds of appeal on pages 5 - 9 of his statement of case:
 - (1) The information provided was of an appropriate level and quality, otherwise it would not have been registered by the Planning Department.
 - (2) The variation in the plans was not intentionally misleading and the re-positioning of the garage by 25 cm south and 60 cm to the east is considered to be '*de minimus*' in planning terms.
 - (3) The proposed driveway does not extend beyond the red line on the location map.
 - (4) The proposed driveway does not extend outside the residential area defined by the approved application P/2016/1161 and, specifically, having regard to the wording to condition 3 on this permit.
 - (5) Insufficient regard was given to the substandard width and visibility of the existing access and the highway safety issues this posed.
 - (6) Reference to highway safety issues was referred to in correspondence from the agent in response to the Parish comments and to the public representations.
 - (7) Insufficient regard was given to the fact that a new access within a domestic curtilage to replace an existing substandard access is normally a routine form of development.
 - (8) A very recent permission (P/2016/0674) was granted by the Committee for a new access at Echo du Vent and Field 293, La Rue des Platons which involved the loss of agricultural land on the strength of a highway improvement. In this

case, the access will be on land within the domestic curtilage and not, therefore, result in the loss of any agricultural land. The Minister is required to be consistent in decision-making.

- (9) Insufficient regard was given to the improvement in the quality of amenity provided to the two dwellings on the northern boundary whose principal means of amenity is very small, north-facing gardens.
 - (10) The proposal does not involve creeping domestication as the proposal is within the domestic curtilage and does not include any new buildings.
 - (11) The proposal does not cause serious harm to landscape character which is the test set by Policy NE7 for sites in the Green Zone.
 - (12) The proposal results in the loss of an insignificant area of roadside banking.
 - (13) Additional hedging is proposed on both sides of the driveway which represents an improvement on the approved scheme and further additional hedging and trees are proposed to the eastern boundary.
12. In summary, the appellant's agent accepts that the site lies within the Green Zone, where there is a general presumption against development. However, they contend that the 'test' is whether the development causes 'serious harm'. As all the proposed works lie within a domestic curtilage and would be screened by new hedging, the appellant's agent does not consider that they would result in serious harm. Furthermore, they consider that the proposals are 'minor' works and are consistent with improvements that a homeowner might reasonably expect to make. They state that greater weight should have been given to the amenity benefits for the occupiers of the dwellings to the north of the existing access and the road safety benefits.
13. In relation to the quality of drawings, the appellant's agent accepted at the hearing that these could be improved. They suggested that if the appeal were successful then any deficiencies could be rectified as part of a landscape condition added to any permission that was granted.

Case for the Department of the Environment & Planning Committee

14. As the Planning Committee's reasons for refusal followed the advice in the Department's report, the cases are considered together.
15. In summary, the Department considered that the level and quality (including accuracy) of information about the application was inadequate and did not meet the requirements of policy GD1 of the Adopted Island Plan 2011 (Revised 2014). The Department noted that the checks of applications prior to registration do not scrutinise all elements of the application. Thus registration does not necessarily mean that the information is considered sufficient.
16. The application site lies within the Green Zone, an area where policy NE7 of the Adopted Island Plan 2011 (Revised 2014) sets a presumption against development. In addition, the scheme would result in the loss of roadside features including some banking and a hedgerow, contrary to the requirements of policy NE4 of the Island Plan. Consequently, the proposals were considered to be damaging to the character and appearance of the area and to conflict with the requirements of policies GD1, NE7 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
17. Furthermore, the Department did not consider that the appellant had provided information to demonstrate that the existing access arrangements were inadequate.

Consultations

18. Two statutory consultation responses were received to the application; one from Land Controls (who had no comment on the proposals) and one from the Parish of Trinity.
19. The Parish's response noted that the access had already been formed during construction works, and that hard core had been laid. The response expressed concern that the track may not be a temporary feature and that if made permanent could lead to pressure for further development of the site. In addition, the Parish noted that the site is within the Green Zone on the edge of the Coastal National Park and considered it to be deserving of the highest level of protection provided within policy NE7. The response also considered that the applicant had misused the term 'domestic curtilage.'

Representations made by other interested persons

20. Six letters of objection were received to the application. Three of the respondents each sent a further letter of objection during the appeal process. Several of the letters question the need for a new access, stating that the existing arrangements have been adequate historically, even for large vehicles. They consider that there is adequate visibility, particularly on a road that has little traffic and that the existing access provides the most direct route to the new parking area and garage.
21. Most of the respondents refer to the location of the proposal within the Green Zone. They raise concerns about loss of hedging and banks and the effects of this on the character of the area. They also question whether this meets the requirements of policy NE4. In addition, several of the responses express concern that the proposed re-location of the access road would enable future development of the adjoining field.

Inspector's assessment

22. Article 19(2) of the Planning and Building (Jersey) Law 2002 requires that all development should be in accordance with the Island Plan, unless there is sufficient justification for granting permission that is inconsistent with the plan. The current Island Plan is the Adopted Island Plan 2011 (Revised 2014).
23. Having regard to the decision notice and appeal documents, I consider that the main issues in this appeal are: the accuracy and clarity of the submitted plans; the effects of the proposed development, including the extent and loss of roadside banking, on the landscape character of the Green Zone; and the safety and adequacy of existing vehicle access. I have considered each of these issues in turn.

Accuracy and clarity of the submitted plans

24. Provision of accurate, complete and comprehensible plans is an important part of the application process. Paragraph 1.7 of the Adopted Island Plan 2011 (Revised 2014) establishes the need to supply information of an appropriate level and quality. Supplementary Planning Guidance (Practice Guidance Note 11 - Information required for a P1 Planning Application and Practice Guidance Note 11a - Information required for a Householder P2 Planning Application) published in 2016 provides clear advice

on what is required. Without such information it is difficult for the decision-maker to reach a reasoned conclusion about the likely impacts of a scheme.

25. Two plans were submitted in support of the application. The Department identified some discrepancies and omissions with Plan 2 - 021E.
26. My review of the plans leads me to support the Department's position. I found some elements of the scheme to be unclear. These elements included: details of the proposed new entrance and its tie in with Rue de la Falaise; how the difference in ground levels between the field and Rue de la Falaise would be addressed; and what works would be undertaken to the boundary wall to the north of the proposed access to achieve the marked visibility splays.
27. During the hearing, the appellant's agent accepted that some aspects of the plan were "sloppy", but suggested that if the appeal were granted, then these points could be addressed through a condition to submit amended landscape plans. I do not consider this would be an acceptable way forward. Whilst such an approach could have merit for relatively minor modifications or clarifications, in this case I consider that the areas of uncertainty are sufficiently large that they could have a material influence as to the acceptability of the scheme.
28. The appellant's agent has stated that if the Department considered there to be inaccuracies or omissions in the plans, then they would not have considered the application, and should have sought further clarification from the applicant. Whilst I accept that it would have been beneficial for the Department to have identified any additional information needs at an earlier stage of the process, I do not consider that this is a material reason for allowing the appeal.
29. The Department considered that there were some differences between the positions of features marked on the plan submitted for the appealed scheme compared to their position on the approved plans for application P/2016/1161 (notably the position of the garage). They were concerned that this was an indication that development may not have been built in accordance with the approved plans and that approval of the new scheme could be perceived as giving consent to a modification to the previous application.
30. Prior to the hearing, the Department and the appellant visited the site and made several measurements. These were submitted to me at the hearing, together with details of the measurements of these features taken from plans submitted with the previous application (P/2016/1161) and the current proposal. These show some variations between the distances measured from the plans and the ground conditions. The most notable differences were between the measurements scaled from the plan provided with the current application (Plan 2 - 021E) and ground conditions. Whilst I accept that the plan was not intended to be misleading, I consider this further evidence of the inadequacy of the plan submitted with the current application.
31. As a general principle, I consider that granting approval for a plan which apparently shows differences from a previous consent could lead to confusion or be taken as implicit approval of the differences.
32. The appealed application does not include any provision for regularisation of any differences between the approved and built schemes consented through approval

P/2016/1161. However, this could be addressed through an informative note to any permission that was granted for the current scheme.

33. This appeal is concerned with a review of application P/2017/0648 and not compliance with the previous application P/2016/1161. In my view, if the Department has concerns about the implementation of the earlier scheme, then these should be addressed separately.
34. In conclusion, I consider that the submitted plans contain inaccuracies and omit important details, which results in uncertainties about the impacts of the scheme. These areas of uncertainty are sufficiently large that they could have a material influence as to the acceptability of the scheme. Concerns about inadvertently consenting variations to previous permissions could be addressed through an informative notice to any permission that was granted. If the Department has concerns about any such variation, these would best be addressed through enforcement procedures.

Effects of proposed development, including the extent and loss of roadside banking, on the landscape character of the Green Zone

35. Policy GD1 (General Development Considerations) of the Adopted Island Plan 2011 (Revised 2014) sets out the general criteria against which all development will be assessed. Development will not be permitted unless it does not seriously harm the Island's natural and historic environment in accord with policy SP 4 - Protecting the natural and historic environment. In particular, development will not be permitted unless it does not have an unreasonable impact on: the character of the coast and countryside (including the Green Zone); on important open space (including features covered by policy NE 4 Trees, woodland and boundary features); or the character and amenity of an area (having special regard to the character of the coast and countryside including the Green Zone).
36. The safeguards established by policy GD1 are supplemented by more specific and detailed policies for the protection of the environment. Policy NE7 sets a general presumption against all forms of development in the Green Zone. However, the policy also recognises that there is a need to provide for the reasonable expectation of residents within the Green Zone to improve their homes. It therefore identifies circumstances where development may be permissible.
37. Roads and tracks are not explicitly referenced as acceptable developments, but 'minor development' described within policy NE 7 as "*Development small in scale and incidental to the primary use of land and buildings*" is a permitted exception.
38. I do not agree with the assessment of the appellant's agent that the preamble to policy NE7 states that this reasonable expectation is subject to development being confined within the domestic curtilage. The policy does not appear to me to make any distinction as to whether the proposed development is within or outside the domestic curtilage.
39. In all cases, the 'tests' for acceptability and compliance established by policy NE7 and its preamble are the capacity of the site and its context to accommodate development without serious harm to landscape character. Consequently, in considering whether the appealed application meets the requirements of policy NE7 it is necessary to consider whether it represents an improvement to homes; and/or is

a minor development; and the capacity of the site and whether the proposals would cause serious harm to landscape character. I consider each of these points in turn.

40. The existing access road separates the former farmhouse to the south from the recently consented dwellings to the north. Both of the northern dwellings has an area of external amenity space to the north and south of the property, with the area to the north being the larger, but more shaded.
41. There appeared to be some differences between the Department and the appellant's agent about the total area of amenity space associated with each dwelling, which were subsequently resolved. I observed that the available external space is limited, particularly given the size of each property. Both parties agreed at the hearing that the external amenity areas meet the required standards set out in Supplementary Planning Guidance note 6 - A minimum specification for new housing. Indeed, given that the properties have only recently been developed, it would be surprising if the amenity space was not considered to either meet the required standards or to be adequate.
42. The amenity areas to the south lie between the southern face of the dwellings and the existing access road, from which they are separated by a low wall. These areas are less private than their northern gardens; there is some mutual over-looking between the gardens, and they can be over-looked from windows in the north face of the former farmhouse. They may also receive some shading from the former farmhouse.
43. Relocation of the access road would increase the depth of the southern amenity areas by approximately 2.5 metres. Whilst this would increase the usable area, I do not consider that the gain would be sufficient to make a significant difference to their use. It would not alter the degree to which they were over-looked or the level of shading that they experience. The presence of a footpath along their southern edge would mean that these areas would remain more 'public' than the northern gardens.
44. The appellant's agent has suggested that opaque glass could be introduced to the first floor windows on the northern elevation of the former farmhouse to avoid any over-looking of the increased garden areas. These windows serve a landing and bedrooms and so I consider the potential for over-looking to be less significant than if these served the main living areas. In my view, introduction of opaque glass would be a dis-benefit to the occupants of the former farmhouse for a negligible gain in privacy of the southern amenity areas of the recently converted dwellings.
45. The existing access road only serves the two dwellings and the former farmhouse and formed part of the consented application P/2016/1161. I do not believe that the volume of existing traffic can be so high that its removal would represent a significant improvement to the living conditions of these properties. If the effects of traffic were not considered acceptable, then it is unlikely that permission for their development would have been granted.
46. The proposed new access would run to the south of the former farmhouse, utilising part of its external amenity area and introducing vehicle movements along its southern boundary. However, as I noted above, in my opinion the level of disturbance from vehicles serving three properties is likely to be low.

47. In conclusion, the proposals would result in a small gain in external amenity space of the dwellings to the north of the existing access road, and remove low levels of traffic from near the properties. I do not consider the scale of benefits would result in a significant difference in the use of these areas. These benefits have to be balanced against the loss of external amenity area to the south of the former farmhouse.
48. The appellant's agent considers the proposals represent a 'minor' development. The proposed track would be in the order of 41 metres long and would be at least 4 metres wide at the junction with Rue de la Falaise, and continue at this width for approximately 8 metres, before reducing in width to 3 metres. Whilst I accept that the proposed use is incidental to the use of the land, I do not agree that it is small in scale. Consequently, I conclude that it does not meet the definition of a 'minor' development described by policy NE7.
49. I turn now to considering the capacity of the site and the effects on the landscape character of the area.
50. A temporary access track was constructed during the implementation of the approved permission P/2016/1161. This track roughly followed the position of the proposed new permanent access and had required part of the bank to be removed. However, this had been restored and new hedge material had been planted by the time of my site inspection.
51. Policy NE4 - Trees, woodland and boundary features - requires protection of a range of boundary features including fosses, banques and hedgerows through refusal of development proposals which will result in their loss or damage. The proposals would require the removal of a length of bank to create the access. In addition, to provide standard visibility splays, a further length of bank and part of the boundary wall would either need to be removed, or reduced to a height of 900 mm.
52. During the hearing, some time was spent in discussing the precise lengths of bank and road frontage that would be affected. Whilst there is some variation between the parties about the total length of bank that would be removed or altered to achieve visibility splays (see paragraphs 53 - 54 below), it is clear that at least 4 metres of bank would need to be wholly removed in order to create the access with Rue de la Falaise.
53. Based on the plans, the Department has estimated that the scheme would require works to at least 17 metres of the bank. As the height of the bank above the road surface varies along its length (partly owing to a variation in the gradient of the road, but also owing to the structure of the bank itself) the amount of material to be removed would also vary. In the statement of case, the appellant's agent estimates that this would be in the order of 150 mm. I have not been provided with any evidence as to whether or not this reduction would damage the structure of the bank contrary to the requirements of policy NE4.
54. The appellant's agent argues that the length of frontage affected could be minimised if derogation from the visibility splays were allowed. They argue that the existing access does not meet the required visibility splays, but is considered acceptable. Therefore, the new access, which would have visibility splays no worse than the existing, should also be acceptable. I do not support this view. Even if no

allowance for any visibility splays were allowed, the scheme would still result in the loss of around 4 metres of bank and associated new hedgerow, contrary to the requirements of policy NE4.

55. The appellant's agent states that the proposal would not cause the loss of a significant area of roadside bank. However, that is not the test set by either GD1 or NE4. NE4 is explicit in stating that development proposals which will result in the loss or damage of banks will be refused.
56. Consequently, I conclude that the removal of 4 metres of bank would be contrary to the requirements of policy NE4 of the Adopted Island Plan 2011 (Revised 2014).
57. The appeal site lies in an area defined by the Countryside Character Appraisal as E4: North Coast Character Area. It is described as *"an open, windswept landscape with the small rectangular fields enclosed by large earth banks and granite walls, often topped by bramble, ivy and gorse. Further inland away from the extreme conditions of the coastal edge, trees survive and here, the substantial earth banks which form the field boundaries are topped with hawthorn and elder..."*
58. As discussed above, the proposals include removal of features (banks and hedges) that are considered characteristic of the landscape of the wider area. The appellant's agent has indicated that additional hedge planting could be introduced behind the visibility splays, but that did not form part of the appealed application.
59. I consider that there is logic to the existing access arrangements, with the access track following the shortest and most direct route from La Rue de la Falaise to the garage. The track is masked by the buildings, and hence is not very visible in the landscape. By contrast, the proposed track would describe a less direct route between La Rue de la Falaise in the west around the south of the former farmhouse to the garage and parking area on the eastern side of the development. I accept that the track itself would be contained within the curtilage; however, it would no longer be hidden between buildings and would be a significant departure from the traditional layout for a cluster of farm buildings. Whilst it would be less visible once the re-planted hedge has developed, it would still result in creation of a landscape feature that is more prominent and atypical within the landscape character area than the current arrangement.
60. As noted in paragraph 39, the key 'tests' of policy NE7 are the capacity of the site and whether the development can be accommodated without serious harm to landscape character. Based on my analysis above, I conclude that the site is not able to accommodate the removal of the bank and the introduction of the access road in the proposed location, without serious harm to landscape character and hence would be contrary to the requirements of policy NE7.

Safety and adequacy of existing vehicle access

61. To exit the site, vehicles need to pass through a pair of stone-block gate posts. These are set back slightly from the junction with the road. They link in with walls to the north and south, which curve from the gate post towards the edge of the road to create a boundary feature around the western edge of the dwellings. The consequence of this arrangement is that the visibility splay for exiting vehicles is very narrow. During the site inspection I observed that vehicles would need to be at the very edge of the junction with the access road in order to see oncoming traffic.

The entrance is located on a relatively straight section of road and I consider that vehicles travelling on La Rue de la Falaise would be able to easily see any vehicles exiting from the access road.

62. North of the site, Rue de la Falaise provides access to a small number of buildings, before turning west to provide access to a car park for Bouley Bay Common, and then south to re-join Chemin d'Olivet. In my opinion, given the small number of dwellings and the size of car park serviced by the road, combined with the fact that these features can be accessed from two different directions, the level of traffic past the entrance is likely to be low.
63. The Department does not consider the existing arrangement to be inadequate and I have not been presented with any evidence that the current access is unsafe. Whilst larger visibility splays could be created if the access track were re-located, this would increase the length of bank that would need to be either removed or reduced in height. Minimising landscape effects through reducing the visibility splays would, in my opinion, negate one of the stated benefits of the proposed scheme. Consequently, I am not convinced that the re-location of the access would result in a junction that is safer or better than the existing one.

Other matters

64. Reason 3 on the decision notice relates to a change in use of land, which was considered to be contrary to policies GD1 and ERE1 of the Adopted Island Plan 2011 (Revised 2014). In its written response to this appeal (paragraph 16), and at the hearing, the Department confirmed that it accepts measurements provided on drawing Plan 2 - 021E demonstrate that the proposed track does not extend beyond the residential area and hence no change in use of land would result. Consequently, if the appeal were to be dismissed, the Department indicated that it would wish to see reason for refusal (3) to be removed.
65. I note that the visibility splays as shown on Plan 2 - 021E extend beyond the 'red line' limit of the application site. However, it was confirmed that this land is within the control of the appellant.
66. The junction of the proposed track with La Rue de la Falaise would be opposite the access to a garage, which is also accessed directly from La Rue de la Falaise. I do not consider that the track would prevent use of or access to the garage. Indeed, it could be beneficial in terms of increasing the space and turning circle available.
67. The Department has indicated that it would be usual to expect a 2 metre section of driveway immediately adjacent to a public road to be a bonded material to prevent any loose material spilling out onto the roadway. This could be achieved by attaching a condition to any permission that was granted.
68. Some letters of objection have raised concerns that the new access road would be used to enable new development in the adjoining field. Whilst I understand the concerns of neighbours, any application for development would be subject to a separate assessment against the requirements of the Adopted Island Plan 2011 (Revised 2014).
69. Both the appellant's agent and the Department have drawn my attention to previous applications for new access roads within the Green Zone. Not surprisingly, the

Department's example, P/2016/1603 (Daffodils), is for a refused application, whilst the appellant's example, P/2017/0674 (Echo du Vent & Field 293) was approved. In any case, each appeal needs to be considered on its own merits as assessed against the policies within the Island Plan.

Overall Conclusions

70. The plans supplied with the application contain inconsistencies and omissions. Putting to one side the question of whether the Department should have notified the applicant of these concerns, the nature of the deficiencies is such that they could prevent a clear understanding of the full extent of any impacts of the proposals.
71. Notwithstanding my comments in paragraph 70, I have given careful consideration to all the issues that have arisen in this appeal and how they relate to the provisions of the Island Plan.
72. My analysis leads me to conclude that the proposals do not meet the requirements of Policies GD1, NE4 and NE7 of the Adopted Island Plan 2011 (Revised 2014). I have reached this view because of the importance that the Island Plan attaches to policies protecting boundary features such as banks, landscape character and the Green Zone. I consider that the benefits of the proposed scheme to the amenity of the dwellings to the north of the current access track would be small, and would be partially offset by a decrease in amenity to the former farmhouse. I do not consider the proposed new access arrangements to represent a significant improvement in safety terms. Consequently, I do not consider that there is sufficient justification for granting permission that is inconsistent with the plan.
73. Should the Minister disagree with the weight that I have attached to the different issues and be minded to allow the appeal, then I recommend that any permission granted should be subject to the conditions listed in Annex A.

Recommendations

74. For the reasons outlined above, I recommend that the appeal should be **DISMISSED** with amended reasons for refusal.
75. The reasons for refusal should be as listed in items 1, 2, 4 and 5 listed on the Decision Notice dated 27th July 2017. Reason 3 should be omitted.

Sue Bell

Inspector 02/02/2018

Annex A. Subject matter of conditions and informative notes that may be imposed on the planning permission in the event that the appeal is allowed

Without prejudice to the outcome of the appeal, a discussion about possible planning conditions was held at the hearing.

Should the Minister disagree with the Inspector's recommendation for refusal, then it is further recommended that conditions that address the following issues should be added to any permission that is granted.

1. Provision of a landscape plan. This should be submitted to and agreed with the Department prior to works commencing. The plan should include, but not necessarily be limited to (a) the proposed means of enclosure of the northern side of the proposed access and the former farmhouse garden (currently a wall); (b) details of the location and species composition of the hedge to be planted behind the visibility splay; (c) new landscape features not included on original plan, e.g. new hedge along proposed driveway.
2. Provision of a plan, showing a cross-section (east-west) of the proposed connection of the driveway with Rue de la Falaise. This needs to show how levels would be adjusted to achieve the connection and details of any retaining structures to the banks that are required. The plan should be submitted to and agreed with the Department prior to works commencing.
3. Requirement to provide bonded material at the junction of the proposed track with Rue de la Falaise. This would be required to prevent spillage of loose material into the public road. Details should be submitted to and agreed with the Department prior to works commencing.

An informative note should also be added to any permission that is granted. This should note that approval of the scheme and plans does not indicate approval for consequential amendments from previous application as a result of errors on plans.

Discussions were also held as to whether a condition should be added that the first-floor windows on the northern side of the former farmhouse should be replaced with opaque glass. I do not consider that such a condition is necessary.