

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

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

Report to the Minister for the Environment

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

Appellant: Bosdet Foundation

Planning Permission Reference Number: P/2019/0688

Date of decision notice: 19 December 2019

Location: Les Ormes Golf & Leisure Village, Le Mont a la Brune, St Brelade, JE3 8FL

Description of Development: Demolish tennis hall. Construct 44 No. one bed, 2 No. two bed, 13 No. four bed and 1 No. six bed self-catering accommodation units with reception and ancillary structures and landscape alterations. Construct extension to House-Keeping to North-East of site. 3D model available.

Appeal Procedure and Date: Hearing, 14th October 2020

Site Visit procedure and Date: Accompanied, 12th October 2020

Date of Report: 16 November 2020

Introduction

1. The Bosdet Foundation has appealed the refusal to grant planning permission for the demolition of an existing tennis hall at Les Ormes Golf & Leisure Village and its replacement by 60 self-catering units, associated ancillary structures and landscaping works.

The appeal site and surroundings

2. Les Ormes Golf & Leisure Village lies to the south of the airport and to the west and north-west of Les Quennevais within the Parish of St Brelade. It is accessed from the east via La Rue Carrée and La Route des Quennevais. The new secondary school lies to the immediate east of the site. The coast including Les Blanches Banques Ecological Site of Special Interest (SSI) lies to the west.
3. Les Ormes was established as a campsite following the Second World War. Since then, it has undergone expansion and development to form a sports and leisure complex including self-catering accommodation. The tennis centre, which forms the focus of the appealed proposal, was constructed in 1998.

The proposed development

4. The proposal would see the removal of the existing tennis building. The footprint would form the main car park for the site, which would be relocated from its existing

location to the south. Vehicle circulation around the site would be modified to provide access to this and the existing western car park.

5. A new pedestrianised concourse and public space would be created in the centre of the site. Sixty self-catering units would be constructed to the north and south of this space. The North, East and West Blocks would be 3-storey structures with barrel-roofs, lying to the north of the public space. The South Block would be a 2-storey building, positioned to form a linear extension of the existing line of buildings hosting the restaurant, function rooms and swimming pool.
6. The existing house-keeper's accommodation block, which sits to the north-east of the site, would also be modified through a single-storey extension, which would sit below the height of the adjoining landscaped bank to the east.
7. The proposed development would use the same palette of materials as the existing buildings, comprising a combination of granite, horizontal cladding and rendered walls and with a mix of slate and zinc roofing.
8. The proposals also include for the provision of new cycle and pedestrian routes through the site, which would allow public access and link with existing off main road cycle and walking routes adjacent to the site. The applicants have also agreed to upgrade an existing public route, beyond their site boundary, which connects Les Quennevais sports facilities and the Railway Walk.

Case for the appellant

9. The appellant has listed 15 grounds of appeal. In broad terms the appellant considers that the committee did not refuse the application because of "serious harm" to landscape character which is the test set by Policy NE 7. The appellant also identifies a number of factors, including policies within the Island Plan, which it considers the Committee failed to give sufficient weight to. These are:
 - the Countryside Character Appraisal;
 - the established level of activity/ occupancy of the existing holiday village and its various uses and activities;
 - the prevailing built up character of the site and its surrounds;
 - the officers' professional view in relation to the overall design of the scheme;
 - the recommendations of the Jersey Architecture Commission;
 - policies EVE 1, SP 1, and SP 5;
 - policy NE 7 (10);
 - the overall benefits of the proposal; and
 - the Historic Environment Team's formal assessment of the proposal.
10. The proposal is a legitimate exception under the terms of Policy NE 7 (10), the proposal would give rise to substantial environmental gains, including the enhancement of the setting of a Listed building. It would contribute to the repair and restoration of landscape character; the intensity and occupancy of the proposed use would be comparable to the Tennis Hall's occupancy; and the proposal would result in an improved design and appearance of the buildings and land in accordance with policies SP7, GD1 and GD7.

Case for the Planning Committee

11. The Committee considered the application on 21st November 2019. It refused the application, contrary to the Planning Officer's recommendation for approval, on the following grounds:
 - (1) *By virtue of its scale, form & design, and on account of the overall amount of new development, the proposed development represents an unacceptable intensification in the use of this Green Zone site, as well as being over-scaled taking into account the site's rural character. Accordingly, the application fails to satisfy the requirements of Policies SP 7, GD 1, and GD 7, and NE 7 of the adopted Island Plan 2011 (revised 2014).*
 - (2) *By virtue of its siting and design, the proposed South Block fails to preserve or enhance the setting of nearby 'Le Tir' (a Listed Building Grade 2). Accordingly, the application fails to satisfy the requirements of Policies SP 4 and HE 1 of the adopted Island Plan 2011 (revised 2014).*
12. The reasons for refusal are discreet and relate to the intensity of use, the scale of the development and its impact on the listed building to the immediate west. The committee accepted the principle of the loss of the tennis court building and the principle of a self-catering use.
13. The committee was concerned that the overall amount of new development proposed would significantly increase the number of people on site and that the overall effect of the proposals would be to cause harm to the rural character of the area and thereby fail to satisfy Policy NE7. Whilst the site has seen significant incremental change, it should not now be considered as if it were effectively a designated Built-up Area.

Consultations

14. The **Parish of St Brelade Roads Committee** (17 July 2019) requested that consideration be given to re-designing the junction with Rue Carrée/ Route des Quennevais with regard to traffic flow and pedestrian safety. A further comment (16 August 2019) was issued in relation to the new footpath leading from the new Les Quennevais School.
15. The response from **Growth, Housing and Environment - Operations and Transport** (17 July 2019) supported the proposal and accepted the conclusions of the transport assessment. The Department requested conditions be appended to any permission that is granted. These relate to the timings of works affecting transport, how they are carried out and also the development of an effective Travel Plan.
16. **The Department for Infrastructure - Operational Services - Drainage** response (11 July 2019) sought clarification about the proposed disposal of foul water as well as details of the site drainage, together with the position of the pumping station for the proposal. It confirmed that proposals for surface water drainage were acceptable. It has since confirmed that the foul water arrangements are acceptable.
17. The **Environmental Health Team** had no objection to the proposals (6 July 2019).
18. **Jersey Airport** (19 July 2019) stated 'No Objection with Conditions'. It proposed three conditions for the purposes of safety, relating to: notification in relation to cranes or tall lifting equipment; design of roofs to discourage bird use; and design of glazing and roofing material to avoid glare.

19. The **Department of the Environment, Natural Environment Team** requested an initial ecological assessment of the scheme. It confirmed (7 November 2019), that the findings of the initial assessment were sufficient to allow an evaluation of the potential ecological impacts of the proposal. No further survey was required unless particular numbers of certain species were encountered during the development works. Advice concerning ecological enhancements of the scheme was provided. Guidance was provided on the need to avoid adverse effects of lighting on the adjacent Les Blanches Banques Site of Special ecological Interest.
20. In its response of 25 July 2019, the **Economic Development, Tourism, Sport and Culture Department, Tourism Regulation Section** stated its support for the proposal, subject to the visitor accommodation being compliant with the requirements of the Tourism (General Provisions) (Jersey) Order 1990.
21. The **Historic Environment Team** did not object to the proposal. In its response (11 June 2019), it noted that *“The proposed replacement of the large footprint tennis centre with new accommodation with new blocks in more fragmented forms has a positive impact on the setting of the Listed aircraft testing range. There is a historic importance to the axis eastwards of the structure as this was the range. The proposal conserves this axis.”*
22. *“The proposed southern block is located closer to the Range than existing buildings. This will have an impact on setting. Reviewing the 3D model it is evident that the gable and scale of the proposed block is sufficiently distant to allow the range structure to retain its singular character.”*
23. The response also provided advice on landscaping proposals and identified some additional information required in order to determine whether some form of recording would be required. It was noted that this study of the extent of the surviving concourse would be welcomed in the life of the application, or a suitable desk-based study could be conditioned.

Representations made by other interested persons

24. Four letters of representation were received within the timeframe for comment, with a fifth received on the day of the Planning Committee meeting. These raised the following concerns:
 - Creation of an additional ‘settlement’;
 - Effects of proposals on traffic, particularly on La Rue Carrée and as a result of effects linked to Les Quennevais School;
 - What restrictions would be imposed to prevent the properties being sold off in the future?;
 - Expansion of development close to important environmental area;
 - Effect of proposals on character of area;
 - Increase in noise and footfall;
 - Loss of sports facilities.
25. A further 23 letters of representation were received during the appeal. Of these, five raise objections to the proposals, citing concerns about loss of sports facilities, the effects of building within the Green Zone and effects on traffic. The remaining responses, which include comments from several tourism-related businesses and the Deputy Chief Minister for Economic Development, Tourism, Sport and Culture support the proposal to develop high quality self-catering accommodation.

The policy framework

26. A summary of the main relevant policies of the Adopted Island Plan 2011 (revised 2014) and how these relate to this appeal is provided below.
27. Policy SP 1 Spatial Strategy - defines areas where development will be directed. The proposals are located within the Green Zone, where Policy NE 7 applies.
28. Policy SP 2 Efficient Use of Resources - requires that the most efficient and effective use of land, energy, water resources and buildings is achieved.
29. Policy SP 4 Protecting the natural and historic environment - sets a high priority for the protection of the Island's natural and historic environment. It is supported by more detailed policies within the plan e.g. NE 1 and HE 1. The extent to which the proposals protect the historic environment and comply with Policy HE 1 is a matter of dispute between parties.
30. Policy SP 5 Economic growth and diversification - establishes a high priority to the maintenance and diversification of the economy, including the protection of and redevelopment of employment land for employment uses. The proposal is concerned with the re-use of employment land.
31. Policy SP 6 Reducing dependence on the car - requires that applications for development must be able to demonstrate that they will reduce dependence on the private car by providing for more environmentally friendly modes of transport. The proposals include a Transport Plan and provide for improvements to a cycle path and an off-site footpath.
32. Policy SP 7 Better by Design - requires that all development must be of high design quality and further detail is set out in Policy GD 7 of the plan. This policy is quoted within the first reason for refusal of the proposal, but is not discussed in the Department's original report. The application was accompanied by a Design Statement.
33. Policy GD1 General development considerations - sets out the criteria that all developments must meet. These include criteria relating to safeguarding the Island's natural and historic environment, which are also addressed by other policies in the plan. It is referenced in the first reason for refusal of the application.
34. Policy GD 4 Planning Obligations - this policy provides for the Minister for Planning and Environment to negotiate the provision of appropriate facilities or provision of financial contributions to off-site infrastructure and facilities through Planning Obligations. The Department's original report to the Planning Committee identified three aspects that should be addressed through Planning Obligations.
35. Policy GD7 Design quality - sets out criteria that developments must meet to be considered a high quality of design. The extent to which the proposed design would have a satisfactory relationship to the existing Listed building is a subject of dispute between parties and is considered further in my assessment below.
36. Policy GD 8 Percentage for Art - the policy encourages developments of over a certain size to make a contribution towards public art. The proposals exceed the threshold

above which a threshold will be encouraged. The proposals include for artwork as part of a proposed nature trail.

37. Policy NE 1 Conservation and enhancement of biological diversity & Policy NE2 Species protection - these policies seek to protect important habitats and animal and plant species protected by law. Ecological survey work has been undertaken and mitigation measures to safeguard features have been identified.
38. Policy NE 4 Trees, woodland and boundary features - requires the protection of existing features and the provision for appropriate landscaping of a site. A comprehensive landscaping scheme has been prepared, which would retain much of the existing landscaping in addition to providing new planting.
39. Policy NE7 Green Zone - sets a high level of protection for the Green Zone, establishing a general presumption against all forms of development. A series of exceptions to this general presumption are possible, subject to satisfying particular criteria. The appellant's grounds of appeal identified paragraphs 10 and 11 as being relevant. At the hearing, following a discussion of the relevant paragraphs, the appellant confirmed that they were content that the proposal should be considered in relation to paragraph 10 only.
40. Failure to comply with the requirements of this policy was a key reason for the refusal of the proposals. Whilst there is no dispute between parties that the proposals satisfy criterion a of paragraph 10 there is a difference of opinion as to the extent to which they satisfy criterion b and their effect on landscape character.
41. Policy NE 8 Access and awareness - allows for proposals for facilities that encourage and enhance access to and awareness of the coast and countryside, provided they do not have a significant adverse impact on the biodiversity and character of the coast and countryside. The proposals provide for public access and a nature trail.
42. Policy HE 1 Protecting Listed buildings and places - establishes a presumption in favour of the preservation of the architectural and historic character and integrity of Listed buildings and places, and their settings. Proposals which do not preserve or enhance the special or particular interest of a Listed building or place and their settings will not be approved. The effect of the proposals upon the setting of the listed building 'Le Tir' was quoted as a reason for refusal of the development and is considered further below.
43. Policy EVE 1 Visitor accommodation, tourism and cultural attractions - sets out the policy framework for consideration of proposals for new tourism accommodation. Within the Green Zone, proposals for visitor accommodation, tourism and cultural attractions will be determined in accordance with Policy NE 7 Green Zone.
44. Policy SCO 3 Community facilities - sets out the circumstances where the alternative development of community facilities will be allowed. Whilst the tennis centre is used by the wider community, it is not a community facility and the appellant has provided evidence of the decline in use of the facility.
45. Policy TT 2 Footpath provision and enhancement and walking routes - promotes the provision or enhancement of footpaths as part of new development. The appellant is proposing to upgrade an existing offsite footpath as part of the proposals.

46. Policy TT 3 Cycle Routes - provides support for the development of off-road cycle facilities. The proposals include for better linking of off-road cycle routes.
47. Policy TT 4 Cycle Parking - requires the provision for cycle parking in all new developments in accordance with the standards published and adopted by the Minister for Planning and Environment.
48. Policy TT 8 Access to public transport - establishes criteria for when new development should provide access to public transport.
49. Policy TT 9 Travel plans - are required for developments which would generate significant amounts of travel. The Transport section of the Growth, Housing and Environment Department has requested that an updated Travel Plan should be a condition of any permission that is granted.
50. Policy NR 7 Renewable energy in development - sets a requirement for development to incorporate low carbon or renewable energy technologies. The proposals include measures for energy efficiency and renewable energy, which are not in dispute.
51. Policy WM 1 Waste minimisation and new development - sets out the requirements for minimising waste associated with new developments. A waste management plan has been produced. The Department proposed that a Planning Obligation should be made in respect of requiring the appellant to offer the steel frame of the tennis centre to the public of the Island for re-use.
52. Policy LWM 2 Foul Sewerage facilities - requires development, which results in the discharge of sewage effluent, to provide a system of foul drainage that connects to the mains public foul sewer. There is no dispute concerning the adequacy of the appellant's proposals for foul sewerage.

Key issues

53. Based on the reasons for refusal, the written representations, my site inspection and the hearing, I consider the main issues in the appeal are the extent to which the proposals satisfy the requirements of policy NE 7 in relation to their effects on the Green Zone; and the effect of the proposals on the setting of 'Le Tir' Listed Building.

Inspector's assessment

Effects on the Green Zone

54. Policy NE 7 sets a general presumption against development in the Green Zone. To provide for the reasonable expectation of businesses to undertake economic activity and provide employment, particular exceptions are permissible, providing they meet certain criteria. In all cases regard must be had to the capacity of the landscape to accommodate development without 'serious harm'. These 'tests' are stricter than for development within the Built-up Area, consistent with the high level of protection afforded to the Green Zone.
55. Paragraph 10 of the policy allows for the redevelopment of an employment building, involving demolition and replacement for another use, but only where:
 - a. the redundancy of employment use is proven in accord with Policy E1: Protection of employment land or where the development involves office or tourism accommodation; and

- b. it gives rise to: demonstrable environmental gains, contributing to the repair and restoration of landscape character; reduced intensity of occupation and use; and improved design and appearance of the land and buildings(s).
56. There is no dispute between parties that the existing tennis centre is under-used. Based on my review of the evidence provided by the appellant, I am content that the existing employment use is redundant and hence criterion a is met.
57. The preamble to paragraph 10 of the policy sets out that comprehensive development can offer the possibility of repairing and restoring landscape character of the area, which might be achieved by environmental gains including some or all of: a significant reduction in visual mass, scale and volume; removal of uncharacteristically large buildings; a significant reduction in intensity of use; sustainability; more sensitive and sympathetic siting and design; and/ or a more sensitive use of materials.
58. Consideration should also be given to the intensity of use and impact of travel, traffic and noise upon the character of the area.
59. The proposals would remove a single over-sized building, which appears out of character with its immediate setting. The proposed development would be lower in height than the tennis hall it would replace and the nearby buildings. It would result in a reduction of the volume (46.1%) and footprint (31.3%) of development compared to the tennis centre building. These factors would result in a reduction in the visual mass of the buildings.
60. Whilst some of the proposed blocks would be 3-storey buildings, given their design together with the topography of the site, I do not consider that these would appear either out of scale with the adjacent buildings, some of which are 3-storey or out of character with their surroundings. I find that the proposed arrangement of smaller blocks would result in a more sensitive siting of structures within the site than the existing tennis centre.
61. The design and finish of the proposed accommodation units would be consistent with the style, finish and palette of materials of the existing buildings. Therefore, they would appear more in keeping with the leisure-character of the site than the utilitarian and bland tennis centre, demonstrating a more sensitive use of materials. I conclude that this would be beneficial to the appearance of the area.
62. I do not find that the location of the proposed buildings would alter the character of their immediate setting or would consolidate and extend the built-up area across the Green Zone. They would be positioned within the centre of the site, within an area that is already defined and delimited by structures and buildings of various types to the north, west and south. These existing structures, together with the topography of the site mean that the proposed blocks would sit within an existing limited envelope of visibility.
63. In addition, as the proposals would not be visible beyond the boundary of the site, I conclude that they would not have an adverse effect on either the appearance or perception of the surrounding landscape character or the appearance of the Les Ormes site as a whole within that landscape. As such, I conclude that the site has the capacity to accommodate the proposed development, without any effects on wider landscape character.

64. There appears to be no standard metric or consensus for assessing intensity of occupation and use. In any case, the proposed self-catering units represent a very different pattern and type of use to the current tennis centre, which makes it difficult to make meaningful and fair comparisons between them about the intensity of use.
65. The proposed self-catering blocks represent an overall decrease in footprint, height, mass, scale and volume, although the multi-floor design of the proposed buildings means there would be an increase in total floor area (10.7%).
66. There are peaks and troughs in the numbers who use the tennis centre. The appellant has provided examples of numbers who participate in tennis (34 bookings in w/c 3/2/2020); netball (320 persons between 5pm and 9pm weekdays); and football (180 persons between 5pm and 9pm weekdays). This compares to maximum occupancy levels of the self-catering units of 166 persons/ day. Nevertheless, I note that the numbers who currently use the tennis centre represents a decline since it was first built and that the centre is currently operating well below its maximum capacity. I am not aware of any current planning restrictions on numbers able to use the tennis centre and hence I consider that in assessing effects on intensity of occupation, it is appropriate to consider the proposals against both the current and potential level of use of the tennis centre.
67. I accept that the pattern of use of the site may change as a result of the proposals, but I do not consider that there is sufficient evidence in order to determine whether this would result in an overall reduction in numbers using the site. Nevertheless, when considered against the context of potential and past use of the tennis centre, I do not consider that the proposals would represent a significant increase in intensity of occupation or use by this measure.
68. I have also had regard to the effect on landscape character of the change in pattern of use arising from the proposals. Activity would be focused in the middle of the site, in the same area as the tennis centre i.e. replacing one use by another. I note that these areas already experience a degree of activity associated with other facilities at the site. The area has a clear identity as the central hub of a leisure facility and as such I consider it has the capacity to accommodate the activity associated with the self-catering units, without serious harm to landscape character.
69. I am content that the proposals include provision for sustainability through measures to reduce reliance on the car (e.g. shuttle links to the airport); improved links to walking and cycling routes; and inclusion of green energy measures.
70. In relation to traffic, I note that the traffic assessment concluded that the proposed development would not significantly affect the local road network and that this has been accepted by the Transport section of GHE. I am therefore content that the proposal would not lead to unacceptable adverse effects on traffic to the detriment of the character of the area.
71. Taking all these points together, I find that the proposals would result in a visual improvement to the site through the removal of an uncharacteristically large building and would result in a reduction in the visual mass, scale and volume of development. The design and materials of the proposed blocks would be more sensitive to their setting. In regard of intensity of use, I find that there would be decreases in the volume, footprint and hence visual mass of the development. Whilst there is insufficient evidence to demonstrate a reduction in use in terms of maximum

numbers on site at one time, or total numbers of people visiting the site in a year, there are no current planning restrictions on the numbers able to use the existing facilities. I am satisfied that any change in pattern of use as a result of the proposals would not have an adverse effect on or cause serious harm to landscape character. Hence, I conclude that the proposals meet at least five of the factors that might indicate environmental gains set out in paragraph 2.156 of the preamble to policy NE 7. The guidance does not require that all factors are met.

72. I am not persuaded by the Department's argument that restoring landscape character means "putting the area back to how it was". Landscapes change as a result of many interacting influences. At the hearing, reference was made to various aerial photographs of Les Ormes showing how the site has evolved over time. I was not provided with any indication of which, if any, of these scenarios would represent the most appropriate definition of "how it was" and hence the aim of restoration.
73. Based on my site inspection and the aerial photographs, I find that there have been a series of incremental changes in the immediate area of the site, which have resulted in some alteration of landscape character. The collection of buildings along the road near the main access to Les Ormes, some of which are substantial in size, together with the development of Les Ormes over recent years means that the area generally and the site specifically is no longer characterised by extensive areas of open land with isolated, albeit large buildings. It does, however, retain a rural feel.
74. Whilst Les Ormes is in a rural setting, the number, nature and arrangement of buildings; range of facilities; and style of landscaping means that Les Ormes is clearly recognisable as a tourism and leisure development in a rural setting. Removal of the tennis centre, even without construction of the proposed self-catering accommodation, would not re-establish the landscape features that were there prior to its construction. Nor do I consider that the replacement of the tennis centre by the proposed accommodation blocks would result in a further change to the perception of the landscape character of the site.
75. Looking at the site more widely within the landscape, I have given some consideration to the Countryside Character Appraisal, although I recognise that this is now some years old. The proposal lies within an isolated pocket of the E8 Western Plateau character type. It appears that this particular area provides a buffer between the Built-up area around Red Houses and the Coastal National Park. I accept that whilst character type E8 was identified in the Countryside Character Appraisal as having some capacity to accept new development, this capacity does not apply in equal measure to the entire area. Nevertheless, given that any visual changes as a result of the development would be confined to within the boundaries of the site, I conclude that the landscape does have some capacity to accept change and that the proposed development would not alter the perception of Les Ormes within the wider landscape nor lead to any further change in landscape character.

Effects on Le Tir Listed Building

76. There have already been significant changes within the setting of Le Tir. The embankments, which would originally have been located to the north and south of the range to the east, have been removed. The once open structure has been converted to tourist accommodation. In addition, buildings have been constructed to the east of the structure.
77. The proposals would result in further change within the setting. In particular, the proposed southern block would be located closer to the listed structure than the

existing buildings. Nevertheless, I find that the proposed arrangement of buildings would continue to enable clear views of the Listed structure from the east and retain a corridor of open space in front of the building. In addition, the proposals would allow an appreciation of the building's position and orientation and maintain the eastwards axis, identified by the Historic Environment Team as of historical importance to the setting of the building.

78. Whilst the Historic Environment Team has not actively supported the proposals, it has not raised an objection to them. It states that there would be a positive effect on the setting arising from the replacement of the large tennis centre with a series of smaller blocks in a more fragmented arrangement. I interpret this as representing an enhancement of the setting of the Listed building, in accordance with the requirements of Policy HE 1.
79. Overall, whilst the proposals would result in further changes within the setting of 'Le Tir' I find that these would either preserve (in the case of the east-west axis) or enhance (in terms of removal of the tennis centre) the setting and hence would be consistent with the requirements of Policy HE 1.

Other matters

80. During the hearing the appellant stressed the importance of tourism to Jersey's economy, the decline in accommodation provision and the demand for more self-catering units. Nevertheless, whilst I accept that there is a demand for further self-catering accommodation in Jersey, I note that policy EVE 1 does not encourage new tourism development in the Green Zone, but requires applications to be determined in accordance with the requirements of policy NE 7.

Planning Obligation Agreements and Conditions

Planning obligations

81. The Planning Officer's initial report to the Planning Committee proposed that Planning Obligation Agreements, pursuant to Article 25 of the Planning and Building (Jersey) Law 2002, (as amended), should be secured in relation to:
- restrict the use of the proposed accommodation for holiday purposes only;
 - secure the improvements to the footpath network; and
 - require that the steel frame of the existing tennis centre be offered to the public of the Island.
82. The effects of the proposal on the Green Zone have been considered within the context of the redevelopment of an existing employment use for another. Had the proposal been for residential development, different criteria would have applied and it is possible that a different conclusion would have been reached. I accept that planning obligations provide a more robust mechanism than planning conditions for securing actions required to make developments acceptable. Therefore, I agree that a planning obligation to secure the use of the accommodation for short-term tourism use is a necessary and appropriate requirement for any permission that is granted.
83. The proposed works to the footpath would require works beyond the boundary of the site. For that reason, I agree that this issue is best addressed through a planning obligation rather than a condition. Nevertheless, I am persuaded that the requirement to complete all works prior to occupation of any of the units could be unduly onerous financially and is not essential to the acceptability of the project. A phased approach, with agreed trigger points for completion of work would present a fairer approach.

84. Whilst re-use of the steel frame may be desirable, there is no indication that the public either needs or wants such a frame at the current time. As drafted, there is no time limit on the obligation, which could result in the appellant being required to store a large structure for an indefinite period. In the absence of any demonstrated requirement for the structure, I do not see any planning need for the third proposed planning obligation.

Conditions

85. I accept the reasons for the first proposed condition. Nevertheless, I consider that the wording should be modified to require the approval of (rather than just submission) of the revised Travel Plan prior to first occupation. This is to remove any ambiguity about the status of the plan.
86. I find that conditions 2 and 4, which require the completion of the full extent of the proposed cycle path improvements and the landscaping scheme prior to first occupation, to be unduly onerous. As with the footpath improvements, I recommend that these should be modified to allow a phased approach with agreed trigger points to ensure that the works are completed.
87. I am content with the conditions relating to the improvements to the main vehicle access to the site (condition 3) and the safeguard of protected species (condition 5).
88. The Growth, Housing and Environment - Operations and Transport response (17th July 2019) identified an additional condition in relation to the materials and formation of accesses in the vicinity of the highway. This should be added as a further condition to any permission that is given for the reasons stated in their response.
89. Jersey Airport also proposed three conditions. However, I am persuaded that these could not be implemented by the Department and that there are other mechanisms in place to secure these requirements.

Conclusions

90. Granting approval for development within the Green Zone is not a decision to be taken lightly. Notwithstanding the reasonable expectations of businesses, proposals must be considered very carefully to ensure that they meet the defined criteria to allow an exception. Importantly, the landscape must have capacity to accommodate the development without serious harm.
91. Whilst the proposal is located within the Green Zone, it would not be located in open fields or the wider countryside or contribute to an encroachment of development within the landscape. It would be located within the centre of existing development associated with a long-established use for leisure and tourism. It would remove an over-sized tennis centre and redevelop the land to retain the existing employment use. The character of the site is clearly one of leisure use. The effects of the proposal would be contained within a narrow visual envelope and would neither alter the character of the site or have a discernible effect on the wider landscape character.
92. When assessed against the criteria of paragraph 10 of policy NE 7, I conclude that the redundancy of employment use has been demonstrated. There would be environmental gains associated with the proposal, including improved design and

appearance of the land and buildings. Whilst I find there is some ambiguity around effects on intensity of use defined in terms of numbers of visitors to the site and traffic, the proposals would result in a reduced intensity of occupation and use measured in terms of the footprint and volume of buildings.

93. I conclude that whilst the proposals would not make a contribution to restoring the landscape to some undefined previous condition (owing to the presence of other developments), the proposals would improve the appearance of their immediate setting. Crucially, when considered against the wider requirements of policy NE 7, I find that the landscape has the capacity to accommodate the proposals without serious harm.
94. I am content that the proposals would enhance the setting of 'Le Tir' listed building through the removal of the tennis centre.
95. The scheme offers a number of additional benefits in terms of providing improvements to walking and cycling routes. It would also provide for additional self-catering facilities in support of the Island's tourism industry.
96. For these reasons, I conclude that the proposals would be consistent with the requirements of the adopted Island Plan 2011 (revised 2014).

Recommendations

97. I recommend that the appeal should be allowed and that planning permission should be granted, subject to the following:
 - planning obligation agreements in respect of restrictions on the use of the proposed units for short-term holiday accommodation only and improvements to the footpath; and
 - the conditions set out in the Planning Officer's initial report to the Planning Committee (undated), modified as set out in paragraphs 85 - 88 above.

Sue Bell

Inspector 16/11/2020