

STATES OF JERSEY
PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)
APPEAL OF A DECISION UNDER ARTICLE 108
REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT
by Mr Philip Staddon BSc, Dip, MBA, MRTPI
an Inspector appointed under Article 107

APPEAL BY: Adam and Sally Routier (third party appellants)

AGAINST: Grant of Outline Planning Permission for the "*Redevelopment of La Collette including demolition of 5 No. low rise blocks (containing 59 units) and construction of 5 No. larger blocks providing 147 units*"

LOCATION: La Collette Flats , Green Street, St. Helier

REFERENCE: PP/2015/0747

APPEAL PROCEDURE: Hearing – 6 June 2016

ACCOMPANIED SITE VISIT: 6 June 2016

DATE: 22 July 2016

Introduction

1. This report contains my assessment of the Planning appeal made by Adam and Sally Routier of Yacht Villa, Green Street, St Helier. This is a 'third party' appeal made against the decision of the Department of the Environment to grant planning permission on 18 January 2016 for a comprehensive redevelopment of La Collette 'low rise' flats.
2. The applicant is Andium Homes, the States owned company that provides and manages affordable housing in Jersey.
3. I held a Hearing on 6th June 2016. The participants included the Appellant and Deputy Russell Labey (who acted as the Appellant's agent), officers from the Department and the Applicant's team, which included a representative from La Collette tenants' association. I undertook an accompanied site inspection on the 6th June and visited the site alone on the day before the Hearing and on two separate occasions following the Hearing.

The site and its surroundings

4. La Collette flats complex comprises a fourteen storey tower block and five 'low rise' blocks (of two, three, four and six storeys). It was constructed in the 1960's and lies on the west side of Green Street and north of the Mount Bingham road, which runs parallel to the seafront at this point.
5. The site extends to just over a hectare (1.11 hectares to be precise) and the tower block sits on the northernmost part. The tower block has been comprehensively refurbished in recent times as part of the Applicant's 'Decent Homes' programme (no changes to the tower block are proposed under the current application).
6. Three of the five lower blocks are situated on the western part of the site and have similar footprints. The blocks are linked by paths and incidental open spaces, which includes a small play children's play area. There is a notable rise across the site from Green Street (westwards). To the west of the site, Rope Walk is set at a higher level still, such that when observed from this road, the view is confined to the upper storeys and the distinctive rooftop water towers on each block. Between these three blocks and Green Street (and south of the tower block) are a sizeable central car park and a grassed open space that contains a number of trees.
7. The other two blocks are smaller and comprise a two storey block and four storey building in the south of the site. There is an area of open space between these blocks and Mount Bingham (the road), with the seafront beyond. This space is, for the most part, hard surfaced but does include some shrub planting.
8. Taken together the five 'low rise' blocks contain 59 flats.
9. La Collette flats (low and high rise and their site setting) are Grade 4 Listed, The areas of green space fronting Green Street and the hard surfaced space

to the south are separately designated as 'Protected Open Spaces.' These are key issues in this appeal.

The earlier refused scheme - PP/2014/1872

10. An application similar to the current proposal was lodged in 2014. It sought Outline permission for '*redevelopment of La Collette including demolition of 5 no. low rise blocks (containing 59 no. units) and construction of 5 no. larger blocks providing 147 no. units.*
11. The proposal involved the demolition of all of the Grade 4 Listed low rise blocks and their replacement with five new build apartment blocks ranging between 3 – 6 storeys in height. The new layout would be quite different to the existing, with Blocks A and B utilising the much of the green space area to create a 5 – 6 storey street frontage to Green Street. The 3 and 4 storey Blocks C, D and E on the western part of the site, adjacent to Rope Walk, would be partly sunken into the slope of the site. The layout of the blocks would define some sizeable landscaped internal courtyards. Two floors of parking would be provided at basement level accommodating a total of 193 spaces, along with lockable storage and refuse facilities.
12. The application was refused in April 2015 for the following, very specific, reason:

Reason for refusal: The proposed development, by virtue of the design, scale, height and massing of Block 'D', located along the western boundary of the site, will be detrimental to the amenities and outlook of the new residential units facing onto Rope Walk and to the amenities of the existing residential units located along Rope Walk, contrary to Policies SP1; SP7; H6 & GD1 of the Island Plan, 2011: Revised (2014).

The Application proposal - PP/2015/0747

13. The current application sought to address the earlier reason for refusal. It proposed a very similar scheme and the above description (paragraph 11) remains applicable. The key difference was that the scheme amended the offending Block D, reducing its mass and impact in proximity to Rope Walk. The 'fixed' matters, for which approval was sought, related to siting, scale and means of access, with matters 'reserved' for subsequent being design, external appearance and landscaping.
14. Prior to the determination of the application, Deputy Labey had lodged a Petition¹ with the Judicial Greffe, which requested that the Minister for Planning and Environment ensure that any redevelopment of La Collette Low Rise upholds and maintains the Protected Open Space status of the existing green space on the site between La Collette Low Rise and its border with Green Street. On the 8th September 2015, the States Assembly voted by 22 to 19 to support the proposition set out in the petition.

¹ Reference P.78/2015

15. The Planning Applications Committee considered the application at its December 2015 meeting. It heard views both for and against the proposal and it also considered the States Assembly proposition. It concluded that the amended scheme had satisfactorily overcome the earlier reason for refusal and the application was approved (unanimously). Planning permission was issued on 18th January 2016, subject to a range of conditions and a Planning Obligations Agreement (POA). This appeal is made against that decision.

Summaries of the Appellants' grounds of appeal and the responses of the Department and the Applicant

Appellants' grounds of appeal - summary

16. The Appellants live on the east side of Green Street, more or less opposite the tower block. They object to the proposal. Their grounds of appeal are comprehensive and wide ranging. They are set out in the appeal form, the Appellants' Statement of Case and appendices and in a response to the Applicant's Statement. The Appellant's case was also supported by letters from other local residents who oppose the scheme.
17. From these submissions I distilled the following, somewhat overlapping, themes, that were used as the basis for the Hearing session debates:
- Loss of Grade 4 Listed buildings – the Appellants consider that the case has not been made for the destruction of the Listed buildings.
 - Loss of protected open space – the Appellants consider that the open space should be protected as set out in the Island Plan (and the States Proposition P.78/2015) and maintained as an amenity for the area.
 - Public consultation – the Appellants consider that consultation was inadequate and, in particular, there was no meaningful engagement with the wider community.
 - Density and scale – the Appellants consider that the scheme is just too dense and too excessive in scale and height for the area and that unit numbers are only achieved by sacrificing the open space which is, and should remain, protected.
 - Impact on the character of the area – the Appellants consider that the proposal fails to enhance and maintain the character and appearance of the area and that it will harm it.
 - Impacts on neighbours – the Appellants consider that the proposals will have unreasonable impacts on the amenities of neighbours.
 - Procedural issues – the Appellants consider that procedural anomalies throughout the passage of the application render the decision of the Planning Committee 'legally unsafe, unsound and potentially *ultra vires*.'

Responses of the Department and the Applicant – brief summary

18. The Department and the Applicant's views on the merits of the scheme are closely aligned. They contest all of the Appellants' grounds of appeal. They contend that the loss of the Listed buildings is justified as they are outworn and the benefits of the scheme outweigh the presumption of retention. They consider that the Green Street open space is little used and its reduction meets the required policy tests and will facilitate the wider benefits of the scheme, including the delivery of much needed affordable homes and the more efficient use of land.
19. They consider that the proposal will deliver a high quality scheme in line with the Island Plan's objectives and policies, that it will not cause any unreasonable harm to residential amenities and that it will enhance the character of the area. They further contend that there are no issues arising from matters of public consultation or procedure that should prevent Planning permission being granted.

The Island Plan 2011 (Revised 2014) – policy considerations

Strategic

20. The Island Plan's overarching spatial strategy is set out in Policy SP 1. It seeks to concentrate new development within the Island's built-up area, which is clearly defined on the Plan's proposals map. Policy SP 2 sets out a strategic objective of using resources, including land, as efficiently and effectively as possible and Policy SP 3 adopts a sequential approach to new development, directing it to the most sustainable locations. Policy SP 4 provides a high level of protection of the Island's historic environment, including heritage assets. Policy SP 6 seeks to reduce dependence on the car and SP 7 seeks high quality design.

Housing

21. The Housing chapter of the Plan includes objectives to meet the Island's housing needs and to promote the housing-led regeneration of urban areas. The narrative supporting Policy H 1 identifies a range of 'outworn' Category A affordable housing sites for redevelopment. It also explains that, in the original 2011 version of the Plan, it was anticipated that such estate renewal may result in a net loss of dwellings. However, this was re-appraised in the revised plan, as it became clear that identified sites could achieve net increases. 'La Collette Low Rise' was one of these identified sites, with an indicative 'circa 100' net additional units. These identified sites are not carried forward into the substantive policy text or identified on the proposals map, as their zoning would not change i.e. an existing housing site would be redeveloped for new housing.
22. Policy H 4 expects developments to include a mix to provide a variety of new homes. Policy H 6 makes a positive presumption that housing development proposals within the Built-up Area will be permitted, provided that they accord with the standards for housing as set out in Supplementary Planning Guidance.

General Development

23. Policy GD 1 sets out 'general development considerations' against which all planning applications are assessed. These include sustainability, protection of the historic environment, impact on the amenities of neighbouring uses and occupiers, economic impact, reducing dependence on the car and design quality. With regard to amenity impacts, the policy states that developments must:

"...not unreasonably harm the amenities of neighbouring uses, including the living conditions for nearby residents, in particular:

- a) Not unreasonably affect the level of privacy to buildings and land that owners and occupiers might expect to enjoy;*
- b) Not unreasonably affect the level of light to buildings and land that owners and occupiers might expect to enjoy;"*

24. Policy GD 3, in support of the spatial strategy, seeks to ensure that *'the highest reasonable density is achieved for all developments, commensurate with good design, adequate amenity space and parking...and without unreasonable impact on adjoining properties.'*
25. Policy GD 5 seeks to protect or enhance the skyline, strategic views, important vistas and the setting of landmark buildings and places.
26. Policy GD 7 requires developments to achieve a high quality of design and includes a detailed set of criteria against which schemes will be assessed. Policy GD 8 encourages 'percentage for art' contributions.

Historic Environment

27. The key policy is HE 1, which sets a presumption in favour of preserving and enhancing the special interest of Listed buildings and places and their settings. It states that buildings that do not preserve or enhance the special or particular interest of a Listed building or place and their settings will not be approved. It also sets out that permission will not be granted for 'the total or partial demolition of a Listed building.' The policy states that in 'exceptional' cases where there is a loss of historic fabric, building recording will be required.

Built Environment

28. Policy BE 5 addresses 'tall buildings' which are defined as being above 18 metres or rising more than 7 metres above their neighbours. The policy states that the exceptional height of such buildings will need to be fully justified in urban design terms and states that development which exceeds the height of buildings in the immediate vicinity will not be approved.
29. Policy BE 10 seeks to control the appearance of roofscape and avoid visible roof plant and equipment.

Open Space

30. Policy SCO 4 protects open spaces. It is a key policy in this appeal and, as such, I have reproduced it in full below:

Policy SCO 4 - Protection of open space - *The Minister for Planning and Environment will protect existing open space provision and the loss of open space will not be permitted except where it can be demonstrated that:*

- 1. its loss will have no serious impact on the adequacy, quality and accessibility of provision of the type of open space affected by the proposal; or*
- 2. alternative replacement provision of the same or better extent, quality and accessibility of open space can be provided; or,*
- 3. the proposal will be of greater community or Island benefit than the existing open space resource; or*
- 4. its loss would not seriously harm the character and appearance of the locality.*

The two open spaces on the site (the greenspace fronting Green Street and the area to the south) are identified as protected spaces under SCO 4 on the Plan's proposals map.

Transport

31. The Plan contains a suite of relevant transport related policies. These cover footpaths (TT 2), cycle routes and cycle parking (TT 3 and TT 4), access to public transport (TT 8) and travel plans (TT 9).

Other Island Plan policies

32. Policies covering water resources (NR 1), renewable energy (NR 7), foul and surface water drainage (LWM 2 and LWM 3) are also relevant.

Other Planning Policy Documents

33. The Supplementary Planning Guidance (SPG) document *A Minimum Specification for New Housing Development – Planning Policy Note No. 6* (2009) is also of some relevance (although it predates the Island Plan).
34. Supplementary Planning Guidance Advice Note 6 *Managing change in historic buildings* (2008) is also relevant.
35. I understand that a Draft Development Brief for La Collette Flats was produced in 2013. A summary of its aims is set out in the report to the Planning Applications Committee. However, the document is unpublished and has not been the subject of formal consultation processes.

Discussion and assessment

General principles

36. It is clear that the redevelopment of La Collette low rise flats has been a stated Planning ambition for some time. Indeed, the Island Plan specifically identifies the low rise complex as one of the 'outworn' Category A affordable housing sites that presents a redevelopment opportunity which could realise a significant net increase in affordable housing numbers.
37. It is important to note that the Plan uses the term 're-develop' which, to my mind, suggests intended demolition and new build rather than refurbishment (in whole or in part). However, it must be noted that these references are contained in the pre-ambule, rather than the substantive policy (H 1) itself. The production of the (unpublished) Development Brief, albeit that it has little weight in Planning terms (as it has not been subject to public consultation or scrutiny), further confirms the States' Planning intentions for this site.
38. Judged against the Island Plan's high level strategic Planning principles, the application proposal accords with many of the central policy strands. It support the spatial strategy set out in Policy SP 1 of seeking to concentrate new development within the Island's built-up area. It also supports the Policy SP 2, SP 3 and SP 6 objectives of using land as efficiently and effectively as possible, directing new development to the most sustainable locations and reducing dependence on the car.
39. However, the issue of 'principle' is complicated by two significant constraints. First, the existing buildings are Listed and the Island Plan makes plain that proposals to demolish Listed buildings will not be approved. Second, significant parts of the site is covered by protected open space status in the Island Plan.
40. To some, it may appear a little contradictory and illogical for the Island Plan to be clearly signalling the redevelopment of La Collette low rise, whilst at the same time protecting the existing buildings and spaces, which, on the face of it, appear to prevent the redevelopment opportunity. However, this is not altogether unusual in Planning, as it would be inappropriate to set aside identified Planning issues and constraints to facilitate an easier passage for a stated redevelopment ambition.
41. What this means in practise is that the two quite fundamental issues (of loss of Listed buildings and protected spaces) need to be addressed and justified in Planning terms if any proposal is to succeed. There is no presumption that these issues can automatically be addressed and there are many examples in the Planning world where a stated ambition cannot be realised due to the subsequently assessed magnitude and importance of constraints, whether they be heritage, amenity, viability or some other matter.
42. Accordingly, I explore these two fundamental issues first and then discuss other matters raised by the Appellants, before reaching overall conclusions.

Loss of Listed buildings

43. La Collette flats were most recently listed on 19 March 2014. Their Grade 4 status is the lowest tier in the current Jersey listing system and relates to the exterior features only. The Listing covers the high rise and low rise buildings, along with the external landscaped areas and open spaces. The Statement of Significance, set out in the Listing schedule, reads:

La Collette Flats are the best example of 1960s high-rise development in Jersey. The development, which includes the first tower block built in the Island, is an outstanding example of the 1960s style of architecture using reinforced concrete on a scale not previously attempted. The imaginative site layout, bold sculptural treatment of the blocks and use of detail all contribute to the success of the scheme. The external works and landscaping are very much part of the design.

44. This statement is further expanded with an explanation of the 1960's competition winning design by the architect Taylor Leapingwell and the clear influence of 'Le Corbusier'. The narrative also explains how the original design model was not fully realised in practise but that 'it is still possible to see the original design ideas in the exterior of the completed flats.' Of the low rise buildings, it states that "...blocks B, C, D have been carefully staggered in plan to relate to the hillside contours and 'sit' well in the landscape. The sweeping roofs indicated in the model have been translated into elegant penthouses set well back from the main façade, which together with the semi-recessed glazed balconies makes for a lively east-facing elevation. Blocks E and F, facing the beach and the road are also successful." It assesses that "throughout the estate, it is clear that client and architects were keen to provide the highest quality of design for the tenants of La Collette."
45. The Appellants made clear that whilst their primary concerns related to developing on the (Green Street) protected open space, which is itself part of the area covered by the Listing, they were not convinced that the case had been made for the demolition of the Listed buildings. They felt that rules were being broken and that the expert views on heritage² were being overridden.
46. The Applicants do not share these views or the opinions of the author of the Listing schedule. They consider the flats to be poor buildings that have never worked since the day they were built, with serious issues of damp and cold creating substandard living conditions and high running costs. They consider the buildings to be poor, incoherent and disjointed and that, far from being outstanding, they represent the fundamental failings of housing from this era and seriously question whether Jersey should be seeking to protect such 'workmanlike' structures with all of their inherent faults and failings.
47. The Department's view is that Policy HE 1, which protects Listed buildings, does not 'trump' all other policy considerations. It considers that the loss of

² Including the Architectural Assessment of La Collette Flats by Victoria Perry Architect – January 2007

the Listed buildings must be considered in the Planning balance. It argues that a full assessment has been undertaken and that the Committee listened to the views of the States Heritage Environment Officer, who personally addressed the meeting. The Committee concluded that, in the circumstances, the wider community benefits outweighed the presumption of retention.

48. It is important to establish here that this is not a Listing appeal. Nonetheless, the arguments made for and against the merits of the Listing itself are of some relevance to the Planning balance. It is the case that 1960's architecture often divides opinion, some seeing it as innovative and creative and others viewing it as brutal, oppressive and unlovely to look at and live in. It is also a fact that the Listing of buildings from this era, whether in Jersey or in England, often generates a degree of controversy and discussion.
49. There is no doubt in my mind that there is some architectural and historic interest in La Collette flats. At the time they were built they represented a new approach to housing in Jersey and included powerful architectural influences of that era, albeit in a somewhat diluted form, which renders them less than unique. The buildings do have a relevance and some importance in Jersey's architectural and social history.
50. However, the applause for Leapingwell's architectural concept provided by some recognised experts needs to be balanced against some rather stark realities. First, the buildings have widespread issues of damp, water ingress and cold and 'cold bridging' is a fundamental design fault that has no easy fix. Second, the buildings designs make the insertion of lifts, which are essential for modern multi-level housing, nigh on impossible. Third, the refurbishment cost is prohibitively expensive, the Applicant indicating an estimated at £179,000 per unit. Fourth, external spaces are poor in terms of layout, environment and function and there is a history of anti-social behaviour.
51. I inspected one of the flats which I was advised was representative of the problems experienced in the complex. This flat, occupied by a family with children, had widespread damp and mould in the main living areas. The smell of damp and mould was quite overpowering in the children's bedroom despite the tenants' clear endeavours to scrub and clean the walls. These were not issues of poor maintenance or neglect, but of longstanding failings inherent in the original design. The living conditions that I witnessed, particularly for young children, are wholly unacceptable in modern day Jersey.
52. Whilst there remains a debate about whether the low rise flats should be listed at all, the fact is that they are. Policy HE 1 makes plain that permission will not be granted for their demolition. Given the policy's unambiguous wording, the proposal clearly creates a tension with, and indeed a departure from, this element of the Island Plan.
53. In this case, the supplementary policy interpretation set out in the SPG *Managing Change in Historic Buildings* is helpful. Whilst this SPG predates

the Island Plan, its content is detailed, founded on strong and mature heritage protection principles and, in my view, remains highly relevant. Its chapter on 'Demolitions' recognises that, whilst it is Ministerial policy to preserve historic buildings, *'there will very occasionally be cases where demolition is unavoidable. Planning controls ensure that proposals for demolition are fully scrutinised before any decision is reached.'* The SPG sets out three important areas of consideration for any proposals involving demolition. These are:

- i) The condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use;
- ii) The adequacy of efforts made to retain the building in use; and
- iii) The merits of alternative proposals for the site.

54. Based on the evidence, I am satisfied that the case is made under i) and ii) as refurbishment / reuse is economically unviable and impractical. This is evidenced by the failure of past refurbishment programmes and by the recent feasibility studies. Indeed, no private sector developer would undertake such a project at the costs indicated, even for open market rental returns. Were the States to subsidise that very substantial 'conservation deficit', there would clearly be issues about value for (public) money.
55. On the third point, the SPG states that there may, very exceptionally, be cases where proposals would bring substantial benefits for the community that have to be weighed against the arguments in favour of preservation. In this case, the most significant wider community benefits would be the delivery of 147 new affordable homes (a net increase of 88) helping to meet evidenced housing needs in a highly sustainable location.
56. Overall, my assessment is that, whilst the low rise complex is Listed and does benefit from policy protection, its heritage value is limited. This limited value cannot be divorced from the facts that the buildings are not fit for purpose and the cost of refurbishing and re-using them is prohibitively expensive. Furthermore, the wider community benefits arising from the scheme, notably in terms of affordable housing provision, are substantial and cannot be realised through refurbishment.
57. Notwithstanding other Planning matters, I conclude that, in these particular circumstances, the exceptional case is established for demolition of the Grade 4 listed low rise complex and for overriding the Policy HE 1 (and SP 4) presumption. In this respect, the proposal would involve a departure from the Island Plan, but I assess that it would be less than substantial and would not breach the threshold that would trigger a Public Inquiry under Article 12³.

³ Article 12 of the Planning and Building (Jersey) law 2002

Loss of Protected Open Spaces

58. As noted earlier, there are two protected open spaces on the application site.
59. The first area sits to the south of the site and faces Havre de Pas beach. It covers an area of 969 square metres and is largely hard surfaced. In my view, it is a very tired looking and underused open space. The scheme proposes to retain the majority of this space. I am advised that the retained area would be 893 square metres, which is about 92% of the existing space. It would be landscaped into a 'quasi-public seaside space' that would be framed to the north and east by proposed Block A, which would include a 'community centre' that would open out on to the space.
60. Whilst landscaping remains a matter for subsequent approval, I am satisfied that the size and approach to this space is acceptable, does not conflict with Policy SCO 4 and has the potential to deliver a very attractive open space. The siting of a community use opening onto the space is particularly desirable in terms of animating the area and providing some passive surveillance. Indeed, this aspect of the proposal could be a substantial net benefit in open space terms, transforming a poorly performing low quality space into more active high quality public realm, at an important node where the A4, Green Street and the Promenade converge.
61. The second area is the green space which fronts Green Street and this requires a more detailed Policy SCO 4 assessment. It covers an area of 1,050 sq metres. As an open space its origin and purpose is something of a curiosity. I understand that originally there was a row of houses along this part of Green Street, which were demolished to make way for the La Colette redevelopment in the 1960's.
62. The space was clearly part of Leapingwell's original design and presumably was intended to function as a Le Corbusier inspired green parkland, within which the 'scientifically designed' / 'modern labour saving flats'⁴ would sit. Other than provide that green setting, the space lacks any other meaningful parkland or open space function. It is divorced from the flats by a large intervening car park and the land is noticeably sloped and set behind raised walls. As such, it feels, and is, rather inaccessible and uninviting. I made multiple visits at different times of day and never once witnessed anybody crossing or using the site (actively or passively). The Applicant's survey evidence also indicates that there is little use by its tenants. I do not dispute that some recreational use may occur, but I think it must be very limited. Indeed, the space actually seems to be entirely disconnected, physically and functionally, from the housing scheme of which it was intended to be an integral part of.
63. However, there is no doubt that the area does have a visual amenity function. It is a pleasant swathe of green space with some reasonably mature trees. Most people find areas of grass and trees visually in urban

⁴ Both terms used in the Listing Schedule (Reference HE0238)

areas to be attractive and hence the area has a degree of amenity value associated with it.

64. The proposals would result in most of this protected space being lost, although Block B would be set back to retain a portion and some of the trees. Block A would also be set back (although not as far) to retain a degree of greenery along the street frontage.
65. Unlike the policy approach to Listed buildings, the consideration of open space loss is criteria based. Whilst the protection exists, it is not an absolute protection. Indeed, Policy SCO 4 does allow for open space to be lost if any one of its four stated criteria are satisfactorily addressed. I assess each in turn below.

Criterion 1 - its loss will have no serious impact on the adequacy, quality and accessibility of provision of the type of open space affected by the proposal

66. There are other incidental and green areas of open space in the area. Indeed, the nearby areas either side of the A4 (Mount Bingham), include South Hill Gardens and these offer very attractive sitting out / informal recreational space in addition to their visual amenity contribution. There is also the beach itself and, whilst the point was made that it is only available at certain times, it is nonetheless a very significant and attractive open space resource. I also walked from the site to Howard Davis Park – it is about 650 metres or seven minutes at normal walking pace – which provides a large and attractive more formal parkland recreational resource.
67. If the specific 'type' of open space were more narrowly defined as a visual green roadside amenity space, then there is no doubt that the proposal would reduce this. However, the proposal would still retain such space along its frontage. I do not regard this reduction in area as a matter that should prove fatal to the proposal, particularly when the locality enjoys a good range of open space facilities and resources.
68. I consider the loss of the area will not have any serious impact on the adequacy, quality and accessibility of open space in the area. The proposal satisfies Criterion 1.

Criterion 2 - alternative replacement provision of the same or better extent, quality and accessibility of open space can be provided

69. Although there is no 'like for like' replacement, as I have noted above a reasonable green swathe and some of the existing trees will be retained. Furthermore, both the Applicant and the Department point out that, overall, the scheme will actually increase on-site open space by 817 square metres, although it must be noted that much of this will be semi-private i.e. within the scheme.
70. Given the absence of a 'like for like' replacement, I do not consider that the proposal satisfies Criterion 2.

Criterion 3 -the proposal will be of greater community or Island benefit than the existing open space resource

71. Assessment against criterion 3 inevitably involves a degree of subjective judgement. In my view, the community benefits arising from this scheme in terms of delivering much needed affordable housing in a sustainable location substantially outweigh the case for retaining, in its entirety, the grassed area given its limited value and function.
72. I consider that the proposal satisfies Criterion 3.

Criterion 4 - its loss would not seriously harm the character and appearance of the locality

73. The loss of most of the green space will cause some harm to the character and locality of the area. However, I do not regard that harm as serious and I explain more fully my analysis and conclusions on matters of character later in this report (see paras 85 - 92). I consider that the proposal satisfies Criterion 4.

Conclusions on loss of protected open spaces

74. The protected open space to the south will be largely retained and regenerated as a new area of public realm. There is the potential to produce a very attractive and successful space and I consider there to be no tension with Policy SCO 4.
75. The Green Street space clearly does have some visual amenity value and some local people, including the Appellants, recognise that value. However, other than its pleasant appearance, it lacks any coherent function or purpose as an open space. Its reduction in size to facilitate the scheme is acceptable when judged against SCO 4, as it meets three of the four criteria (when just meeting one criterion would satisfy the policy). I conclude that the proposal does not conflict with Policy SCO 4.

Scheme Issues and Impacts

76. Having established my conclusions on matters of fundamental principle, I now turn to examine some of the more scheme specific aspects and consequential impacts that have been raised by the Appellants.

Public consultation

77. The Appellants feel that public consultation was inadequate and that the scheme was perceived as a *fait accompli*, with no changes made in response to any concerns raised. By contrast, the tenants' representative spoke highly of the consultation undertaken. The Applicant explained that it took great pride in its engagement approach and, in addition to its tenant communications and surveys, it had held a States Members session and spoken to the Havre de Pas Improvement Group. It reported that its survey (which had a 90% response rate) indicated that 98% of tenants wanted a new home and 77% had not used the open space in the last 12 months.

However, Deputy Labey considered that some people may be afraid to speak out and that, as a public organisation, Andium Homes had a moral obligation to consult more widely and should have held 'drop in' sessions for residents.

78. At the Hearing, I advised all parties that the appeal would not fail or succeed on the basis of an assessment of the Applicant's consultation activities. This is simply because there is no mandatory Planning requirement to undertake such activities in Jersey. However, it is helpful to record these matters to allow for some reflection on best practice for the future. Whilst I make no criticism of Andium's engagement approach (as it has done more than it is required to), it may wish to consider wider community consultation, beyond its own tenant base, on future major schemes.

Density and Scale

79. The proposal will increase the density of development on the site. The number of apartments would rise from 59 to 147 (a 249% increase), although this would not achieve the full 100 net increase indicated in the Island Plan. In terms of habitable room numbers, these will increase from 167 to 382 (a 229% increase). Expressed as habitable rooms per acre, this equates to 155 h/r per acre. Comparisons were drawn with other recent proposals in St Helier, including the approved schemes at the Metropole Hotel at 250 h/r per acre and Jersey College for Girls at 132 h/r per acre and the (now refused) scheme on the Jersey Gas site at 350 h/r per acre.
80. There is no mathematical formula for defining optimum density, but the Island Plan's Policy GD 3 requires the 'highest reasonable density'. This has a close connection with the Plan's strategic approach of seeking to concentrate and maximise new development in the St Helier built-up area.
81. The Appellants consider the density to be too high and, at the Hearing, questioned why it was not a 2-3 storey development, more in line with the traditional nineteenth century scale of Green Street. They considered this issue to be closely linked to the loss of open space and Deputy Labey argued that the area was desperately short of green space and that these amenities should not be nibbled away at.
82. I do not consider that the scale of development further north along Green Street should define the scale and density on this site. The character of the area around the application site is quite different and, indeed, the existing buildings rise to well above that Victorian scale.
83. I explore character issues more fully below, but in terms of the proposed scale (which is clearly a product of unit numbers / scheme density) the Tall Buildings Policy BE 5 is a useful benchmark. Setting aside the tower block (which will be well over twice the height of the highest block proposed), most of the blocks do not exceed the BE 5 height thresholds set. Indeed, it is only on Block B that there is a marginal (35 centimetres) breach of the BE 5 height threshold and this is set well back into the site and distanced from neighbouring properties.

84. In my judgment, the density and scale of the proposal are broadly acceptable.

Impact on the character of the area

85. Closely linked to density and scale is the consequent impact of the proposal on the character of the area. There can be no dispute that the proposals would change that character and that change is inescapably linked to the loss of the low rise complex and the green space which is integral to it. These existing features are significant elements of the current character and townscape.
86. In terms of Green Street, much of its character northwards from the La Collette high rise block is defined by the traditional nineteenth century housing which is typically of 2.5 storey period scale (although there is another tower block, Cedar Towers, at its northern end). These intact nineteenth century dwellings include the Appellants' property on the east side of the street.
87. However, from the tower block southwards (running down to the coast) the character is very different and much altered by twentieth century interventions. These include the 1960's low rise complex and green space on its east side and, on its west side, a mixture of relatively modern shops with maisonettes above (3 storey), a large open car park and a few surviving older residential properties. The building on the corner of Green Street and Havre de Pas is a substantial former public house (of 3.5 storey scale) and opposite this is a five storey residential block. To the south-west and west of the site there is a mixed character, with buildings of different uses, styles and eras along Mount Bingham and rising up South Hill and in the elevated Rope Walk locality.
88. Although La Collette low rise has defined part of the area's character for over half a century, it is actually still somewhat alien to the underlying historic townscape backcloth which is typified by a nineteenth century layout, scale and grain. This entails buildings, some quite substantial, fronting streets with little setback from the footway.
89. If the Minister accepts my conclusions on the matters concerning Listed building loss and reduction of the Green Street open space, attention must now turn to the 'character' merits of the proposed scheme. The Planning Applications Committee and the Department's officers were clearly satisfied with the approach on two separate occasions (the refusal emanating from a specific impact associated with one block).
90. I have considered the proposal afresh and my conclusion is that the siting, scale, mass and general layout are acceptable and represent an appropriate approach. In particular, the siting of blocks A and B on the lower part of the site to create a strong streetscape to Green Street is well founded. The setback of these blocks to provide green spaces and trees is well balanced and proportionate and will soften and complementing the new streetscape. It will also improve and widen the vista and view along Green Street towards the sea (by removing the obstruction of the existing block).

91. Blocks A and B will be substantial in scale, but when viewed in context, they will not be overlarge or out of scale, particularly when seen in the context of the tower block, the rising hillside development to the west and the open gaps to the east. I also consider the southern (beach facing) elevation of Block A to be well conceived and it will present a much stronger and positive edge to the development (than currently exists). Although detailed design remains a matter for subsequent approval, the supporting information submitted with the application gives a degree of confidence that these blocks will define a new, high quality and complementary contribution to the mixed character of this area.
92. Blocks C, D and E will be less discernible in public view and will have a lesser impact on (and contribution to) the character of the area. However, I consider their siting, scale and mass to be appropriate and acceptable. Indeed, they do rather follow the earlier La Collette approach of nestling into the slope of the site, such that they appear at a relatively domestic scale when viewed from Rope Walk.

Impacts on neighbours

93. The starting point for this application was the refusal of PP/2014/1872 due to the specific impacts of Block D in the Rope Walk area. These issues have been addressed satisfactorily through the amendments incorporated in the current scheme. I spent some time assessing the views and impacts from Rope Walk and consider that whilst Blocks D and E will be physically closer than the existing buildings, there would still be a good spatial separation and the relationship is reasonable and acceptable.
94. I have also reviewed the likely impacts on other neighbouring properties surrounding the proposed development. There are no undue impacts in terms of massing, shadowing or overlooking to the properties to the north and northeast (including the Appellants' home). There will be little impact on the Green Street maisonettes, as this block has a blank side wall facing the street (and the site). There will be some impacts on the properties to the south that will be opposite Block A, but these are not severe or unreasonable in my view. 'Youani', a Grade 3 Listed dwelling to the southwest of Block A, will have a slight reduction in morning sunlight but this is offset by its generally improved setting to the north, and its main aspect is uninterrupted.
95. Overall, when judged against the amenity tests set down in Policy GD 1, I am satisfied that the scheme will not result in any unreasonable impacts.

Procedural issues

96. Whilst I listened carefully to views about procedural concerns, I can see no evidence of any failings.
97. With specific regard to the States Proposition P.78/2015, I have considered this as a material consideration. It is material because it highlights the importance that some residents and politicians attach to the green space. However, the States Assembly considered one aspect (the open space) arising from the redevelopment proposals, and it was not sitting as the

Planning Applications Committee. The full Planning consideration of this proposal has to assess all material considerations and must reach a decision based on the Planning balance. The decision maker is not bound to follow the views of the States Assembly on one discrete matter, or indeed to follow the views of public representors, whether for or against a proposal.

98. The scheme is one that has been the focus of different views and a degree of local contention. However, the Department's officers and the Planning Applications Committee have made recommendations and decisions based on a full and comprehensive assessment of material considerations. I do not consider that there have been any procedural failings.

Other Matters

Flooding

99. Whilst on the accompanied site inspection, a resident expressed concerns to me about potential flood risk and drainage matters. However, I am advised that flood risk assessment has been undertaken and that drainage will be subject to detailed technical approvals.

Traffic and highway matters

100. A number of representations on the Planning application raised concerns about traffic. Green Street is a busy street and a bus route. However, the Island Plan actively directs new development to 'busy' places, which have access to bus services and are located within walking / cycling distance of the main services and employment offered by St Helier. The scheme itself makes appropriate provision for off street parking and includes bus stop and pedestrian facility upgrades and associated works. It will also include appropriate cycle parking. There were no highways objections from officers and support was expressed for the excellent opportunities for sustainable travel to and from the site.

Planning conditions and POA

101. I have reviewed the Planning conditions and POA and consider these to be justified and appropriate in Planning terms.

Conclusions and recommendation

102. The redevelopment proposals for La Collette low rise raise some complex issues. The Island Plan identified this site as 'outworn' and ripe for redevelopment as part of the parallel objectives of increasing affordable homes and concentrating new development in the built up area. However, the site is constrained by the Listed status of the complex and the protected status of the open space areas.

103. In my analysis, the exceptional case for demolition of the Listed buildings is compelling and the case for reducing the Green Street open space to facilitate a more widely beneficial development is well made. The scheme is well conceived in terms of scale, density, layout and general approach. It

will not have unreasonable impacts on neighbours, the townscape, views and vistas, or the character of the area. Indeed, it has considerable potential to successfully regenerate this important site and to make a positive contribution to the character, appearance and general vibrancy of the area.

104. Accordingly, I recommend that this appeal be dismissed and that Planning Permission PP/2015/0747 be confirmed.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI