



Planning and Building (Jersey) Law 2002

Article 115(5)

## **Report to the Minister for Planning and Environment**

by

**Jonathan G King** BA(Hons) DipTP MRTPI

an Inspector appointed by the Judicial Greffe.

### **Appeal**

by

**Spellbound Holdings Limited**

**Site at Trust Ford, La Route des Quennevais, St Brelade JE3 1FP**

Written representations case

Unaccompanied Site Inspection carried out on 7<sup>th</sup> January 2019

Department of the Environment Reference: P/2018/0892

## **Site at Trust Ford, La Route des Quennevais, St Brelade JE3 1FP**

- The appeal is made under Article 108 of the Law against a decision to refuse planning permission under Article 19.
  - The appeal is made by Spellbound Holdings Limited.
  - The application Ref P/2018/0892, dated 23<sup>rd</sup> February 2018, was refused by the Planning Committee by notice dated 18<sup>th</sup> October 2018.
  - The development is: to demolish a wall to the west boundary of the site.
- 

## **Summary of Recommendations**

1. I **recommend** that the appeal should be **allowed** insofar as it relates to the demolition of the piers, and planning permission granted for that development subject to the relevant conditions set out in the Annex to this decision, but **dismissed** with respect to the demolition of the wall.
- 

## **The scope of the report**

2. Article 116 of the Law requires the Minister to determine the appeal and in so doing give effect to the recommendation of this report, unless he is satisfied that that there are reasons not to do so. The Minister may: (a) allow the appeal in full or in part; (b) refer the appeal back to the Inspector for further consideration of such issues as he may specify; (c) dismiss the appeal; and (d) reverse or vary any part of the decision-maker's decision. If the Minister does not give effect to the recommendation(s) of this report, notice of the decision shall include full reasons.
3. The purpose of this report is to provide the Minister with sufficient information to enable him to determine the appeal. It focuses principally on the matters raised in the appellants' grounds of appeal. However, other matters are also addressed where these are material to the determination, including in relation to the imposition of conditions, and in order to provide wider context.

## **Description of the proposals**

4. The Trust Ford car sales premises are situated on the Route des Quennevais on its eastern side a short distance from the entrance to the airport. At the front, an area occupied by cars for sale is separated from the road by a narrow planting bed; a granite wall some 50-55 cm in height, incorporating a number of taller piers; a strip of low-level landscape planting punctuated by a number of moderately-sized palm trees; and the pavement. The proposed development is to remove the wall and the piers; but to retain the planted strips. The car sales area would remain unaltered.

## **Background**

5. Planning permission was granted in 1997 for development on the wider site. This included the wall and piers which are the subject of the appeal. Railings were originally installed between the piers, but these were removed following the grant of permission to do so, in 2015.

6. Subsequent to submission of the present proposals, modifications were made to show the retention of the landscape planting between the car sales area and the pavement.
7. The application was recommended for approval by the Department's officers but, as a number of objections had been received, including from the parish, it was referred to the Planning Committee. The committee visited the site on 18<sup>th</sup> September 2018 and considered the matter the following day at a meeting in public. It decided to refuse the application; and following consideration of conditions in accordance with normal procedure, this decision was confirmed on 18<sup>th</sup> October.

### **The reason for refusal**

8. The reasons for refusal are:

1. *Given the location of the application site directly adjacent to La Route des Quennevais, which is one of the Island's principal strategic routes with high volumes of vehicle use, it is considered that the removal of the existing granite walling and pillars from the roadside frontage in order to open up the frontage to the existing car sales arrangements on site is visually unacceptable and will as a consequence lead to a significant detrimental impact on the landscape character of the area. Accordingly, the proposal is contrary to Policy GD 1 (General Development Considerations) of the Adopted Island Plan 2011(Revised 2014).*
2. *In addition to No 1 above, the opening up of the road frontage in order to allow vehicles for sale to be more readily visible to passing road users, will, given the location of the site and the high volume of vehicles using the main road directly adjoining, will be a distraction to passing road users, leading to unacceptable and detrimental highway conditions, contrary to the requirements of Policy GD 1 (General policy considerations) of the 2011 Island Plan (Revised 2014).*

### **The grounds of appeal**

9. The appellants' grounds of appeal, as set out on the appeal form, are limited to disputing the two reasons for refusal.

### **Planning policy**

10. The only policy of the Island Plan referred to in the reasons for refusal is Policy GD 1 *General development considerations*. However, in my view, Policy GD 7 *Design quality* and SP 7 *Better by design* are also relevant.

### **Main Issues**

11. From my assessment of the papers submitted by the appellant and the Department, and from what I noted during the site visit, I consider that there are two main issues in this case, relating broadly to the two reasons for refusal:
  - (a) *The effect of the proposed development on the character and appearance of*

*the locality; and*

(b) *The effect of the proposed development on road safety.*

## **Reasons**

### *Character and appearance*

12. Criterion (8) of Policy GD 1 requires development to be of a high quality of design, in accordance with Policies SP 7 and GD 7, such that it maintains and enhances the character and appearance of the Island; and, where appropriate, makes provision for hard and soft infrastructure that may be required as a result of the development.
13. Policy SP 7 says that all development must be of high design quality that maintains and enhances the character and appearance of the area of Jersey in which it is located. Amongst the components of development that will be assessed against urban design objectives are external elements and landscaping; and amongst those objectives is the quality of the public realm.
14. Policy GD 7 similarly seeks high quality design in all development that respects, conserves and contributes positively to the diversity and distinctiveness of the built context. It should respond appropriately to a number of criteria, of which the following are particularly relevant: the relationship of the development to existing buildings, settlement character, landscape features and the wider landscape setting; the use and maintenance of landscape to enhance new development; and the incorporation of existing site features into the development, including boundary walls.
15. The supporting text to the policy adds that the value of well-designed places and spaces is well understood: they are functional, visually attractive, accessible and inclusive, and attract residents, visitors and investment. On the other hand, poor planning can leave a legacy of failed buildings and spaces.
16. The present treatment of the frontage to the car sales area provides a practical demonstration of how well-designed hard and soft landscaping is capable not only of providing an attractive setting to a commercial use, but in so-doing, also enhancing the visual quality of the wider area. In short, it is an example of making something "better by design". In this, the Trust Ford site is in marked contrast to a number of the other commercial uses in the locality, which in my opinion detract from the quality of their surroundings. They have little or no physical or visual separation from the public realm of the road and pavement; and what separation exists is of poor design and visual quality.
17. Now that the railings have been removed, the piers are redundant in functional terms, and visually too. In my judgment, their removal would not have any harmful impact on the appearance of the frontage treatment. Architecturally, their removal could be an improvement.
18. In contrast, and notwithstanding its limited height, the wall remains a valuable element of the frontage. It presently creates a much firmer sense of enclosure and

solidity than the planting alone, and has value as a low-level screen. I acknowledge that if it were to be removed, the planting would continue to provide some screening and separation which would still present a superior frontage than the other uses nearby. However, in my view, the removal of the wall would diminish the quality of the overall landscape treatment. As such, the proposal would fail to maintain the character and appearance of the area, contrary to Policies GD1(8), SP 7 and GD 7.

19. The approach of the Island Plan to the promotion of design quality applies irrespective of the location. The site is not subject to formal protection by virtue of any special designation, but it is located on the road to, and close by the airport where it will doubtless contribute to the first and last impressions of the Island to the many visitors arriving or departing by air. To that extent, I consider that particular care should be exercised in order that the character and appearance of the area should be maintained and, over time, improved. The removal of the wall, though a fairly minor development, would fail to achieve that aim.

#### *Road safety*

20. As the intention is to retain the planting, the proposed removal of the wall would not permit or encourage the driving of vehicles directly on to the road. The access arrangements would remain as at present, with no greater impact on road safety.
21. The Transport Section of the Department has recommended that land on the frontage should be ceded to the public in order to permit the footpath to be widened. However, as any such widening would not be a direct consequence of the development, such a request or stipulation would be unreasonable. Policy SP 6 *Reducing dependence on the car* and GD 4 *Planning obligations* referred to by the Transport Section contain nothing of relevance to the proposal.
22. Although referenced in the second reason for refusal, Policy GD 1 does not include any provisions concerning road safety matters. Moreover, while Policy TT 5 relates specifically to road safety, it does not refer to the distraction of motorists. Neither in my opinion are relevant to the appeal proposal.
23. The removal of the wall would to some degree open up views into the car sales area. The lower parts of the closest cars would be more visible but, to my mind, the potential for the distraction of passing motorists would be very little different to the present position. For example, the type of vehicles and the price stickers would be equally visible whether the wall was there or not. The sales area would be no more distracting than the myriad of items on the roadside commonly passed in the course of a journey. In reaching this conclusion I have had regard to the information provided by the Connetable of St Brelade regarding a fatality resulting from a road accident some years ago. However, there is no evidence to show that the cause related to the distraction of the drivers. I conclude that the proposed development would not have any significant impact on road safety. The second reason for refusal is therefore not justified.

#### *Other matters*

24. Contrary to the fears of some representors, there is no intention to increase the

area of the car sales or to bring it closer to the road.

### *Conclusion*

25. Overall, having regard to my main issues, the relevant polices and all other matters raised by both parties, I conclude that the removal of the wall would be not be acceptable, but that the piers could be removed without any significant harm. It is open to the Minister to issue a "split decision", allowing the appeal only insofar as it relates to the piers, but to dismiss it with respect to the wall. That is my recommendation.

### *Conditions*

26. In the event that the Minister decides to allow the appeal, or part of it, any permission granted should be subject to conditions designed to ensure that the development is carried out appropriately.
27. If permission is granted for the whole of the development, in addition to the usual conditions relating to the timescale for implementation and compliance with the approved plans, the Department's original report recommended 2 conditions: first concerning the need to retain the existing landscaping, and second, making it plain that the permission does not allow for any increase in the size of the existing used car display area. No others have been proposed since. I agree that the first is appropriate in the interests of protecting the character of the area. However, I consider that it should be expanded in scope in order to ensure that the land formerly occupied by the wall, together with any land disturbed by its removal, should be incorporated into the landscape planting in accordance with an approved scheme. I provide suitable wording below. The second is unnecessary, because any such increase in area does not form part of the development either as described or as shown on the plan, and would in any case breach the standard condition relating to the development having to be carried out in accordance with the approved plan(s). However, it could be added as an informative note if the Minister considered it necessary.
28. If permission is granted for the demolition of the wall piers only under a split decision, neither of the additional conditions would be necessary. However, in the interests of maintaining the visual quality of the wall, I recommend an additional condition requiring its top surface to be made good following the removal of the piers.
29. Suggested wording for these conditions is included in the attached Annex to this report.

### *Overall Conclusion*

30. For the reasons given above, I **recommend:**

- A.** that the appeal should be **allowed** insofar as it relates to the demolition of the piers, but **dismissed** with respect to the demolition of the wall; and planning permission granted for the demolition of the piers, subject to conditions A, B and 1 set out in the Annex to this report.

but

- B.** in the event that the Minister decides to allow the appeal in full, the planning permission granted for the demolition of the wall and the piers should be subject to conditions A, B and 2 as set out in the Annex to this report.

*Jonathan G King*

**Inspector**

**--ooOoo--**

**ANNEX**

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

- A. The development shall commence within five years of the date of this decision.
- B. The development hereby permitted shall be carried out in full accordance with the approved plans.

and

if only the demolition of the piers is permitted:

- 1. Following the removal of the piers, the top surface of the retained wall shall be made good in accordance with details and timescale to be first submitted to and approved in writing by the Department of Growth, Housing and Environment.

or

if the whole of the development is permitted:

- 2. The land formerly occupied by the wall which is proposed to be demolished, together with any other land disturbed as a consequence of the demolition, shall be incorporated into the existing landscape planting strips and shall be planted in accordance with a scheme and timescale to be first submitted to and approved in writing by the Department of Growth, Housing and Environment.

**--ooOoo--**