

BEL ROYAL DEVELOPMENT REVIEW

Fields 848, 851, 853, 854,861, 862A & 863A, Bel Royal, St. Lawrence

Report of

The Minister
For
Planning and Environment

Senator Freddie Cohen

AUGUST 2006

1. INTRODUCTION

1.1 The purpose of this report is to deliver my decision on the current revised planning application for the site in question (ref. P/2004/2247) and the reasons for that decision. My findings are based on an impartial and very careful review of the proposed development, all the representations made in favour and against it and the report of the case officer.

2. BACKGROUND

2.1 The principle of developing Fields 848, 851, 853 and 854, Bel Royal, St. Lawrence for Category 'A' housing was approved by the States under Policy H2 of the Island Plan in July 2002.

2.2 There has followed a long and complex process involving extensive public consultation, which has spanned various former Environment and Public Services Committees. A 'Development Brief' was approved to guide the development of the site in May 2004 by the Planning Committee and the first application for, among other things, 140 homes followed in November 2004. That application was found to be unacceptable to the former Committee in August 2005 and the current revised application was submitted in September 2005.

2.3 The current revised application is for 129 Category 'A' homes, road widening and improvement, drainage infrastructure, public amenity space and a community building.

2.4 In view of the controversial nature of the proposed development, the prior involvement of former Environment and Public Services Committees and the Report and Proposition recently brought forward by the Constable of St. Lawrence (P.48/2006) for debate in the States, I decided that I would personally determine the application.

2.5 To assist this process, I decided that the application should be heard in public. The 'hearing' took place on 17 July 2006 and was the first such public hearing to take place under the new Planning and Building Law 2002. The hearing allowed oral representations from objectors and the applicant so that I might better understand the issues that have been raised. Prior to the hearing, I was supplied with and read the relevant paperwork and subsequent to the hearing, I have made an unaccompanied visit to the site and considered additional information requested from the applicants and the objectors.

3. MAIN FINDINGS

3.1 Whilst I have noted the various points of detail raised by both objectors and applicants, it is my intention in this report to concentrate on addressing the main planning issues of contention which are pertinent to the case. My findings are set out under the various sub-headings below, in no particular order.

Case Officer Report

3.2 At the outset, I wish to address the allegations made in the objectors' presentation that, because the Case Officer had been heavily involved in the production of the

Island Plan and had dealt very closely with the developer, he was no longer independent and his report lacked objectivity. Having reviewed the report in the light of these allegations, I find the report to be balanced and objective. It provides a clear, thorough and comprehensive examination of the planning issues relating to the application and was read and endorsed by the Director of Planning and Building Services and the Chief Officer of the Planning and Environment Department in advance of the Public Hearing.

3.3 I found the report dealt with the wide range of complex issues in an open, transparent and considered manner and the information it contains has been helpful to me in reaching my conclusions.

Level of Development

3.4 The main objection of the residents and their representatives is to the number of homes being proposed in the application (129), which is significantly above the approximate yield suggested in the Island Plan (97). They argue that this, in effect, will lead to problems principally in relation to traffic, school provision, drainage and flooding and various environmental impacts.

3.5 In this regard, I recognise that:

- (i) the Island Plan makes it clear that the figures on yield for the site are only an indication, because the mix of size and type of homes is to be determined through the development brief process;
- (ii) the guidance set out in the approved development brief, which, among other things, implies that the yield should properly emerge from a design-led process, rather than a pre-determined number and that former Committees have given steers to that effect;
- (iii) the current revised application represents a reduction from the original application for 140 homes and the initial publicly presented scheme for 150 homes on the basis of various planning considerations.

3.6 With regard to the Island Plan, I also note the wording in relation to yield for the site in question, which is included in paragraph 8.71, uses the expression “*approximately 97 homes*”. Whilst this clearly does not envisage a precise figure, the use of the word “*approximately*” does lead one to believe that the actual yield anticipated by the Plan is of some material significance and that any subsequent scheme should relate to, or bear some resemblance to, the level of anticipated development. I also believe that this figure must have had a bearing on the decision of the States to rezone the site. There is no evidence to suggest that the States would have approved a significantly higher number.

3.7 On this basis, I find the proposed yield of 129 homes, which is 33% greater than 97 homes, effectively represents an unacceptable departure from the Island Plan. I believe it is an unacceptable departure because the addition of the 32 homes over and above the envisaged estimate would, in my view, damage the character of this part of the Island and have a detrimental impact on the landscape. On this matter, I have had particular regard to the topography of the site, the wider aspect of views into the site and the nature of the surrounding area. Residential schemes should, in my view, respond to their setting and this proposal does not adequately achieve this aim. To my mind, it is an overdevelopment of the site.

Traffic Impact

3.8 Local residents and their representatives are concerned that the proposed development combined with others in the west of the Island will give rise to unacceptable traffic congestion along St. Peter's Valley Road.

3.9 I do accept that this is part of a wider problem facing the Island, given that most of the Island's main roads have little spare capacity and that this has to be addressed by effective strategic sustainable transport policies. However, it is also important to consider carefully the likely impact of traffic locally.

3.10 To this end, the applicant has been required to produce a Traffic Impact Assessment in consultation with Transport and Technical Services. It would appear that the main difficulties in terms of traffic impact from this development and others will be experienced during peak periods at the junctions to the north and south of Rue du Galet. Taking into account estimated traffic from the site and from two other Category 'A' sites at St. Ouen and St. Peter only, Transport and Technical Services describe the likely increases at the northern junction as "*very significant*" and at the southern junction as "*less significant*", although it does argue that this is likely to result in longer peak periods, rather than noticeably more congestion.

3.11 It is clear to me that this situation will be made much worse by the 1,100 units referred to by the objectors that either have been or are in the process of being built in the west of the Island and by the traffic implications arising from the lack of school capacity in the area (see Education).

3.12 I realise that the site location and the proposed development have some advantages which support the use of alternative form of transport to the car, but, in view of the above, I do not consider the proposed mitigation (i.e. that the developer funds two additional peak hour bus routes along the Valley Road) as sufficient to override the likely adverse traffic impact of the proposed development of this number of homes.

Flooding and Drainage

3.13 From the outset, there has been a requirement on any applicant to analyse the risk of flooding and how it might be affected by 'climate change' and to incorporate flood relief measures as part of any development application. The Development Brief calls for the appointment of a suitably qualified consultant to undertake the work and demonstrate that the proposed development would not be susceptible to future flooding and that it would not result in future flooding of existing property.

3.14 The applicants appointed Paul Jenkin of Peter Brett Associates, an expert in flood risk management, to undertake the work in consultation with Transport and Technical Services (Drainage).

3.15 I acknowledge that this is an emotive subject for local residents who have seen the marsh area to the south of the housing site flood on numerous occasions and who are genuinely concerned about the potential increased risk of flooding to nearby properties. However, notwithstanding these concerns and the attempt of the objectors

to cast doubt on the robustness of the flood risk analysis work and the proposed mitigation, from the evidence available I am of the opinion that:

- (i) the consultants appointed by the applicant are suitably qualified and competent to undertake the required work and are obligated to provide expert, objective and independent advice;
- (ii) the techniques employed to model flood risk in the area, which make use of local rainfall data and an 'analogue catchment area' with close similarities to the 'Bel Royal catchment' are not defective and adequately reflect local conditions;
- (iii) these techniques reflect not only standard UK procedure, but are standard practice throughout the world;
- (iv) the proposed surface water drainage works together with certain groundworks should ensure that: the rate of water discharge from the housing site to the stream is no greater than at present; there is no substantive risk of flooding to the proposed homes; the small area of existing flood storage lost to the proposed housing development is compensated for; there would be substantially less risk of flooding to existing properties to the south of the site; and the ecological character of the southern wetland is maintained.
- (v) I am satisfied in principle that the proposed measures adequately address the flooding issues.

3.16 I note that the drainage proposals for on-site attenuation and a new pumping station are supported in principle by Transport and Technical Services (Drainage Section), although details will need to be agreed and that it is recommended these matters be covered by legally binding planning obligation agreements.

3.17 Notwithstanding the above, I do have some specific concerns about the proposed Surface Water Pumping Station. It is proposed to construct this predominantly underground on publicly owned land forming part of the car park on the sea-side of Route de la Haule at the foot of the Perquage Walk. This is the preferred location of Transport and Technical Services, who would be responsible for designing and overseeing its construction to an agreed specification, and for managing, maintaining and operating it upon completion.

3.18 Whilst not strictly a planning matter, it has yet to be satisfactorily demonstrated that an above ground building to house control panels and other equipment associated with the pumps, can be sited in the preferred location, because of an unresolved legal covenant issue which has recently been brought to light.

Noise Impact

3.19 I have noted the concerns raised at the Public Hearing and the recent letter from the Operations Director of Jersey Steel Co. (1935) Ltd, dated 16th July 2006, which raises concerns about:

- the possible curtailment of the company's activities, because of potential future complaints from residents of the proposed new development due to exposure to noise;
- the lack of consultation and/or agreement with the company about proposals for noise mitigation on the company's premises, including an acoustic wall (not part of the current revised application), and the installation of high speed

roller shutter doors on its factory, which it is recommended should form part of a planning obligation agreement;

- the effectiveness of roller shutter doors and the potential operational difficulties which may result.

3.20 It is clear that the noise issue has taken up considerable officer time, since the issue was first raised by Health Protection, three weeks after the site had been rezoned. Following the submission of the original application, the applicants were required to appoint qualified noise consultants to carry out a substantive piece of work to satisfy Health Protection that the noise issues can be dealt with, in accordance with a specification drawn up by that Department. The applicants duly appointed Peter Brett Associates (PBA) and since then, the matter has been addressed in great detail.

3.21 I note the conclusions in PBA's 'Acoustic Assessment Report' (November 2005) and the applicant's assertions that the current proposed development, with homes set back from the Jersey Steel premises behind acoustic bunds and various garage blocks, complies with UK Planning Guidance on noise (PPG24), BS4142 and BS8233 and with Health Protection's specification, which all refer to assessments based on acceptable average noise levels. I also note that Health Protection, who advise the Planning Department on noise issues, were not satisfied with the report's findings and subsequently called for a second acoustic assessment based on an assessment of the impact of maximum noise levels across the application site.

3.22 After consistently questioning the methodology of the applicant's noise consultants and the likely effectiveness of the proposed on-site noise mitigation measures, Health Protection appointed its own consultants who subsequently recommended the solution of the developer funding roller shutter doors on Jersey Steel's premises. Health Protection has confirmed that, subject to various provisos, this will "*provide the necessary acoustic reassurance to overcome the outstanding concerns of noise nuisance*", and the applicants have agreed in principle to this, which they regard as an extra effort on their part, beyond what they regard as effective on-site noise mitigation measures.

3.23 Whilst it would appear, on the face of it, that the applicants have responded in a reasonable and proportionate manner to the noise issue, and recognise that no permit could be issued unless a satisfactory planning obligation agreement is entered into by the applicants and Jersey Steel, I have some outstanding concerns. Clearly, Jersey Steel has not been party to the discussions on the roller-shutter doors to-date and both it and Health Protection have raised potential consequential operational and occupational problems, which remain to be addressed and resolved.

3.24 In the circumstances, I find that the proposed solutions to the noise impact issue have not been satisfactorily proven and, in particular, there are outstanding doubts as to whether the off-site mitigation measures can be implemented.

Education

3.25 The situation with regard to the capacity of both Bel Royal and Les Quennevais School has changed in recent months. In June 2006, the Minister for Education, Sport and Culture and his Department advised that there are current capacity problems at both schools and that they are very unlikely to be able to accommodate the extra

demand from new pupils generated by the current application (i.e. an estimated 42 pupils new to Bel Royal School and 18 new to Les Quennevais School). Bel Royal School is currently just over its planned maximum of 175 pupils and Les Quennevais School has a current roll of 804 pupils compared to a design capacity of 750).

3.26 As a consequence, some 40 children would have to attend States Primary Schools other than Bel Royal, with 20 or so having to travel to First Tower or Town, and 18 secondary school children would have to travel to Haute Vallee or Grainville Schools.

3.27 As the local schools clearly have inadequate capacity to serve a development of the size proposed in the foreseeable future, this is further grounds for refusing the current application.

Design Issues

3.28 The design of new buildings is something which is of great concern to me and from the outset of my period in office I have made my Design Objectives and Principles/Policies perfectly clear. My aim is to raise the standard of design, putting the emphasis on quality, local relevance, contextual relevance and spaciousness.

3.29 I recognise that it is difficult to impose such policies retrospectively, late in a process where applicants are working to a different brief. However, I did instigate a design review by the applicants to try to secure design improvements.

3.30 Whilst some improvements have been made to the original elevations with certain cues taken from terraced 19th century artisan's houses, I still do not consider the designs to be of sufficiently high standard and I believe the scheme suffers from a lack of local relevance and an inadequate degree of spaciousness.

3.31 I also believe that ideally applicants should aim to provide a garage for every family home.

Environmental Impact Assessment

3.32 Questions have been raised as to why this application has not been subject to an Environmental Impact Assessment (EIA). This was not a requirement of the approved Development Brief. Also, having reviewed the files, I find that the applicants have been required to provide all the supplementary information that would have been required by an EIA scoping exercise, following advice from the Environment Department.

3.33 The wide range of supplementary information provided by the applicants on related environmental matters include:

- Flood Risk Analysis;
- Foul and Water Drainage Design;
- Acoustic Report;
- Transport Assessment;
- Waste Management Report;
- Ecological / Landscape Review;

- Tree Survey;
- Siteworks Cut and Fill proposals;
- External Lighting Layout.

3.34 The bulk of this environmental related work has been brought together and summarised in the Environment Statement which also accompanies the application, and I am, therefore, of the view that this makes unnecessary any requirement for a separate Environmental Impact Assessment.

Changes in the Size of the Area.

3.35 During the Public Hearing attention was drawn to certain discrepancies in the site area and boundaries between the land specifically zoned for Category 'A' housing and the housing site shown on the application drawings. The information he has provided clearly demonstrates that the boundary of the application site has moved some 10m to the south and approximately 25m eastwards, beyond the boundary of the land zoned for housing.

3.36 In this regard, I note the applicant's counter arguments that:

- much of the area within the boundaries of the site zoned for Category 'A' housing is retained for open space and landscaping;
- the extent of the area actually proposed for the development of Category 'A' housing (as opposed to public open space and community areas and facilities) is 7.8 acres, which equates to the indications in paragraph 8.7 of the Island Plan;
- the site boundaries to the south and west are somewhat arbitrarily drawn on the Island Proposals Map, in that they do not follow any physical boundaries or landscape features;
- the situation is made more difficult by the scale of the Island Proposals Map (approximately 1:16,000) and boundary lines which are the equivalent of approximately 4m wide;
- the migration of the site boundary to the south by between 5m and 10m was accepted in May 2004 by the former Planning Sub-Committee, which did not believe it to be materially significant;
- the area of site proposed for housing development has moved eastwards to accommodate a revised location for the vehicular access road, which was amended in response to public consultation on the optimum location referred to in the Development Brief, with the support of Transport and Technical Services Traffic Engineers and the former Environment and Public Services Committee.

3.37 I also note that a considerable proportion of the land identified by the objectors as being an extension of the area zoned for housing is, in fact, proposed for community and amenity uses, including a public car park primarily to serve the proposed amenity area, a community hall, a children's play area and a teenage amenity area.

3.38 However, having considered all the relevant factors, I am of the opinion that the housing site area boundaries as identified on the Island Proposals Map and approved by the States should not be compromised. Consequently, I find it unacceptable that

the presently proposed housing development and associated road infrastructure and community building fall outside the housing site boundary agreed by the States in 2002. The situation is compounded by the proposed encroachment into an area designated as 'Important Open Space' in the Island Plan, where the aim of the Plan is to protect the area from development.

Wildlife and Habitat

3.39 I note the issues which have been raised in relation to wildlife and habitat. However, I am satisfied that these issues have been reasonably addressed by the environmental work required and carried out in association with the application, together with the deliberations of former Committees. Most developments will have some impact on the habitat and wildlife and this is no exception. However the effect is considered reasonable in this case.

Status of the 2004 Development Brief

3.40 The Development Brief for the site was approved by the former Committee in May 2004 to act as a guiding framework for the development of the site and carries a disclaimer, which allows the Committee to amend or vary the information on the requirements set out in the brief of various authorities and organisations.

3.41 Whilst I accept that the applicants have placed reliance on the Brief and various proposals have been measured against it, I am inclined to regard it as a guide reflecting the former Committee's expectations and do not consider it to be wholly binding, not least because of new information and matters raised during the application process and certain material changes in circumstances. I may revisit the Brief prior to the submission of any future application, which might be made for housing on the site, to introduce appropriate amendments and clarification in order to assist the application process.

4. DECISION

4.1 After a careful appraisal of the application and the relevant material planning considerations, I have decided to **refuse planning permission** for the following reasons:

Overdevelopment

The proposed housing development would be an unacceptable overdevelopment of the site, contrary to the indication of yield included in the Island Plan, resulting in a development which is harmful to the character and amenity of the area and which will lead to unacceptable problems of traffic generation, contrary to Policies H8 and G2 of the Jersey Island Plan, 2002.

Site Boundary

The proposed housing development extends beyond the boundaries of the site zoned for Category 'A' housing purposes and encroaches into an area identified as 'Important Open Space', contrary to Island Plan Policies H2 and BE8.

Education

There is unreasonably inadequate capacity in the local States schools at Bel Royal Primary School and Les Quennevais Secondary School to accommodate the likely increase in the number of school aged children in their catchment areas generated as a consequence of the proposed development.

Noise Impact

The future occupants of the proposed housing development are likely to be exposed to unacceptable noise nuisance from the operations conducted at the nearby premises of Jersey Steel Co. (1935) Ltd due to its proximity and the failure of the applicants to demonstrate their ability to make adequate provision for noise mitigation.

Design

The design of the proposed new housing development is unacceptable in that it fails to adequately reflect relevance to Jersey, particularly in terms of form and architectural details; is insufficiently spacious; and would present an unsatisfactory appearance, detrimental to the character of the area; contrary to Policy G3 of the Jersey Island Plan, 2002. and the published 'Design Principles' of the Minister for Planning and Environment.

Senator Freddie Cohen
MINISTER FOR PLANNING AND ENVIRONMENT
STATES OF JERSEY

2nd August 2006