



Review of the planning permission to demolish the 1937 Terminal building at Jersey Airport

Terms of Reference

21st September 2020

Terms of Reference

1.0 Background

1.1 Planning permission P/2010/1729 was approved on 17th March 2014 to “Demolish existing arrivals and baggage hall ('1937 Building'). RE-ADVERTISED: Building is now listed (Grade 2).”

1.2 The planning permission records the reason for approval as follows:

“Permission has been granted having taken into account the relevant policies of the approved Island Plan, together with other relevant policies and all other material considerations, including the consultations and representations received.

The application involves the demolition of a Listed Building - Grade 2. Under normal circumstances, the demolition of such a building - one which has considerable historical and architectural significance - would not be permitted.

However, the Minister for Planning and Environment acknowledges the strong case made by the applicants. Specifically, there is a need for Jersey Airport to comply with the requirements of the aerodrome license, as set out within the Air Navigation (Jersey) Order, and the Civil Aviation Authority regulations. The 1937 Building represents a hazardous obstacle which infringes the 1:7 Transitional Surface, and also prevents the proper alignment of the Alpha taxiway, thereby preventing compliance with these regulations. Its retention would severely affect the safety and operational capabilities of Jersey Airport.

On balance, the requirements of Jersey Airport are considered to be the over-riding and determinative factor in this instance, and as such, the demolition of the building is considered to be reasonable.

Prior to its demolition, a programme of recording of the existing structure will be undertaken to ensure that a record of the building is retained.”

1.3 Work has started on the approved demolition and it has been confirmed by the department that the planning permission is extant.

2.0 Recent events

2.1 On the 30th June 2020, the States of Jersey Assembly debated proposition P.71/2020, proposed by Deputy Russell Labey. The proposition reads as follows:

“THE STATES are asked to decide whether they are of opinion –

(a) to request the Minister for Treasury and Resources, as Shareholder Representative, to request Ports of Jersey to undertake and provide to the States Assembly a review of the scale, detail and viability of the £42 million scheme for the redevelopment of Jersey Airport in light of the changed aviation landscape caused by the worldwide Coronavirus pandemic;

(b) to request the Minister for Treasury and Resources, as Shareholder Representative, to seek commitments from Ports of Jersey that no demolition of the original 1937 Terminal takes place until the outcome of such a review has been

considered by the States Assembly; and that consideration will be given to the retention and incorporation of the 1937 building as part of any redevelopment;

(c) to request the Minister for the Environment to instigate a review of the grant of a permit to demolish the 1937 Terminal.”

2.2 The Proposition was adopted by 25 votes to 20, with 1 abstention.

3.0 The Rationale for the Review

3.1 Paragraph (c) of the proposition requires the Minister for the Environment to instigate a review of the grant of planning permission P/2010/1729.

3.2 This part of the proposition was prompted by the publishing of a Special Aeronautical Study (dated 22nd March 2020 by ASAP) by Save Jersey’s Heritage which casts doubt on the necessity of demolishing the 1937 Terminal.

3.3 The review is to examine whether the planning permission was appropriately granted, taking into account all of the material considerations.

3.4 The review shall also examine whether the Minister’s decision remains reliable and robust, in the light of the ASAP study.

3.5 The review shall be carried out by a person independent of the Government of Jersey, which has already granted planning permission for the demolition of the building and is also the end client of the permission (owner of Ports of Jersey).

4.0 Terms of Reference

4.1 The review will be carried out by an independent Planning Inspector, or similarly qualified person, appointed by the Minister. The Inspector may call upon additional technical or administrative expertise, should he/she consider it necessary.

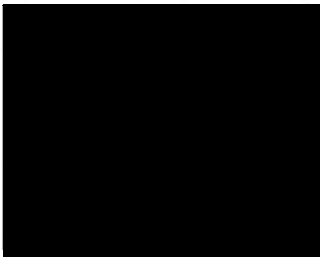
4.2 The planning policy regime remains the (revised 2014) Jersey Island Plan.

4.3 The review will examine the documentation submitted with the original planning application P/2010/1729, any representations made or consultations received. It shall include a review of the manner in which the application was assessed by the (then) Planning and Building Services Department and determined by the (then) Minister. It shall also consider any relevant new material which has subsequently come to the attention of the department.

4.4 The independent Inspector will have the freedom to carry out the review in a manner which will achieve the most reliable conclusion. It is expected that this will include a public hearing, with written evidence submitted by all interested parties. The appointed Inspector may interview or question any party, to gain a better understanding of the issues.

4.5 Although this review is clearly not a Public Inquiry, the Inspector may, if they so wish, use the Planning and Building (Public Inquiries) (Jersey) Order 2006, or other similar structure, as a guide to proceedings. Save the requirements set out in these terms of reference, the conduct of the review will be a matter for the Inspector alone.

- 4.6 The Inspector shall cause the material submitted to the review to be published on the Government of Jersey's website www.gov.je
- 4.7 The Inspector shall publish a note setting out the process and timetable of proceedings.
- 4.8 Following the conclusion of the proceedings, the Inspector will provide a written report to the Minister for the Environment which contains a detailed review of the planning application and his/her assessment of the process undertaken.
- 4.9 The Inspector shall include in the report an assessment of whether the application should have been approved or refused at the time of the original decision, taking into account all material considerations available to the (then) Minister.
- 4.10 The Inspector shall consider whether the submission of more recent evidence, including the ASAP study of March 2020 and any opinion of the Director of Civil Aviation, alter the balance of considerations, to the point where a different outcome should now be considered.
- 4.11 The Inspector shall set out his/her reasons and conclusions in a report, together with a recommended course of action.
- 4.12 The Minister will publish the Inspector's conclusions. In the event that the Inspector recommends a further action, the Minister will refer the matter to the Planning Committee for further consideration. In particular, the Minister may request the Planning Committee to consider whether it is necessary to revoke or amend planning permission P/2010/1729 under Article 27 of the Planning and Building Law, 2002, as amended.



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Deputy John Young
Minister for the Environment

Ends

Appendix 1

The planning permission and supporting documents are attached on this link

<https://www.gov.je/citizen/Planning/Pages/PlanningApplicationDocuments.aspx?s=1&r=P/2010/1729>

Appendix 2

Excerpts from Planning and Building (Jersey) Law, 2002 (as amended).

27 Revocation and modification of planning permission

- (1) Planning permission to undertake a building or other operation on land may be revoked or modified at any time before the building or operation has been completed.^[114]
- (2) Planning permission to change the use of land may be revoked or modified at any time before the change of use has been completed.^[115]
- (3) The Chief Officer or (as the case may be) the Planning Committee shall serve notice of any revocation or modification of planning permission on the owner and (if different) the occupier of the land.^[116]
- (4) The revocation or modification of planning permission shall not affect that permission insofar as it relates to development undertaken under it before the revocation or modification.
- (5) ^[117]
- (6) Following revocation or modification of planning permission under this Article, compensation is payable to a person with an interest in the land who –
 - (a) has incurred expenditure in undertaking work that is rendered abortive by the revocation or modification; or
 - (b) has otherwise sustained loss or damage that is directly attributable to the revocation or modification.^[118]
- (6A) The loss or damage mentioned in paragraph (6)(b) does not include the loss of any profit a person might have made by virtue of the planning permission had it not been revoked or modified.^[119]
- (7) The amount of compensation shall be an agreed amount or, failing agreement, an amount determined by arbitration.
- (8) Except as provided by paragraph (9), compensation is not payable in respect of –
 - (a) work undertaken before the grant of the planning permission; or
 - (b) loss or damage arising out of anything done or omitted to be done before the grant of that permission.
- (9) Expenditure incurred to prepare plans for the purposes of the work referred to in paragraph (6) or on other similar work preparatory to the development shall be taken to be included in the expenditure incurred in undertaking the work referred to in that paragraph.

- (10) Except as provided by paragraph (5), a decision taken under this Article does not give any other person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that decision.^[120]

108 Right to appeal against certain decisions, and persons who may appeal^[242]

- (1) A person aggrieved by a decision of a kind listed in paragraph (2) may appeal against that decision.
- (2) The following decisions are those against which an appeal lies under paragraph (1) –
- (a) a decision to grant planning permission under Article 19(3) or (4);
 - (b) a refusal under Article 19(5) to grant planning permission;
 - (c) a refusal under Article 20(3) –
 - (i) to grant planning permission for development already undertaken, or
 - (ii) to amend planning permission already granted;
 - (d) a refusal under Article 21(4) to amend planning permission already granted so as to remove or vary a condition of that permission;
 - (e) a decision under Article 10(2)(a) or Article 27 to revoke or modify planning permission already granted;
 - (f) a refusal to issue a certificate of completion under Article 28(1);
 - (g) a refusal under Article 35(4) to grant building permission;
 - (h) a decision under Article 51(2) to include a building or place on the List of Sites of Special Interest;
 - (i) a refusal to remove a building or place from the List in accordance with Article 52(6);
 - (j) a refusal to grant permission to undertake an operation or make a change of use to which Article 54 applies;
 - (k) a refusal to grant permission under Article 55(3)(a) to undertake an activity to which Article 55 applies;
 - (l) a decision under Article 58(2) to include a tree on the List of Protected Trees or under Article 59(6)(b) to remove a tree from that List;
 - (m) a refusal to grant permission to undertake, in relation to a protected tree, an activity specified in Article 61(1)(a);
 - (n) a refusal under Article 99(1) to grant permission to import or use a caravan.^[243]
- (3) In paragraph (1) of this Article, “person aggrieved” means –
- (a) for the purposes of an appeal against a decision mentioned in paragraph (2)(a), the applicant for planning permission and any third party;
 - (b) for the purposes of an appeal against a decision mentioned in paragraph (2)(e), the applicant, the owner and (where different) the occupier of the land to which the planning permission relates;
 - (c) for the purposes of an appeal against a decision mentioned in paragraph (2)(h) to (m), the owner and (where different) the occupier of the land on which the building or, as the case may be, the tree in question is situated;

- (d) for the purposes of an appeal against a decision mentioned in paragraph (2)(n), the owner of the caravan in question;
 - (e) for the purposes of all other appeals to which this Article applies, the applicant.
- (4) For the purposes of paragraph (3)(a), “third party” means a person, other than an applicant, who –
- (a) has an interest in, or is resident on, land any part of which lies within 50 metres of any part of the site to which an application for planning permission relates; and
 - (b) prior to the determination of that application, made a representation in writing in respect of it.