

PLANNING AND BUILDING (JERSEY) LAW 2002

Appeal under Article 108 against a decision made under Article 19 to refuse planning permission

REPORT TO THE MINISTER FOR THE ENVIRONMENT

made under Article 115(5)
by D A Hainsworth LL.B(Hons) FRSA Solicitor
the inspector nominated under Article 113(2) from the list of persons appointed
under Article 107

Appellants:

Jersey Development Company

Application reference number and date:

P/2022/1619 dated 11 January 2023

Decision Notice date:

13 April 2023

Site address:

South Hill Offices, South Hill, St. Helier JE2 4US

Development proposed:

“Demolish existing buildings on site, excluding former military barracks. Construct 64no. 1 bed, 69no. 2 beds and 6no. 3 beds residential units. Create associated courtyard garden with basement below for 70 car parking spaces, all with electric charging points and x 220 cycle storage. Re-use the former military barracks as a residents amenity space. Carry out rock stabilisation works to the surrounding landform. Re-model and upgrade adjacent park and children's playground including public toilets. Create 2 no. pedestrian crossings on South Hill and 1no. pedestrian crossing on Pier Road.”

Inspector's site visit date:

2 October 2023

Hearing date:

6 October 2023

Introduction and procedural matters

1. This is an appeal against the Planning Committee's decision to refuse planning permission for the development described above on 13 April 2023. The application was recommended for approval by the Infrastructure and

Environment Department, subject to the entering into of a planning obligation agreement (POA) and the imposition of a schedule of planning conditions. The POA would have dealt with affordable housing units, parking controls and contributions to walking routes, road and footway improvements and electric 'car-club' vehicles. The planning conditions would have related to various outstanding details, archaeological and listed building controls, public art, landscaping, the timing of various matters, water conservation, a travel plan and energy efficiency.

2. Amendments to the application which the applicants had submitted to resolve issues relating to the size of some of the units were not considered by the Committee because they had been received after the submission deadline.
3. The reasons given by the Committee for the refusal of planning permission are as follows:-
 - "1. The proposed development includes a number of apartments which, with reference to adopted minimum residential space standards, are under-sized. In addition, many of the units have a single-aspect design (with several facing towards the rockface at close proximity) resulting in limited access to natural daylight and sunlight. Finally, there would be an over-concentration of smaller-sized units. For these reasons, this would result in unacceptable living conditions for future occupants, together with an inappropriate housing mix, thereby failing to satisfy the requirements of Policies GD1, H1, H2 and H4 of the 2022 Bridging Island Plan.
 2. By virtue of its overall form and design, the proposed development would have an unacceptable impact upon public views through the site. For these reasons the application fails to satisfy the requirements of Policies SP3, SP4, SP5, GD6, and GD9 of the 2022 Bridging Island Plan."
4. The hearing on 6 October 2023 took into account the amendments to the application that had not been considered by the Planning Committee and also considered three supplementary planning guidance (SPG) documents published by the Minister in July 2023 entitled *St Helier design guidance*, *Density standards* and *Making more homes affordable*. Later in October 2023, the Minister published further SPG documents entitled *Residential space standards* and *Residential parking standards*. The parties were consulted about these SPGs and invited to comment in writing in relation to their application to the development. The parties have responded and their responses have been published on the Planning Register and circulated for further comment. The appellants' response includes revised floorplans and detailed changes to the internal layout of the development, which have been drawn up in order to make it comply with the new standards contained in the additional SPGs.
5. None of the matters referred to in paragraph 4 above has entailed a fundamental change to the application that was considered by the Planning Committee and none of them adversely affects any important planning considerations that have arisen. The hearing process and the subsequent process of publication, consultation and re-consultation relating to these matters have ensured that there has been no procedural unfairness. I have therefore accepted all the new material for consideration in my report,

applying the principles set out by the High Court of Justice in England in *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37] as refined in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).

Description of the site, its surroundings and the proposed development

6. The site is in an elevated position above the French Harbour, which is to the west of the site. Part of the site is occupied by a prominent modern office block, formerly government offices, now vacant. Attached to the offices is a small granite building that used to be part of a military barracks and is listed for its historic interest. (Note. The fire on 3 January 2024 damaged part of the office block that is to be demolished, but did not affect the listed building that is to be retained.) A large part of the site is a terraced quarry floor which in the recent past has been used for vehicle parking and as a storage compound; the steeply-sloping, overgrown former face of the quarry is on the eastern side of the site. The northern part of the site is public open space on rising ground that incorporates a children's play area. Vehicular access is from South Hill on the western boundary of the site.
7. The site as a whole is part of the Mont de la Ville outcrop containing Fort Regent on higher ground further to the north. It is prominent in long views from across the harbours to the west and can be observed from the sea on the final approach to St Helier. From these and most other viewpoints it is seen against adjoining higher ground.
8. The scheme has been prepared in considerable detail. It will involve the comprehensive redevelopment of the site, with the exception of the listed building, which will be retained as an amenity space for the scheme's residents. A large building angled along the eastern and south-eastern sides of the site and two smaller buildings in the north-western and south-western parts of the site will provide a total of 139 residential units, with basement parking, a central courtyard and landscaping. Rock stabilisation works will be carried out. The public open space and children's play area will be remodelled and regraded to improve access, and public art and public toilets will be provided there. A new public footpath will be provided adjacent to South Hill and pedestrian crossings will be provided on South Hill and Pier Road. Sustainable design features have been incorporated in the development and a sustainable travel plan has been prepared.

Planning background

9. In 2014, the site was identified as a development site in the Revised 2011 Island Plan. It was part of the Mont de la Ville Regeneration Zone which was one of the six key areas of change in St Helier (paragraphs 4.72 & 4.73 and Proposal 14 of the Plan). Proposal 14 indicated that masterplans and development briefs would be prepared for these areas and key sites in them.
10. In December 2019 the then Minister published the SPG *South West St Helier Planning Framework*. The *Planning Framework* states at paragraph A1.47: "The site would lend itself to a high-quality residential development, or possibly a hotel, that responds to the site's topography and which takes into account the fact that the site is highly visible in views from the harbours and beyond."

11. In October 2020, the Minister published the *SPG Development Brief South Hill, St Helier*. The *Development Brief* states that it complements the planning policy framework established by the Revised 2011 Island Plan in 2014 and by the 2019 *South West St Helier Planning Framework*.
12. The *Development Brief* summarises the key aims for the redevelopment of the site as follows:-
 - “• to regenerate and redevelop this site through high quality urban design involving the introduction of new residential accommodation or tourism or cultural uses into the area, helping to develop a sense of place and positively contributing to the development of a vibrant St Helier waterfront;
 - to protect and enhance the iconic nature and settings of historic St Helier landmarks in and around South Hill, including Fort Regent, Elizabeth Castle and the historic harbours;
 - to seek to secure a viable economic use for the listed building on the site, as an integral part of the redevelopment scheme, having regard to its historic character, integrity and setting;
 - to protect the natural landform, greenery and long views of the site by seeking to ensure that the height of new development does not project above the line of the natural landform when viewed from the historic harbours;
 - to ensure the optimum development yield, in terms of number of homes or floorspace, through an urban design led approach which: makes the best use of the site's topography; enables sustainable transport choices; and facilitates the imaginative provision of and access to amenity space; and which better integrates the development into the local area whilst mitigating its impact upon local infrastructure;
 - to design high quality public spaces which deliver connectivity to adjacent land alongside environmental enhancement measures to maintain and enhance local biodiversity and conserve the specific character of the area;
 - to provide an architectural treatment which balances the optimisation of sea views whilst avoiding visually assertive, dominant or damaging façades, and which, for any residential use, minimises the provision of north-facing principal rooms;
 - to ensure that development respects and complements local architectural context and character in terms of design and materials.”
13. The Bridging Island Plan was adopted in March 2022. At the top of page 63, it notes that the Minister has already published SPG for parts of St Helier to encourage and enable development opportunities to meet Jersey's needs; it states that the Bridging Island Plan supports the delivery of the objectives of the *South West St Helier Planning Framework*, which provides “opportunity for new development and regeneration”. Table H1 of the Plan on page 199 states that Government sites will provide 150 open market homes; the Department have agreed that this is a reference to the site in this appeal.
14. On 7 June 2022, planning permission was refused by the Planning Committee for the redevelopment of the site for similar purposes to the present scheme,

but with a higher main block and fourteen more residential units (Ref: P/2021/1617). The Department had recommended approval. No appeal was made against this decision. The reason for refusal was:-

"1. By virtue of its overall size, scale, and form, the proposed development would be overly-dominant; it would have an unacceptable impact upon the skyline, as well as on public views of, and through, the site. For these reasons the application fails to satisfy the requirements of Policies SP3, SP4, SP5, GD6, GD7, and GD9 of the Bridging Island Plan."

15. In the *Government Plan 2023-2026*, approved on 16 December 2022, the site is identified as a site in public ownership that is due to deliver housing with a minimum of 15% assisted purchase homes (pages 68 & 69). The appellants are the Government's regeneration arm and have a remit to undertake the regeneration of surplus assets owned by the Government.

Inspector's assessments and conclusions

16. As explained in the 'Planning background' section of this report, this site has been officially endorsed as a redevelopment site for nearly 10 years. It has an approved development brief just over 3 years old, which is still in force and which was supported when the Bridging Island Plan 2022 to 2025 was adopted in March 2022. This support is reinforced by the undisputed evidence emerging since then that there is a substantial shortfall in St Helier in the provision of homes sufficient to meet the housing needs identified by the Plan.
17. The *Development Brief* specifies eight key aims for the redevelopment of the site, as set out in paragraph 12 above. The main issues in this appeal are the extent to which the redevelopment scheme now proposed would achieve those key aims and also comply with the planning policies, SPGs and further planning considerations that arise in this instance. These matters are all assessed in more detail below, leading to the overall conclusions at paragraphs 46 to 50 of this report. The public comments received at the application and appeal stages have all been taken into account in the assessments.

Key aim: "• to regenerate and redevelop this site through high quality urban design involving the introduction of new residential accommodation or tourism or cultural uses into the area, helping to develop a sense of place and positively contributing to the development of a vibrant St Helier waterfront;"

18. The Jersey Architecture Commission were consulted at the application stage about the larger scheme that was refused in 2022. The Commission is an advisory group set up to provide independent, expert advice and guidance on major and sensitive developments. The Commission concluded that the scheme had "an engaging and convincing narrative for the massing and appearance which is the planning challenge for the project". The Department are satisfied that the development now proposed retains the essence of the design considered by the Commission.
19. The Department's Committee Report states that the present scheme will make highly effective use of the site, whilst demonstrating a high quality of design in the process. Architecturally, the Department consider the design to be bold and innovative and that the development will establish a new landmark in a prominent location. The reasons for refusal do not depart from this advice

apart from the impact of the development upon public views through the site (a matter that is considered in paragraph 29 below).

20. The development will bring residents and visitors into a part of St Helier that has previously had limited focus. It will generate a sense of place through its extensive views over the harbours, its pleasing layout around a central landscaped courtyard, by its close association with the adjoining enhanced public open space and children's play area and as a result of the improved pedestrian links with other nearby open spaces and towards the town centre.

Key aim: "• to protect and enhance the iconic nature and settings of historic St Helier landmarks in and around South Hill, including Fort Regent, Elizabeth Castle and the historic harbours;"

21. The Government's Historic Environment Team assessed the impact of the development on the settings of (i) Fort Regent & South Hill Battery (Listed Grade 1), a listing which includes Glacis Field to the north of the site and land above and around the tops of the quarry face, (ii), South Hill Park (Grade 2 Listed Place), which includes the South Hill headland above the site, (iii) the English and French Harbours and (iv) Elizabeth Castle (Listed Grade 1).
22. The Team concluded that there would be impacts due to the quantum and height of the development, but assessed the impact of the existing offices as more intrusive visually, having "a particularly strong visual impact when viewed from the harbours". The Team concluded that the development would sit "within the arms of the former quarry face with a composition and façade designs that allow this to be a backdrop building" and "deliver good quality amenity for future residents".
23. The layout and massing of the development will integrate well into the surroundings of the former quarry and will fully respect the iconic character of Fort Regent, Elizabeth Castle, the historic harbours and the parkland and natural rock outcrops of South Hill and Mount Bingham. The South Hill Site of Special Interest lies beyond the site and the development will not affect it.

Key aim: "• to seek to secure a viable economic use for the listed building on the site, as an integral part of the redevelopment scheme, having regard to its historic character, integrity and setting;"

24. The listed building is located centrally within the site and is the only significant remnant of the former military complex that existed between the Fort Regent and South Hill defences. The external walls are granite and in good condition and the roof is intact, but the building has been significantly altered over time and there are several blocked-up external openings and internal modifications.
25. The development will see the listed building restored and refurbished and used for shared residential amenity purposes as a garden pavilion in an open, landscaped courtyard setting within the residential complex. It will be visible from higher ground to the north which is part of the Fort Regent listing and will thereby restore a visual connection with another part of the former military complex. The Historic Environment Team concluded that there would be "a direct heritage benefit".

Key aim: “• to protect the natural landform, greenery and long views of the site by seeking to ensure that the height of new development does not project above the line of the natural landform when viewed from the historic harbours;”

26. When the site is viewed from the historic harbours, the lines of the natural landform and greenery are the tree-lined open space at the top of South Hill, which is above the overgrown quarry face on the eastern boundary of the site, and the rockfaces of Mount Bingham on southern side of the site, which have varying degrees of natural vegetation. These are also the main aspects of the natural landform that are noticeable in the long views of the site that can be obtained from the west, over the harbours.
27. The highest part of the development will be the long midsection of the building angled along the site's eastern and south-eastern sides. This building will step up to its highest part and has been designed to be below the landform skyline and to maintain visibility of the Mount Bingham outcrop. A comprehensive landscaping scheme has been proposed.
28. The Department's Committee Report confirms that the development will be “below the height of the surrounding landform”. The Historic Environment Team state that “the form of development responds to the existing land form of South Hill” and confirm that the “scale of development will not break the skyline” in longer views. These observations are confirmed by the elevational drawings and by the F10 Studios Verifiable Document *South Hill St Helier Jersey*, which displays photographs taken from a comprehensive set of locations showing how the site appears at present and, by means of modelling superimposed on those photographs, how it will appear with the development in place.
29. The second reason for refusal given by the Planning Committee maintains that the development “would have an unacceptable impact upon public views through the site”. However, as respects public views, the *Development Brief* only aims to protect long views of the site by seeking to ensure that the height of the development does not project above the line of the natural landform when viewed from the historic harbours. The *Brief* does not call for public views through the site to be maintained, and it would be impracticable for it to do so when one of its key aims is “to ensure optimum development yield, in terms of number of homes or floorspace, through an urban design led approach”. Nevertheless, the design and layout of the development, by forming spaces between the buildings and creating a central courtyard, will in fact facilitate some public views through the site from parts of the publicly-accessible higher ground in the vicinity.

Key aim: “• to ensure the optimum development yield, in terms of number of homes or floorspace, through an urban design led approach which: makes the best use of the site's topography; enables sustainable transport choices; and facilitates the imaginative provision of and access to amenity space; and which better integrates the development into the local area whilst mitigating its impact upon local infrastructure;”

30. This key aim overlaps with key aims that have already been considered. The design and layout of the development will optimise the residential capacity of the site and integrate its urban design with the surrounding topography. There will be an improvement in sustainable transport choices through better provision for walking and cycling, although the proximity of bus routes will

continue to be inconvenient. The amenity space proposals are imaginative and practical. Impacts on local infrastructure have been taken into account.

Key aim: “• to design high quality public spaces which deliver connectivity to adjacent land alongside environmental enhancement measures to maintain and enhance local biodiversity and conserve the specific character of the area;”

31. This key aim overlaps with key aims that have already been considered. It has been demonstrated that the objectives of this key aim will be achieved.

Key aim: “• to provide an architectural treatment which balances the optimisation of sea views whilst avoiding visually assertive, dominant or damaging façades, and which, for any residential use, minimises the provision of north-facing principal rooms;”

32. The scheme has been designed so as to maximise the opportunities for residents to enjoy attractive, wide-ranging views of the harbours and the sea from their apartments and this has been done without designing façades that would be “visually assertive, dominant or damaging” (see paragraphs 18 to 20 above).

33. This *Key aim* uses the term “minimises”, thereby accepting that some “north-facing principal rooms” will be unavoidable if the site is to be developed in accordance with the *Development Brief*. The direction ‘north’ is towards the area between Fort Regent and the harbours. I interpret the phrase “north-facing principal rooms” in the context of this scheme as referring to units that will have single-aspect living rooms that face in a northerly direction. The revised drawings show that 6 units fall into this category, which is less than 4.5% of the total number of units. They will be on Levels 01, 02 and 03 of the northern pavilion building and all of them will have an open outlook towards public open space. The scheme clearly “minimises the provision of north-facing principal rooms” in accordance with this *Key Aim*.

Key aim: “• to ensure that development respects and complements local architectural context and character in terms of design and materials.”

34. The dominant architectural context and character of this part of St Helier is one of layers of buildings rising from the harbours, looking outwards above each other against a backdrop of sheer granite rock faces and high retaining walls. Buildings take advantage at the front of their extensive open views over the harbours, whilst their outlook from the rear is often restricted at close proximity by other buildings, walls and rock faces. The development will respect and complement this architectural context and character by layering the buildings, making use of granite materials and focussing on units with open views over the harbours in association with a backdrop of higher ground.

Planning policies, SPGs and further planning considerations

35. The policies in the Bridging Island Plan that are under particular consideration in this appeal are Policies SP3 (Placemaking), SP4 (Protecting and promoting island identity), SP5 (Protecting and improving the natural environment), HE1 (Protecting listed buildings and places, and their settings), H1 (Housing quality and design), H2 (Housing density), H3 (Provision of homes), H4 (Meeting housing needs), GD1 (Managing the health and wellbeing impact of new development), GD6 (Design quality) and GD9 (Skyline, views and vistas).

36. The scheme is strongly endorsed by Policy H3 (Provision of homes) which indicates that, to enable the supply of the homes required during the Plan's period, proposals for residential development will be supported in the island's built-up area. As explained in paragraph 16 above, the site has been officially recognised as a redevelopment site for many years and its development for residential purposes is further supported by an operative development brief, which the scheme will comply with.
37. The SPG *St Helier design guidance* provides assistance with the interpretation and application of Policies SP3 (Placemaking), PL1 (Development in Town), GD6 (Design quality), GD7 (Tall buildings) and GD9 (Skyline, views and vistas). It places the site in Character Area 4: Fort Regent. The Character Area Objectives and design guidance in the SPG which apply to the site match the corresponding *Key Aims* set out in the *Development Brief* for the site and will be achieved by the scheme.
38. The SPG *Density Standards* provides assistance with the interpretation and application of Policy H2 (Housing density). The SPG indicates that the area containing the site is part of the Primary Centre: Town of St Helier, but is within an area of high sensitivity (Fort Regent) and adjoins the Old Harbours, another area of high sensitivity. The SPG refers to the spatial strategy in the Bridging Island Plan and advises in Section 4 that "development of the highest densities should be located at the most accessible and sustainable locations, focusing growth in the island's existing built-up areas and Town in particular", but advises that it should make a positive contribution to the character and identity of the area, whilst achieving design quality, a minimum level of density and an appropriate mix of types of homes. The appellants have followed the advice in the SPG by adopting a design-led approach that will achieve a level of density appropriate to the sensitivity of the site. The SPG states in Section 5.2 that the "Minister for Housing and Communities is best-placed to assess and determine the island's housing needs" and advises that the Minister should be consulted about the mix of homes proposed in larger residential development schemes.
39. The SPG *Making more homes affordable* provides assistance with the interpretation and application of Policy H6 (Making more homes affordable) and is aimed at those involved in the planning and design of development proposals involving the creation of 50 or more new dwellings. In such cases, the SPG indicates that at least 15% of the dwellings should be made available for sale or occupation by Islanders eligible for assisted purchase housing. The SPG states that the provision of a greater proportion is encouraged and it notes that the need for affordable homes will be met principally through the use, as in this appeal, of government-owned land. It adds in Section 3.1: "The Minister for Housing and Communities will provide advice as to whether a proposed approach to assisted purchase is deemed sufficient and appropriate under Policy H6".
40. The Minister for Housing and Communities has contributed to this appeal both at the hearing and in writing. He advises that the scheme will comply with Policy H4 (Meeting housing needs) by delivering an appropriate mix of units based upon the up-to-date assessment of current housing need and will help to support a diverse and mixed community in the development by facilitating 'rightsizing' and 'downsizing'. He states that that the appellants are proposing to exceed the SPG minimum of 15% affordable dwellings by making 25% of

them affordable and explains that these would not be sea-view units since such units would be unaffordable to the majority of qualifying Islanders due to their high market value. This assessment is supported by valuation data supplied by the appellants. There is a paragraph on page 7 of the *Development Brief* that is relevant to this matter:

“The Minister for the Environment, therefore, considers that this is a premium, high value site where - if it is to be redeveloped for a residential use - the potential to secure maximum return in the release of this public asset should be secured. There are other public sites planned to be released for redevelopment which will better contribute to the provision of affordable homes.”

The details of the provision of affordable dwellings within the scheme will be the subject of a negotiated POA before any planning permission for the development is issued.

41. The Department accepted at the hearing that the amendments to the application that were not considered by the Planning Committee (see paragraph 2 above) overcame the first sentence of the first reason for refusal, which relates to non-compliance with adopted minimum residential space standards. Those standards were, however, replaced in October 2023 by the *SPG Residential space standards*, which provides assistance with the consistent application and interpretation of Policy H1 (Housing quality and design) and supersedes all previous guidance on these matters. The appellants have reviewed the amendments and have made detailed alterations to them so that all the units will now exceed the space standards advised by the new SPG.
42. The *SPG Residential parking standards* provides assistance with the consistent application and interpretation of Policy TT4 (Provision of off-street parking) and supersedes any previous guidance issued in relation to residential parking standards. The site is in sustainable transport zone 2 (“good accessibility”), where the minimum level of residents’ car-parking provision advised by the SPG ranges from 0.25 to 0.75 per unit, depending on the size of the home. The scheme will fully comply with the SPG by providing basement parking for 70 cars, all with electric charging points, and 220 cycle storage spaces, including oversized spaces. It has been accepted that there are off-street public parking spaces and on-street parking spaces nearby which will be sufficient for residents’ visitors and the users of the public open space and children’s play area.
43. A significant matter in the appeal which is in dispute between the parties is the assertion in the first reason for refusal that “many of the units have a single-aspect design (with several facing towards the rockface at close proximity) resulting in limited access to natural daylight and sunlight”. This assertion combines several matters that warrant separate consideration and I have assessed them in turn:-

- “many of the units have a single-aspect design ...”

Policy H1 (Housing quality and design) indicates at criterion 3 that “single aspect plan forms” should be avoided. The plan form of the development shows that it will have aspects in all directions. The *Development Brief* does not have the avoidance of single-aspect units

as a *Key Aim* and their avoidance is not advocated in any of the SPGs. The *Brief* does have a *Key Aim* “to ensure the optimum development yield, in terms of number of homes or floorspace, through an urban design led approach”: it is implicit in that approach that the design will include apartments having a single aspect.

- “... (with several facing towards the rockface at close proximity)...”

The “rockface” in most parts of the site is already verdant and will slope away from the units. The scheme includes further landscaping. The distance between the nearest windows of the nearest single-aspect units and the nearest parts of the “rockface” will at its closest be 4.0 metres on Level 01 of the main building, and the windows concerned will be bedroom windows. At the northern and southern ends of the main building, where the proximity of the “rockface” will reduce the outlook in that direction, the drawings have been revised to show triple-aspect corner units on each of the floors.

- “...resulting in limited access to natural daylight and sunlight.”

Policy H1 (Housing quality and design) indicates at criterion 3 that residential development should maximise opportunities for daylight and sunlight. The policy applies to the development of new homes. The scheme as a whole will “maximise” these opportunities by allowing as many residents as possible to enjoy an open aspect from windows and balconies orientated to benefit from superior daylight and sunlight.

Policy GD1 (Managing the health and wellbeing impact of new development) indicates that development will only be supported where it will not unreasonably affect the level of sunlight and daylight to buildings and land that owners and occupiers might expect to enjoy. This policy appears to be mainly directed at the impact of new development on existing residential amenities, which is not an issue in this appeal, rather than the standard of amenity to be provided in new homes, which is the objective of Policy H1. Be that as it may, the supporting text to Policy GD1 indicates that this consideration should “be applied in a proportionate and meaningful way, relative to the type of development proposal and where the development is proposed to take place”.

No planning guidance has been issued in Jersey as to how standards of daylight and sunlight should be assessed. The parties’ assessments have taken into account the UK Building Research Establishment publication *Site layout planning for daylight and sunlight: A guide to good practice*, which advises that the guide should be used flexibly and not be used as planning policy. In the current instance, the vast majority of the rooms in the development will exceed the guide’s targets, most by a considerable margin; where there will be a shortfall in achieving some of the targets, full account needs to be taken of the *Key Aims* of the *Development Brief* and of the unavoidable constraints that apply when apartment blocks are built on previously-developed sites in urban surroundings.

44. Some of the apartments will be close to walkways or the central courtyard or the play area and comments have been made that residents of these apartments will be disturbed by noise. Some activity will be noticeable but it will not in my opinion be any greater than can normally be expected in an urban residential setting.
45. There are various outstanding matters relating to the development. These are listed in paragraph 1 above and there is no reason to consider that they cannot be satisfactorily resolved through POAs and planning conditions.

Overall conclusions

46. The development will comply with the *Development Brief* and its *Key Aims*. As revised, it will also comply with all the SPGs that have been published since the Planning Committee's decision.
47. For the reasons already explained in this report, I have concluded that the scheme is strongly supported by Policy H3 and is also clearly not in conflict with the applicable provisions of Policies SP3, SP4, SP5, HE1, H1, H2, H4, GD6 and GD9, nor with Policy GD1, apart from the daylight and sunlight criterion in this policy, where the issue is less clear-cut.
48. The Law requires that, in general, planning permission should be granted if a proposed development is in accordance with the Bridging Island Plan. The Plan advises in its Introduction how this requirement should be applied:-

"When considering whether a development proposal is in accordance with the plan, it is important to have regard to the plan as a whole and not to treat a policy or proposal in isolation. It is likely that several policies will be relevant to any development proposal and that some policies can, seemingly, pull in different directions. This is not a flaw in the system, but simply a product of a complex and wide-ranging plan, and a reflection of the natural tensions that arise in seeking to meet the community's economic, social and environmental objectives."

49. These tensions are particularly likely to arise in urban redevelopment projects because of the site-specific constraints involved when compared to greenfield development. Compliance with every detail of planning policies and guidance in such cases may be an unrealisable objective.
50. Applying these principles and taking a proportionate and balanced approach to the decision, it is my recommendation that the appeal should be allowed and planning permission granted in this instance.

Planning obligation agreements, planning conditions and final drawings

51. It was accepted by the parties at the hearing that, if the Minister allowed the appeal, it would be appropriate to adopt the Department's recommendations concerning POAs and planning conditions (summarised in paragraph 1 above), supplemented by any further POAs or conditions that were agreed between the parties on the same basis after the hearing. The final lists of agreed POAs and conditions are included in the recommendation in paragraph 53 below.
52. The list of Final Drawings set out in the Department's report to the Planning Committee has been updated by the parties to include the amendments and

revisions submitted by the appellants and accepted by me; the updated list is appended to paragraph 53 below.

Inspector's recommendation

53. I recommend that, subject to the entering into within 6 months of the date of the Minister's decision of a suitable planning obligation under Article 25 of the Planning and Building (Jersey) Law 2002 as follows
1. That a minimum of 25% of the new residential units forming part of the development (equating to a minimum of 35 no. units) shall be classed as 'Affordable Housing'.
 2. A direct developer contribution of £187,650 (£1,350 per residential unit, plus £18 per sqm of commercial floorspace) to be paid to IHE-Transport, to improve the provision of off-road walking routes.
 3. The developer is to undertake a programme of road improvement works to Parish-owned roads within the immediate vicinity of the site (works to include inter alia, road resurfacing, public realm improvements, footpaths, hard & soft landscape: lighting, etc..., and are to be to the value of approx. £201,686).
 4. Direct provision of seven electric 'car club' vehicles for the use of residents (to the value of approx. £125,000), to be made available for the use of new residents, prior to the first occupation of the development.
 5. Prior to the first occupation of the development, a mechanism to ensure the following shall be provided to, and agreed in writing by, the Development Control Section of Regulation: that the new car parking spaces being provided as part of the development, shall not be sold or otherwise occupied by non-residents of the site.
 6. An area of land along the South Hill roadside boundary (where a new public footpath is to be established) be ceded to the Parish of St Helier, following completion of the development, and prior to its first occupation (the precise extent of the area to be ceded shall be determined in due course by all parties acting reasonably)

the appeal is allowed and planning permission is granted for the following redevelopment scheme at South Hill Offices, South Hill, St. Helier JE2 4US

Demolish existing buildings on site, excluding former military barracks. Construct 64no. 1 bed, 69no. 2 beds and 6no. 3 beds residential units. Create associated courtyard garden with basement below for 70 car parking spaces, all with electric charging points and x 220 cycle storage. Re-use the former military barracks as a residents amenity space. Carry out rock stabilisation works to the surrounding landform. Re-model and upgrade adjacent park and children's playground including public toilets. Create 2 no. pedestrian crossings on South Hill and 1no. pedestrian crossing on Pier Road,

in accordance with the application Ref. P/2022/1619 and the revised plans and documents submitted therewith, subject to the following conditions: -

Standard conditions

- A. The development shall commence within three years of the decision date.

Reason: The development will need to be reconsidered in the light of any material change in circumstances.

- B. The development shall be carried out entirely in accordance with the approved plans and documents listed below.

Reason: To ensure that the development is carried out as approved.

Additional conditions

1. No part of the development hereby approved shall be occupied until the levels of potential contaminants in the ground have been investigated, any risks to human health, or the wider environment, assessed and mitigation measures proposed, in a remediation strategy, have been submitted to and approved in writing by the Chief Officer. The approved remediation strategy shall be implemented in full, in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 - Development of Potentially Contaminated Land, as amended. Any changes to the strategy require the express written consent of the Chief Officer prior to the work being carried out.

Reason: To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policy GD1 of the Adopted Bridging Island Plan 2022.

2. Following the commencement of development during the demolition and construction phases, should any contamination, not previously identified be found, the Chief Officer must be informed immediately. No further development shall be carried out (unless otherwise agreed in writing with the Chief Officer) until the levels of potential contaminants in the ground have been investigated and any risks to human health and wellbeing have been assessed and mitigated, in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 - Development of Potentially Contaminated Land as amended.

Reason: To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policy GD1 of the Adopted Bridging Island Plan 2022.

3. No part of the development shall be occupied, until a ground contamination completion report and contaminated land completion certificate demonstrating completion of the contamination mitigation works (where applicable) and the effectiveness of any required remediation set out in the approved scheme, is submitted to and approved in writing by the Chief Officer. Where required by the Chief Officer the completion report shall also include a plan for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action and for the reporting of this to the Chief Officer.

Reason: To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policy GD1 of the Adopted Bridging Island Plan 2022.

4. No part of the development hereby permitted shall be begun until a Demolition/Construction Environmental Management Plan has been submitted to and approved in writing by the Chief Officer. The Demolition/Construction Environmental Management Plan shall be thereafter implemented in full until the completion of the development and any variations agreed in writing by the

Chief Officer prior to such work commencing. The Plan shall secure an implementation programme of mitigation measures to minimise the adverse effects of the proposal on the environment, and shall include but not be limited to:

- A. A demonstration of compliance with best practice in controlling, monitoring, recording and reporting on any emissions to the environment (such as noise and vibration, air, land and water pollution);
- B. Details of a publicised complaints procedure, including office hours and out-of-hours contact numbers;
- C. Details of any proposed crushing/ sorting of waste material on site;
- D. Specified hours of working.

Reason: To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policies GD1 and ME3 of the Adopted Bridging Island Plan 2022.

5. Any plant or machinery hereby approved shall be installed, maintained and operated to such specification that noise generated from these units shall be at least 5dBA below background noise levels when measured, in accordance with BS4142:2014, from within the curtilage of any nearby property.

Reason: In the interests of the amenities of residents, as required by Policy GD1 of the Bridging Island Plan 2022.

6. Prior to first occupation the actions identified in the approved Species Protection Plan shall be completed in accordance with the specification set out therein. Any variations shall be agreed in writing with the Chief Officer prior to the commencement of such work.

Reason: In the interests of protected species, as required by Policy NE1 of the Bridging Island Plan 2022.

7. Prior to the commencement of the development, details of the methods to reduce, recycle and reuse construction and demolition waste, shall be submitted to and approved in writing by the Chief Officer. The details shall be set out in a Site Waste Management Plan ('SWMP') which shall assess, quantify and propose a method for each material identified. Thereafter, the SWMP shall be maintained as a living document and waste management shall be implemented in full accordance with its terms. Any variations shall be agreed in writing with the Chief Officer prior to the commencement of such work.

Reason: To ensure that waste construction and demolition materials are minimised wherever possible, and where they do arise, that they are reused and recycled, in accordance with Policy WER1 of the Bridging Island Plan 2022.

8. No works below current ground levels shall take place on the site, until a programme of archaeological oversight has been submitted to, and agreed in writing by, the Chief Officer.

Reason: To ensure that potential archaeological resources within the site are protected, in accordance with Policy HE5 of the Bridging Island Plan 2022.

9. Prior to their first use on site, samples of all new materials to be used as part of the works to the Listed Building, shall be submitted to, and approved in writing by, the Chief Officer. Thereafter, the approved materials shall be implemented in full and retained as such.

Reason: To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the Listed Building in accordance with Policies SP4 and HE1 of the Bridging Island Plan 2022.

10. For the avoidance of doubt, the Listed Building within the site (once adapted), shall be retained as a community facility for the use of the residents of the development as a whole.

Reason: To accord with the provisions of Policy CI4 of the Bridging Island Plan 2022.

11. No part of the development hereby approved shall be occupied until all hard and soft landscape works have been carried out in full. Following completion, the areas of landscaping shall thereafter be maintained as such for the lifetime of the development.

Reason: To ensure the benefits of the landscape scheme are not delayed, in the interests of the amenities of the area and to ensure a high quality of design in accordance with Policies SP3, GD6, NE2, and CI6 of the Bridging Island Plan 2022.

12. Prior to the first occupation of the development, a long-term management plan for the landscaping and planting within the site (including details relating to the repair and replacement of landscape elements where necessary), shall be submitted to, and agreed in writing by, the Chief Officer.

Reason: To safeguard the character and appearance of the area, in accordance with Policies SP5, NE1, NE2 and NE3 of the Bridging Island Plan 2022.

13. Prior to the first occupation of the development, the new / remodelled children's playground, including the new public toilets, must be fully operational and available for public use.

Reason: To ensure that the benefits of the new children's playground are not delayed, under the provisions of Policy CI8 of the Bridging Island Plan 2022.

14. The Percentage for Art contribution agreed as part of this permission shall be installed prior to the first occupation of the development.

Reason: To accord with the provisions of Policy GD10 of the Bridging Island Plan 2022.

15. Prior to the commencement of the development, a final detailed design for the new public toilet facilities within the park, must be submitted to, and agreed in writing by the Chief Officer.

Reason: In the interests of the amenities of the general public, under the provisions of Policy CI4 of the Bridging Island Plan 2022.

16. Prior to the first occupation of the development, a Travel Plan shall be submitted to, and agreed in writing by, the Development Control Section of Regulation. The Travel Plan will be required to demonstrate how the new development has responded to the sustainable transport principles of the Island Plan, and how it will promote and encourage more sustainable travel.

Reason: To accord with the provisions of Policy TT1 of the Bridging island Plan 2022.

17. The new pedestrian crossings and all other footpaths within the site, shall be constructed, and be made fully operational and available for public use, prior to the first occupation of the development.

Reason: To ensure that the public benefits of the new pedestrian crossings and other footpaths are not delayed, under the provisions of Policies TT1 and TT2 of the Bridging Island Plan 2022.

18. The new car and bicycle parking / storage facilities (complete with full electric vehicle charging infrastructure) shall be installed, and made available for the use of new residents, prior to the first occupation of the development.

Reason: To ensure that the new car and bicycle parking / storage facilities are installed and made available for the use of new residents without delay, under the provisions of Policies TT2 and TT4 of the Bridging Island Plan 2022.

19. Prior to the commencement of the development, a water conservation statement must be submitted to, and agreed in writing by, the Development Control Section of Regulation.

Reason: To accord with the requirements of Policy UI3 of the Bridging Island Plan 2022.

20. Prior to the commencement of development, details shall be submitted to, and agreed in writing by, the Development Control Section of Regulation, which demonstrate that the development hereby approved will exceed Building Byelaw requirements, in terms of energy efficient homes by 20%. Thereafter, the agreed details shall be implemented in full, and retained as such.

Reason: To accord with Policy ME1 of the Bridging Island Plan 2022.

Approved plans and documents

2033-FCBS-ZL-ZZ-PL-A-1000 - Listed Building - Survey Plan, Section & Elevations

2033-FCBS-ZL-ZZ-PL-A-1100 - Listed Building - Preparation Plan, Section & Elevations

2033-FCBS-ZL-ZZ-PL-A-1200 - Listed Building - Intervention Plan, Section & Elevations
2033-FCBS-ZZ-00-PL-A-0500 P04- Proposed Plan Level 00
2033-FCBS-ZZ-01-PL-A-0501 P04 - Proposed Plan Level 01
2033-FCBS-ZZ-02-PL-A-0502 P04 - Proposed Plan Level 02
2033-FCBS-ZZ-03-PL-A-0503 P04 - Proposed Plan Level 03
2033-FCBS-ZZ-04-PL-A-0504 P04 - Proposed Plan Level 04
2033-FCBS-ZZ-05-PL-A-0505 P04 - Proposed Plan Level 05
2033-FCBS-ZZ-06-PL-A-0506 P04 - Proposed Plan Level 06
2033-FCBS-ZZ-RF-PL-A-05RF - Proposed Plan Roof Level
2033-FCBS-ZZ-SP-PL-A-05SP - Proposed Site Plan
2033-FCBS-ZZ-XX-PL-A-0001 - Location Plan
2033-FCBS-ZZ-XX-PL-A-0002 P01 - Red Line Boundary Plan
2033-FCBS-ZZ-ZZ-PL-A-0601 - Proposed Section, Section 01
2033-FCBS-ZZ-ZZ-PL-A-0602 - Proposed Section, Section 02
2033-FCBS-ZZ-ZZ-PL-A-0701 - Proposed Context Elevations N/NE &E/SE
2033-FCBS-ZZ-ZZ-PL-A-0702 P02 - Proposed Context Elevations S/SW & W/NW
2033-FCBS-ZZ-ZZ-PL-A-0711 - Proposed Elevation N/NE
2033-FCBS-ZZ-ZZ-PL-A-0712 P02 - Proposed Elevation E/SE
2033-FCBS-ZZ-ZZ-PL-A-0713 P02 - Proposed Elevation S/SW
2033-FCBS-ZZ-ZZ-PL-A-0714 P02 - Proposed Elevation W/NW
2033-FCBS-ZZ-ZZ-PL-A-0715 - Proposed Courtyard Elevation N/NE
2033-FCBS-ZZ-ZZ-PL-A-0716 - Proposed Courtyard Elevation W/SW
2033-FCBS-ZZ-ZZ-PL-A-0717 - Proposed Courtyard Elevation S/SW
2033-FCBS-ZZ-ZZ-PL-A-0718 P02 - Proposed Courtyard Elevation W/NW
P20305-00-001-GIL-0100 09 - General Arrangement Courtyard
P20305-00-001-GIL-0101 05 - General Arrangement Park
P20305-00-001-GIL-0102-05 - General Arrangement Courtyard &Park
P20305-00-001-GIL-0103 06 - General Arrangement Roof Plan
P20305-00-001-GIL-0104 04 - General Arrangement Courtyard + Park
P20305-00-001-GIL-0300 03 - Details Typical Paving Details 01
P20305-00-001-GIL-0410-03 - Details Typical Planting Details 01
Drainage Strategy for Planning and BREEAM Flood Risk Assessment:
November 2022
Nurture Ecology - Species Protection Plan & Enhancement Plan: Nov 2022
Percent for Art: November 2022
Photo-Voltaic Details
Site Waste Management Plan - Pre-Demolition Audit
Site Waste Management Plan: November 2022
South and East Face Stabilisation: November 2022
Structural Engineering Report: November 2022
Water Looped Source Heat Pump Details
Written Scheme of Investigation for an Archaeological Watching Brief:
November 2022

Dated 22 January 2024

D.A.Hainsworth

Inspector